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County of Los Angeles

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(Fee Exempt, Gov. Code, § 6103)

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

DEPARTMENT OF FAIR EMPLOYMENT AND)
HOUSING, an agency of the State of California,)

Case No. **21 ST CV 26571**

Plaintiff,)

Dept:
Hon.

vs.

CIVIL RIGHTS AND EQUAL PAY ACT
COMPLAINT FOR INJUNCTIVE AND
MONETARY RELIEF AND DAMAGES

ACTIVISION BLIZZARD, INC., BLIZZARD)
ENTERTAINMENT, INC., and ACTIVISION)
PUBLISHING, INC., and DOES ONE through)
TEN, inclusive,)

JURY TRIAL DEMANDED

Defendants.)

Plaintiff, DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING ("DFEH"), an agency of the State of California, brings this action in its own name to remedy violations of the California Fair Employment and Housing Act, Government Code section 12900 et seq. ("FEHA") as well as the California Equal Pay Act, Labor Code section 1197.5, by Defendant Activision Blizzard, Inc. ("Activision Blizzard"), Blizzard Entertainment, Inc. ("Blizzard"), and Activision Publishing, Inc. ("Activision Publishing") and Does One through Ten (collectively referred to as "Defendants").

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BY FAX

1 INTRODUCTION

2 1. Headquartered in California since the 1970s – where the nation’s strongest anti-
3 harassment, equal pay and other equal employment opportunity protections exist for employees¹ –
4 Defendants should be a safe-haven workplace in the video gaming industry. Sexism has plagued the
5 male-dominated gaming industry for decades, and increasingly so in recent years.² Women and girls
6 now make up almost half of gamers in America, but the gaming industry continues to cater to men,
7 even in California. Activision Blizzard’s double-digit percentage growth, ten-figure annual
8 revenues, and recent diversity marketing campaigns have unfortunately changed little. Defendants’
9 compliance with California’s broad workplace protections is long overdue. To enforce such
10 compliance, DFEH brings this government enforcement action seeking to remedy, prevent and deter
11 Defendants’ violations of the state’s civil rights and equal pay laws to vindicate the rights of
12 Defendants’ female employees and the public interest of the State of California.

13 2. Activision Blizzard, Inc. is headquartered in Santa Monica, California. It is one of
14 the largest American video game developers and distributors with approximately 9,500 employees
15 and over 100 million players worldwide. It is considered a leading gaming platform in the western
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17
18 ¹(See, e.g., *State Dept. of Health Services v. Sup.Ct.* (2003) 31 Cal.4th 1026, 1040 [FEHA provides
19 broader protection than Title VII]; Introduction, Cal. Prac. Guide Civ. Pro. Trial Claims and Def.
20 Ch. 13(I.1)-A [“Title VII presents serious limitations on plaintiff’s recovery, including a cap on
21 emotional distress and punitive damages. In addition, FEHA provides broader protections in a
22 number of important respects... For these reasons, it is generally advantageous to sue under FEHA,
rather than Title VII.”]; Zhou, *Can California Prevent Wage Discrimination Against Women?* (Oct.
7, 2015) The Atlantic <[https://www.theatlantic.com/business/archive/2015/10/california-gender-
wage-gap-fair-pay-act/409549/](https://www.theatlantic.com/business/archive/2015/10/california-gender-wage-gap-fair-pay-act/409549/)> [as of July 19, 2021].)

23 ²(Wingfield, *Feminist Critics of Video Games Facing Threats in ‘Gamergate’ Campaign*, N.Y.
24 Times (Oct. 15, 2014) <[https://www.nytimes.com/2014/10/16/technology/gamergate-women-video-
game-threats-anita-sarkeesian.html](https://www.nytimes.com/2014/10/16/technology/gamergate-women-video-game-threats-anita-sarkeesian.html)> [as of July 19, 2021]; Dockterman, *What Is #GamerGate and
25 Why Are Women Being Threatened About Video Games?* Time (Oct. 16, 2014)
26 <<https://time.com/3510381/gamergate-faq/>> [as of July 19, 2021]; Lorenz & Browning, *Dozens of
27 Women in Gaming Speak Out About Sexism and Harassment*, N.Y. Times (June 23, 2020)
28 <[https://www.nytimes.com/2020/06/23/style/women-gaming-streaming-harassment-sexism-
twitch.html](https://www.nytimes.com/2020/06/23/style/women-gaming-streaming-harassment-sexism-twitch.html)> [as of July 19, 2021]; Holden et. al., *The #E-Too Movement: Fighting Back Against
Sexual Harassment in Electronic Sports*, (2020) 52 Ariz. St. L.J. 1, 1.)

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1 world, and it is a member of the Fortune 500 and S&P 500. Activision Blizzard conducts business
 2 through its subsidiaries, Blizzard Entertainment, Inc., King Digital Entertainment, and Activision
 3 Publishing, Inc., among others. Activision Blizzard also operates global esports organizations,
 4 Overwatch League and Call of Duty League. The video game franchise Call of Duty is Activision
 5 Publishing's key product. Blizzard Entertainment maintains the online gaming service, Battle.net,
 6 and includes key franchises such as World of Warcraft, Diablo, and Overwatch.

7 3. Unlike its customer-base of increasingly diverse players, Defendants' workforce is
 8 only about 20 percent women. Its top leadership is also exclusively male and white. The CEO and
 9 President roles are now – and have always been – held by white men.³ Very few women ever reach
 10 top roles at the company. The women who do reach higher roles earn less salary, incentive pay and
 11 total compensation than their male peers, as evidenced in Defendants' own records.⁴ Similar

12 _____
 13 ³ <<https://www.activisionblizzard.com/who-we-are>> [as of July 19, 2021]; Fahs, The History of
 14 Activision (Oct. 1, 2010, updated Mar. 21, 2020) <<https://www.ign.com/articles/2010/10/01/the-history-of-activision>>

15 ⁴ Activision Blizzard, (June 14, 2021, amended from April 30, 2021), 2021 Proxy Statement at p. 88
 16 <https://www.sec.gov/Archives/edgar/data/718877/000130817921000289/latvi2021_defr14a.htm>
 17 [as of July 19, 2021]

18 **SUMMARY COMPENSATION TABLE**

19 The table below presents information with respect to each of our named executive officers regarding compensation earned during the periods indicated.

Name and Principal Position	Year	Salary (\$)	Total (\$)
Robert Kotick Chief Executive Officer	2020	1,494,231	154,613,318
	2019	1,756,731	30,122,896
	2018	1,756,731	30,841,004
Dennis Durkin ⁽⁶⁾ Executive Advisor and Former Chief Financial Officer	2020	906,923	12,999,754
	2019	901,731	9,511,753
	2018	624,808	928,025
Daniel Alegre ⁽⁷⁾ President and Chief Operating Officer	2020	1,002,115	12,599,837
Claudine Naughton Chief People Officer	2020	655,000	3,823,519
	2019	250,000	4,388,854
Chris B. Walther	2020	852,205	3,270,992

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1 disparities exist throughout the company.⁵

2 4. Like the executive ranks, women across the company are assigned to lower paid and
3 lower opportunity levels. Female employees receive lower starting pay and also earn less than male
4 employees for substantially similar work. Defendants promote women more slowly and terminate
5 them more quickly than their male counterparts. Faced with such adverse terms and conditions of
6 employment, many women have been forced to leave the company.

7 5. Defendants have also fostered a pervasive “frat boy” workplace culture that
8 continues to thrive. In the office, women are subjected to “cube crawls” in which male employees
9 drink copious amounts of alcohol as they “crawl” their way through various cubicles in the office
10 and often engage in inappropriate behavior toward female employees. Male employees proudly
11 come into work hungover, play video games for long periods of time during work while delegating
12 their responsibilities to female employees, engage in banter about their sexual encounters, talk
13 openly about female bodies, and joke about rape.

14 6. Unsurprisingly, Defendants’ “frat boy” culture is a breeding ground for harassment
15 and discrimination against women. Female employees are subjected to constant sexual harassment,
16 including having to continually fend off unwanted sexual comments and advances by their male co-
17 workers and supervisors and being groped at the “cube crawls” and other company events. High-
18 ranking executives and creators engaged in blatant sexual harassment without repercussions. In a
19 particularly tragic example, a female employee committed suicide during a business trip with a male
20

21 Chief Legal Officer	2019	836,381	5,160,991
	2018	759,238	4,763,158

23
24 ⁵ (See, e.g., Schreier, *Blizzard Workers Share Salaries in Revolt Over Pay*, Bloomberg (August 6, 2020)
25 <<https://www.bloomberg.com/news/articles/2020-08-03/blizzard-workers-share-salaries-in-revolt-over-wage-disparities>> [as of July 19, 2021]; Gonzalez, *Blizzard and Overwatch Continue to Fail Black Women* (Nov. 2, 2020) <<https://www.hotspawn.com/overwatch/news/blizzard-and-overwatch-continue-to-fail-black-women>> [as of July 19, 2021]; see also Kolakowski, *Activision Blizzard Faces Diversity Hiring Controversy* (Jan. 28, 2021)
26 <<https://insights.dice.com/2021/01/28/activision-blizzard-faces-diversity-hiring-controversy/>> [as of
27 July 19, 2021]; *Ex-Blizzard employee says he left due to “racial abuse and discrimination*,
28 <<https://www.pcgamesn.com/blizzard-racial-discrimination/>> [as of July 19, 2021]

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1 supervisor who had brought butt plugs and lubricant with him on the trip. Defendants continuously
2 condone the quid pro quo and hostile work environment. The message is not lost on their employees.

3 7. Numerous complaints about unlawful harassment, discrimination, and retaliation
4 were made to Defendants' human resources personnel and executives, including to Blizzard
5 Entertainment's President J. Allen Brack. But, Defendants failed to take effective remedial
6 measures in response to these complaints. Employees were further discouraged from complaining
7 as human resource personnel were known to be close to alleged harassers. An internal investigation
8 into the human resource unit noted that there was a "big lack of trust" and that "HR not held in high
9 regard." Unsurprisingly, employee's complaints were treated in a perfunctory and dismissive
10 manner and not kept confidential. As a result of these complaints, female employees were subjected
11 to retaliation, including but not limited to being deprived of work on projects, unwillingly
12 transferred to different units, and selected for layoffs.

13 8. Plaintiff DFEH, an agency of the State of California, brings this enforcement action
14 against Defendants in its prosecutorial role, seeking relief in the public interest for the state and for
15 Defendants' female employees ("the Group"). Pursuant to the authority vested in DFEH under
16 FEHA, Government Code section 12900 et seq. and related laws, DFEH's enforcement action seeks
17 to remedy, prevent, and deter unlawful harassment, retaliation, and discrimination. Specifically, the
18 violations pled herein include claims for sex discrimination in terms and condition of employment
19 (including compensation, assignment, promotion, constructive discharge, termination); unlawful
20 sexual harassment; retaliation; failure to prevent discrimination, harassment, and retaliation; and
21 unequal pay.

22 **PARTIES**

23 9. Plaintiff Department of Fair Employment and Housing ("DFEH") is a state agency
24 tasked with investigating and prosecuting civil rights actions. (Gov. Code, § 12930, subd. (f)(1)-
25 (5).) California's legislature exercised its police power in enacting FEHA and investing authority in
26 DFEH "to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold
27 employment without discrimination..." (Gov. Code, § 12920; *Dept. Fair Empl. & Hous. v. Cathy's*
28 *Creations, Inc.* (2020) 54 Cal.App.5th 404, 410 ["the DFEH's task is to represent the interests of the

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1 state and to effectuate the declared public policy of the state to protect and safeguard the rights and
2 opportunities of all persons from unlawful discrimination.”].) As set forth in Government Code
3 section 12900 et seq., DFEH is charged with enforcing FEHA, including initiating and investigating
4 complaints on behalf of itself and persons alleged to be aggrieved by discriminatory employment
5 practices. (Gov. Code, §§ 12930, 12961.) DFEH is additionally authorized to investigate and
6 prosecute claims under Labor Code section 1197.5, which prohibits employers from paying
7 employees of one sex less for substantially similar work. (Gov. Code, § 12930, subd. (f)(5).) At
8 DFEH’s discretion, DFEH may bring a civil action in the name of the department on behalf of a
9 group or class of persons adversely affected, in a similar manner, by an unlawful practice. (Gov.
10 Code, §12965.) ““The DFEH acts as a public prosecutor when it pursues civil litigation under the
11 FEHA (*State Personnel Bd. v. Fair Empl. & Hous. Com.* (1985) 39 Cal.3d 422, 444), and it may
12 seek remedies to “‘vindicate’ what it considers to be in ‘the public interest in preventing ...
13 discrimination.’” (*Dept. Fair Empl. & Hous. v. Law Sch. Admission Council, Inc.* (2013) 941
14 F.Supp.2d 1159, 1172). (*Dept. Fair Empl. & Hous. v. Superior Ct. of Kern Cty.* (2020) 54
15 Cal.App.5th 356, 373.)

16 10. Defendant Activision Blizzard, Inc., (“Activision Blizzard”) is now and was, at all
17 times relevant to this complaint, a Delaware corporation operating in and under the laws of the State
18 of California and conducting business in Los Angeles, California. Activision Blizzard’s corporate
19 headquarters are located in Santa Monica, California. Activision Blizzard conducts business
20 through its subsidiaries, Defendants Blizzard Entertainment, Inc. (“Blizzard Entertainment”) and
21 Activision Publishing, Inc. (“Activision Publishing”). As indicated by its 2021 Form 10-K, Blizzard
22 Entertainment, Inc., and Activision Blizzard, Inc., along with King Digital Entertainment, fall within
23 the three organizations overseen by Activision Blizzard and constitute two of the “three reportable
24 segments” to Activision Blizzard. At all times relevant to this complaint, Activision Blizzard was an
25 “employer” subject to FEHA and all other applicable statutes.

26 11. Defendant Blizzard Entertainment, Inc., (“Blizzard Entertainment”) is now and was,
27 at all times relevant to this complaint, a Delaware corporation operating in and under the laws of the
28 State of California and conducting business in Los Angeles, California. Blizzard Entertainment is a

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1 subsidiary of Activision Blizzard and has its corporate headquarters at 1 Blizzard Way, Irvine, CA
2 92618. DFEH is informed that Blizzard Entertainment conducts business in Burbank and Santa
3 Monica, California where employees work. At all times relevant to this complaint, Blizzard
4 Entertainment, Inc., was an “employer” subject to FEHA and all other applicable statutes.

5 12. Defendant Activision Publishing, Inc., (“Activision Publishing”) is now and was, at
6 all times relevant to this complaint, a Delaware corporation operating in and under the laws of the
7 State of California and conducting business in Los Angeles, California. Activision Publishing’s
8 corporate headquarters are located in Santa Monica, California. At all times relevant to this
9 complaint, Activision Publishing was an “employer” subject to FEHA and all other applicable
10 statutes.

11 13. Defendants DOES ONE through TEN, inclusive, are sued herein pursuant to Code of
12 Civil Procedure section 474. DFEH is ignorant of the true names or capacities of the defendants
13 sued herein under the fictitious names DOES ONE through TEN, inclusive. DFEH will amend this
14 complaint to allege their true names and capacities when the same are ascertained. DFEH is
15 informed, believes, and alleges, that each of the fictitiously named defendants is legally responsible
16 for the occurrences, injuries, and damages alleged herein.

17 14. DFEH is informed, believes, and alleges that at all relevant times, each defendant is
18 and was, the director, agent, employee, and/or representative of every other defendant and acted
19 within the course and scope of their agency, service, employment, and/or representation, and that
20 each defendant herein is jointly and severally responsible and liable to the Group for the damages
21 hereinafter alleged. At all relevant times, there existed a unity of ownership and interest between or
22 among two or more of the Defendants such that any individuality and separateness between or
23 among those Defendants has ceased, and Defendants are the alter egos of one another. Defendants
24 exercised domination and control over one another to such an extent that any individuality or
25 separateness of Defendants does not, and at all times herein mentioned did not, exist. All of the acts
26 and failures to act alleged herein were duly performed by and attributed to all Defendants, each
27 acting as the joint employer as Defendants jointly supervised and controlled employee’s conditions
28 of employment, determined rate of pay or method of payment, had authority to hire or fire

1 employees, and maintained employment records. All actions of all Defendants were taken by
2 employees, supervisors, executives, officers, and directors during employment with all Defendants,
3 were taken on behalf of all Defendants, and were engaged in, authorized, ratified, and approved of
4 by all other Defendants.

5 **PROCEDURAL HISTORY, JURISDICTION, AND VENUE**

6 15. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

7 16. Venue is proper in the County of Los Angeles under Government Code section
8 12965, subdivision (a) as the unlawful practices complained of in this complaint occurred in the
9 County of Los Angeles.

10 17. DFEH's director, in his or her discretion, may file a complaint on behalf of a group or
11 class. (Gov. Code, § 12961; Cal. Code Regs., tit. 2, §§ 10012 and 10013.) Pursuant to this
12 authority, DFEH Director Kevin Kish ("DFEH Director") filed and served a complaint of Group or
13 Systemic Investigation and Director's Complaint for Group/Class Relief against Blizzard
14 Entertainment, Inc. on October 12, 2018, (DFEH Case No. 201810-03875512). On October 29,
15 2018, an Amended Director's Complaint was filed and served to add Activision Blizzard, Inc. On
16 December 7, 2018, a Second Amended Director's Complaint was filed and served to add Activision
17 Publishing, Inc. (collectively, referred as "Director's Complaints".) The Director's Complaints
18 alleged that Defendants engaged in discrimination against their employees on the basis of sex-
19 gender, including failing to hire, select, or employ persons because of their sex, as well as
20 discriminating in compensation or in the terms, conditions, privileges of employment due to their
21 sex. The Director's Complaints further alleged that Defendants failed to take all reasonable steps to
22 prevent unlawful discrimination, harassment, or retaliation.

23 18. After more than two-years of investigation, DFEH issued a cause finding on June 24,
24 2021. In the course of DFEH's investigation, DFEH found evidence that Defendants discriminated
25 against female employees in terms and conditions of employment, including compensation,
26 assignment, promotion, termination, constructive discharge, and retaliation. DFEH's investigation
27 also found that female employees were subject to sexual harassment. DFEH's investigation found
28 that Defendants failed to take all reasonable steps to prevent unlawful discrimination, harassment, or

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1 retaliation. Lastly, DFEH's investigation further found that Defendants had committee violations of
2 Labor Code section 1197.5 in paying female employee less than their male counterparts for
3 substantially similar work. These claims are alleged and/or reasonably related to and like the claims
4 originally alleged in the Director's Complaints.

5 19. DFEH attempted to resolve this matter without litigation. Prior to filing this civil
6 action, the DFEH required all parties to participate in mandatory dispute resolution in the
7 department's internal dispute resolution division free of charge to the parties in an effort to resolve
8 the dispute without litigation. Specifically, DFEH invited Defendants to participate in a mediation
9 session with the department's internal dispute resolution division on July 1, 2, and 15, 2021, but the
10 parties were unable to resolve the administrative complaints.

11 20. In the case of failure to eliminate an unlawful practice through conference,
12 conciliation, mediation, or persuasion, or in advance thereof if circumstances warrant, the DFEH
13 may bring a civil action in the name of the department in state and federal courts. (Gov. Code, §§
14 12930, subd. (h) and 12965, subd. (a).)

15 21. All administrative procedures precedent to the institution of this lawsuit have been
16 fulfilled.

17 22. By operation of a signed agreement between the parties, DFEH's deadline to file a
18 civil complaint is July 21, 2021. DFEH filed its complaint prior to the deadline of July 21, 2021.

19 23. The amount of damages sought by this complaint exceeds the minimum jurisdictional
20 limits of this Court.

21 **GOVERNMENT ENFORCEMENT ACTION ALLEGATIONS**

22 24. DFEH brings this government enforcement action for group relief on behalf of itself
23 in the public interest and all aggrieved female employees (the "Group") pursuant to Government
24 Code sections 12961 and 12965.

25 25. DFEH's authority to seek relief on behalf of itself in the public interest and the Group
26 stems from a delegation of the power by the Legislature, authorizing DFEH to initiate a complaint
27 itself, investigate claims, and prosecute such claims under FEHA. (*see, e.g.*, Gov. Code, §§ 12920,
28 12920.5, 12930, 12961, and 12965.) Section 12961 expressly authorizes the DFEH Director to file a

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1 complaint on behalf of the department seeking relief for a group of persons adversely affected, in a
2 similar manner, by an alleged unlawful practice. “Any complaint so filed may be investigated as a
3 group *or* class complaint, and, if in the judgment of the director circumstances warrant, *shall* be
4 treated as such for purposes of conciliation, dispute resolution, and *civil action*.” (Gov. Code, §§
5 12961 and 12965, subd. (a), italics added.)

6 26. Pursuant to such statutory authorities, DFEH’s Director filed and gave notice to
7 Defendants that this was a group or class complaint for purposes of investigation, mediation, and
8 civil action. DFEH investigated and attempted to mediate the group or class complaint with
9 Defendants and, after a failure to eliminate the unlawful practices through mediation, or in advance
10 thereof if circumstances warrant, the DFEH filed this civil action seeking to remedy the group or
11 class violations in this Court. (Gov. Code, §§ 12930, subd. (h), 12961, 12965, subd. (a).)

12 27. DFEH brought this government enforcement action in its own name pursuant to
13 express statutory authority from the Legislature. (Gov. Code, § 12900 et seq.; Cal Const., Art III, §
14 3.) The Legislature authorized DFEH to proceed on a group or class basis in a civil action. (Gov.
15 Code, §§ 12961 and 12965, subd. (a).)

16 28. DFEH’s government enforcement action seeks to remedy, prevent, and deter the
17 pattern or practice of unlawful discrimination and other violations, disparate impact of
18 discrimination, and continuing violations that Defendants engaged in against aggrieved female
19 employees.

20 29. DFEH brings this representative enforcement action in its capacity as a state agency
21 and the authority vested in DFEH by FEHA, which does not require class certification under Code
22 of Civil Procedure sections 378 and 382. (*People v. Pacific Land Res. Co.* (1977) 20 Cal.3d 10, 17
23 [“[a]n action filed by the People seeking injunctive relief and civil penalties is fundamentally a law
24 enforcement action designed to protect the public and not to benefit private parties” and that in such
25 cases the seeking of monetary remedies was “not the primary object of the suit, as it is in most
26 private class actions.”]; *Dept. Fair Empl. & Hous. v. Law School Admission Council, Inc.*, *supra*,
27 941 F.Supp.2d at 1168-1170 [holding that DFEH action is not subject to class certification
28 requirements under Rule 23 of Federal Rules of Civil Procedure as “nothing in § 12961 requires that

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1 the complaint be filed as a class action.”]; *Washington v. Chimei Innolux Corp.* (9th Cir. 2011) 659
2 F.3d 842, 848 [“class actions are always representative actions, but representative actions are not
3 necessarily class actions.”].) Thus, DFEH is exempt from class action certification.

4 **FACTUAL ALLEGATIONS**

5 30. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

6 **Sex Discrimination: Pay, Assignment, Promotion, Termination,**
7 **and Constructive Discharge**

8 31. Defendants have engaged in and continue to perpetuate discriminatory practices
9 regarding pay, assignment, promotion and other terms and conditions of employment which
10 negatively affect and impact female employees.

11 32. These discriminatory practices began at hire when women were offered lower
12 compensation and less lucrative job assignments and opportunities than their male counterparts.
13 Defendants paid female employees significantly less in starting pay than their male counterparts at
14 hire. This pattern or practice and violations were continuing.

15 33. The pay disparity continued throughout employment for female employees.
16 Defendants paid female employees significantly less than their male counterparts after hire. This
17 pattern or practice and violations were continuing.

18 34. Women were also afforded less stock and incentive pay opportunities. Female
19 employees were overwhelmingly assigned into lower grades/levels without stock and incentive pay
20 opportunities or less opportunities. Female employees also received less stock and incentive
21 compensation than male employees. This pattern or practice and violations were continuing.

22 35. Women were steered into the lower levels of Defendants’ hierarchy and often had to
23 work harder and longer to earn equal promotional and other opportunities as their male counterparts.
24 As an example, a female employee working for Blizzard Entertainment was assigned to a lower
25 level role, denied equal pay, and subsequently sought a promotion because she had been carrying out
26 duties exceeding her job description. She was repeatedly told it was not her turn and others
27 deserved a promotion ahead of her. Ultimately, the employee was promoted after three years while
28 her male counterpart was promoted within a year of his hire despite having started several months

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1 after her. Her male counterpart was also assigned leadership responsibilities which she was not
2 afforded, responsibilities which furthered the male employee's ability to get promoted.

3 36. In another example, a female employee who worked at Blizzard Entertainment was
4 assigned to a lower level, denied equal pay, and passed over for a promotion despite multiple factors
5 that suggested she earned it: (1) highly rated performance reviews; (2) she generated significantly
6 more revenue in her marketing campaigns than her male counterpart; and (3) she ran almost twice as
7 many campaigns as her male counterpart. Despite her accomplishments, her male counterpart was
8 invited to have monthly or weekly one-on-one meetings with the Vice President. She was not
9 afforded these same opportunities and unsurprisingly was passed over for a promotion in favor of
10 her male counterpart.

11 37. Similarly, other female employees at Blizzard Entertainment were assigned to lower
12 level roles, denied equal pay and further delayed or passed over for promotions in favor of male
13 counterparts who lacked the same experience or qualifications but who were friends with the male
14 head of the unit. A newly promoted male supervisor delegated his responsibilities to his now female
15 subordinates in favor of playing Call of Duty. Other male supervisors would refuse to communicate
16 with female employees, going to their male counterparts for information.

17 38. Female employees at Activision Publishing were also assigned to lower level roles,
18 denied equal pay, and delayed or passed over for promotions of their male counterparts. As an
19 example, a female human resources employee at Activision Publishing was delayed and passed over
20 for a promotion despite receiving positive performance reviews, doing substantial more work than
21 her male counterpart, and taking over the actual responsibilities of the departing person. Female
22 accounting employees at Activision Publishing, likewise, note that male counterparts were paid
23 significantly more than them despite doing the same or less work and having less responsibilities.

24 39. Female employees were also not promoted because of Defendants' discriminatory
25 practices against pregnant female employees. A female employee working on one game team had
26 assumed some of the responsibilities of a manager but when she asked her male supervisor about
27 being fairly paid for the work she was actually doing and promoted into that position, the manager
28 commented that they could not risk promoting her as she might get pregnant and like being a mom

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1 too much. In general, female employees were further treated negatively due to their pregnancies.
2 Supervisors ignored medical restrictions given to female employees and gave them negative
3 evaluations while they were out on maternity leave. Other female employees reported that they
4 were criticized for leaving to pick up their children from daycare while their male counterparts were
5 playing video games and female employees were kicked out of lactation rooms so employees could
6 use the room for meetings.

7 40. Women of color were particularly vulnerable targets of Defendants' discriminatory
8 practices. An African American employee noted that it took her two years to be made into a
9 permanent employee while men hired after her were made permanent employees. She also was
10 micromanaged such that her male coworkers were known to be playing video games without any
11 intervention by her supervisor, but her supervisor would call and check on her if she took a break to
12 go on a walk. Another African American employee, who worked on information technology, was
13 similarly micromanaged by her manager unlike the men on her team. When she requested time off
14 of work, her manager made her write a one-page summary of how she would spend that time off of
15 work when no one else had to do any write-up. The male supervisor also criticized her body
16 language despite male counterparts slouching in meetings and she was scolded for asking for
17 assistance while others could get help on similar tasks without the same criticism. These
18 experiences led female employees to leave their employment with Defendants.

19 41. As a result of these discriminatory pay, assignment, promotion and other practices,
20 Defendants' gender pay gap is significant. Defendants paid female employees significantly less in
21 base pay and total compensation than their male counterparts. This pattern or practice and violations
22 were continuing.

23 42. When women complained to human resource personnel about the lack of equal
24 employment opportunities, especially in comparison to their male counterparts, their complaints fell
25 on deaf ears or were met with an empty promise to investigate the issue. Indeed, despite having
26 retained Paul Hastings LLP from 2015 to 2017 and Miller Law Group in 2018 to allegedly provide
27 analysis related to compensation data, Defendants failed to take effective and reasonable steps to
28 prevent pay discrimination as the pay disparity between male and female employees was not

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1 remedied and continued.

2 43. As a result of these discriminatory practices, female employees were forced to leave
3 their employment with Defendants. For example, female employees noted that they accepted less
4 compensation than they were making in their prior employment or offered by other companies to
5 work for Defendants with the hollow promise that they would get promoted or get other forms of
6 compensation to make up the difference. They never made up ground and instead had to watch as
7 male comparators were promoted more quickly and offered more compensation, forcing them to
8 leave the company.

9 44. Additionally, Defendants terminated female employees more quickly than their male
10 counterparts. This pattern or practice and violations were continuing.

11 45. In sum, Defendants' discriminatory practices adversely affected women in
12 compensation, assignment, promotion, and termination. Defendants failed to take effective steps to
13 remedy or adequately correct its compensation disparities despite its awareness that such disparities
14 existed. Defendants' discriminatory practices continue to the date of this complaint.

15 **Sexual Harassment**

16 46. Female employees almost universally confirmed that working for Defendants was
17 akin to working in a frat house, which invariably involved male employees drinking and subjecting
18 female employees to sexual harassment with no repercussion. "Cube crawls" in Defendants' offices
19 were common and male employees proudly came into work hungover. Similarly, male employees
20 would play video games during work, engage in banter about their sexual encounters, talk openly
21 about female bodies, and make numerous jokes about rape. As a product of this "frat boy" culture,
22 women were subjected to numerous sexual comments and advances, groping and unwanted physical
23 touching, and other forms of harassment. A female employee noted that random male employees
24 would approach her on Defendants' work site and comment on her breasts. Female employees
25 working for the World of Warcraft team noted that male employees and supervisors would hit on
26 them, make derogatory comments about rape, and otherwise engage in demeaning behavior. This
27 behavior was known to supervisors and indeed encouraged by them, including a male supervisor
28 openly encouraging a male subordinate to "buy" a prostitute to cure his bad mood.

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1 47. In a blatant example of Defendants' refusal to deal with a harasser because of his
2 seniority/position, Alex Afrasiabi, the former Senior Creative Director of World of Warcraft at
3 Blizzard Entertainment, was permitted to engage in blatant sexual harassment with little to no
4 repercussions. During a company event (an annual convention called Blizz Con) Afrasiabi would
5 hit on female employees, telling him he wanted to marry them, attempting to kiss them, and putting
6 his arms around them. This was in plain view of other male employees, including supervisors, who
7 had to intervene and pull him off female employees. Afrasiabi was so known to engage in
8 harassment of females that his suite was nicknamed the "Crosby Suite" after alleged rapist Bill
9 Crosby. Afrasiabi would also call females derogatory names at company events. Afrasiabi's
10 conduct was known to Blizzard Entertainment's executives, who took no effective remedial
11 measures. J.Allen Brack, President of Blizzard Entertainment, allegedly had multiple conversations
12 with Afrasiabi about his drinking and that he had been "too friendly" towards female employees at
13 company events but gave Afrasiabi a slap on the wrist (i.e. verbal counseling) in response to these
14 incidents. Subsequently, Afrasiabi continued to make unwanted advances towards female
15 employees, including grabbing a female employee's hand and inviting her to his hotel room and
16 groping another woman.

17 48. In a tragic example of the harassment that Defendants allowed to fester in their
18 offices, a female employee committed suicide while on a company trip due to a sexual relationship
19 that she had been having with her male supervisor. The male supervisor was found by police to
20 have brought a butt plug and lubricant on this business trip. Another employee confirmed that the
21 deceased female employee may have been suffering from other sexual harassment at work prior to
22 her death. Specifically, at a holiday party before her death, male co-workers were alleged to be
23 passing around a picture of the deceased's vagina.

24 **Retaliation and Defendants Failure to Prevent**

25 **Discrimination, Harassment, and Retaliation**

26 49. The problems of harassment and discrimination extended to and at a minimum were
27 known to those at the top. Defendants' former Chief Technology Officer was observed by
28 employees groping inebriated female employees at company events and was known for making

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1 hiring decisions based on female applicants' looks. An employee complained to Blizzard
2 Entertainment President J. Allen Brack in early 2019 that employees were leaving due to sexual
3 harassment and sexism. Specifically, this employee noted that women on the Battle.net team were
4 subjected to disparaging comments, the environment was akin to working in a frat house, and that
5 women who were not "huge gamers" or "core gamers" and not into the party scene were excluded
6 and treated as outsiders.

7 50. Female employees had raised further complaints to various human resources
8 personnel about the discrimination they faced, including but not limited to complaints about unfair
9 pay and assignments, male co-workers belittling them or minimizing their contributions, and male
10 counterparts being promoted quickly despite their lack of seniority. Similarly, female employees
11 also complained of the harassment they suffered, including that male co-workers groped them, that
12 male supervisor asked them on dates, and of other unwanted harassment. Defendants failed to take
13 reasonable action in responses to these complaints. Such lack of effective remedial measures was
14 not surprisingly given Defendants' own internal investigation into their human resources unit noted
15 that there was a "big lack of trust" and that "HR not held in high regard." Multiple employees also
16 noted that their complaints were not kept confidential.

17 51. In retaliation for complaints they made regarding harassment and discrimination,
18 female employees experienced retaliation by Defendants that included involuntary transfers,
19 selection for layoffs, and denial of projects and other opportunities.

20 52. Defendants' flawed policies and practices effectively allowed and continue to allow
21 discrimination to occur in Defendants' workplace. Employees have suffered and will continue to
22 suffer harm from Defendants' ongoing unlawful policies and practices unless they are enjoined by
23 this Court.

24 **FIRST CAUSE OF ACTION**
25 **Employment Discrimination Because of Sex-Compensation**
(Gov. Code, § 12940, subd. (a))

26 53. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

27 54. Government Code section 12940 subdivision (a) states that it is an unlawful
28 employment practice for an employer "to discriminate against the person in compensation or in

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1 terms, conditions, or privileges of employment," because of that person's sex.

2 55. Defendants discriminated against women by paying them less than men because of
3 sex in violation of Government Code section 12940, subdivision (a).

4 56. Defendants intentionally discriminate against women in compensation. For example,
5 Defendants offered women lower compensation at hire, assigned them to lower paid and less
6 opportunity levels and roles, awarded them less incentive pay and/or equity pay opportunities, and
7 afforded them less advancement and other opportunities than their male counterparts.

8 57. Defendants' policies, practices, and/or procedures have resulted in unlawful disparate
9 impact discrimination against women with respect to compensation opportunities. For example,
10 Defendants offered women lower compensation at hire, assigned women to the lower paid and lower
11 opportunity levels and roles, and afforded them less incentive and/or equity pay opportunities than
12 their male counterparts.

13 58. As a result of Defendants' unlawful employment practices, female employees
14 suffered and continue to suffer harm, including but not limited to lost earnings, lost benefits, lost
15 future employment opportunities, and other financial loss as well as non-economic damages.

16 59. Defendants' actions demonstrate that they will continue to engage in the pattern or
17 practice of unlawful employment discrimination and unlawful disparate impact discrimination
18 prohibited by FEHA unless they are enjoined pursuant to the police power granted by Government
19 Code sections 12920 and 12920.5 from failing or refusing to comply with the mandates of FEHA,
20 Government Code section 12900 et seq.

21 60. Defendants' actions were willful, malicious, fraudulent, and oppressive, and were
22 committed with the wrongful intent to injure female employees in conscious disregard of their
23 rights.

24 61. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),
25 from failing or refusing to comply with the mandates of the FEHA, female employees' right to seek
26 or hold employment free of unlawful discrimination will continue to be violated.

27 62. By reason of the continuous nature of Defendants' unlawful conduct, the continuing
28 violations doctrine is applicable to all violations alleged herein.

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1 63. Plaintiff DFEH requests relief as described herein.

2 **SECOND CAUSE OF ACTION**
3 **Employment Discrimination Because of Sex-Promotion**
4 **(Gov. Code, § 12940, subd. (a))**

4 64. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

5 65. Government Code section 12940 subdivision (a) states that it is an unlawful
6 employment practice for an employer “to discriminate against the person in compensation or in
7 terms, conditions, or privileges of employment,” because of that person’s sex.

8 66. Defendants discriminated against women by denying them promotional opportunities
9 because of sex in violation of Government Code section 12940, subdivision (a).

10 67. Defendants intentionally discriminated against women in promotion and
11 advancement opportunities. For example, Defendants assigned women to the lower paid and lower
12 opportunity levels and roles, delayed their career advancement, denied them promotional
13 opportunities afforded to their male counterparts, and refused to promote women because they might
14 get pregnant even when women performed higher level work for extended periods of time.

15 68. Defendants’ policies, practices, and/or procedures have resulted in unlawful disparate
16 impact discrimination against women with respect to promotion opportunities. Among other
17 practices, Defendants’ quota system, lack of application process for promotional opportunities, as
18 well as its informal and opaque decision-making process resulted in female employees being
19 promoted at slower rates than their male counterparts.

20 69. As a result of Defendants’ unlawful employment practices, female employees
21 suffered and continue to suffer harm, including but not limited to lost earnings, lost benefits, lost
22 future employment opportunities, and other financial loss as well as non-economic damages.

23 70. Defendants’ actions demonstrate that they will continue to engage in the pattern or
24 practice of unlawful employment discrimination and unlawful disparate impact discrimination
25 prohibited by FEHA unless they are enjoined pursuant to the police power granted by Government
26 Code sections 12920 and 12920.5 from failing or refusing to comply with the mandates of FEHA,
27 Government Code section 12900 et seq.

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1 71. Defendants' actions were willful, malicious, fraudulent, and oppressive, and were
2 committed with the wrongful intent to injure female employees in conscious disregard of their
3 rights.

4 72. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),
5 from failing or refusing to comply with the mandates of the FEHA, female employees' right to seek
6 or hold employment free of unlawful discrimination will continue to be violated.

7 73. By reason of the continuous nature of Defendants' unlawful conduct, the continuing
8 violations doctrine is applicable to all violations alleged herein.

9 74. Plaintiff DFEH requests relief as described herein.

10 **THIRD CAUSE OF ACTION**
11 **Employment Discrimination Because of Sex-Termination**
12 **(Gov. Code, § 12940, subd. (a))**

12 75. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

13 76. Government Code section 12940 subdivision (a) states that it is an unlawful
14 employment practice for an employer "to discriminate against the person in compensation or in
15 terms, conditions, or privileges of employment," because of that person's sex.

16 77. Defendants discriminated against women by terminating their employment because
17 of sex in violation of Government Code section 12940, subdivision (a).

18 78. Defendants intentionally discriminated against women in terminations. Defendants'
19 policies, practices, and/or procedures have resulted in unlawful disparate impact discrimination
20 against women with regards to termination.

21 79. As a result of Defendants' unlawful employment practices, female employees
22 suffered and continue to suffer harm, including but not limited to lost earnings, lost benefits, lost
23 future employment opportunities, and other financial loss as well as non-economic damages.

24 80. Defendants' actions demonstrate that they will continue to engage in the pattern or
25 practice of unlawful employment discrimination and unlawful disparate impact discrimination
26 prohibited by FEHA unless they are enjoined pursuant to the police power granted by Government
27 Code sections 12920 and 12920.5 from failing or refusing to comply with the mandates of FEHA,
28 Government Code section 12900 et seq.

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1 81. Defendants' actions were willful, malicious, fraudulent, and oppressive, and were
2 committed with the wrongful intent to injure female employees in conscious disregard of their
3 rights.

4 82. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),
5 from failing or refusing to comply with the mandates of the FEHA, female employees' right to seek
6 or hold employment free of unlawful discrimination will continue to be violated.

7 83. By reason of the continuous nature of Defendants' unlawful conduct, the continuing
8 violations doctrine is applicable to all violations alleged herein.

9 84. Plaintiff DFEH requests relief as described herein.

10 **FOURTH CAUSE OF ACTION**
11 **Employment Discrimination Because of Sex-Constructive Discharge**
12 **(Gov. Code, § 12940, subd. (a))**

12 85. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

13 86. Government Code section 12940 subdivision (a) states that it is an unlawful
14 employment practice for an employer "to discriminate against the person in compensation or in
15 terms, conditions, or privileges of employment," because of that person's sex.

16 87. Defendants constructively discharged women in violation of Government Code
17 section 12940, subdivision (a). For example, in denying women promotions, assignments and
18 compensation in comparison to their male counterparts and subjecting them to sexual harassment
19 and a hostile work environment, Defendants effectively forced female employees to leave their
20 employment with Defendants. Female employees accepted less compensation than they were
21 making in their prior employment or offered by other companies to work with Defendants as
22 Defendants promised to make up the pay differential with future promotions or increased
23 compensation. Given Defendants' promises, female employees came to work for Defendants only
24 to realize that the promises were empty and watch as male comparators were promoted more quickly
25 and offered more compensation, forcing them to leave the company.

26 88. Defendants intentionally discriminated against women regarding constructive
27 discharge. Defendants' policies, practices, and/or procedures have resulted in unlawful disparate
28 impact discrimination against women regarding constructive discharge.

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1 89. As a result of Defendants' unlawful employment practices, female employees
2 suffered and continue to suffer harm, including but not limited to lost earnings, lost benefits, lost
3 future employment opportunities, and other financial loss as well as non-economic damages.

4 90. Defendants' actions demonstrate that they will continue to engage in the pattern or
5 practice of unlawful employment discrimination and unlawful disparate impact discrimination
6 prohibited by FEHA unless they are enjoined pursuant to the police power granted by Government
7 Code sections 12920 and 12920.5 from failing or refusing to comply with the mandates of FEHA,
8 Government Code section 12900 et seq.

9 91. Defendants' actions were willful, malicious, fraudulent, and oppressive, and were
10 committed with the wrongful intent to injure female employees in conscious disregard of their
11 rights.

12 92. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),
13 from failing or refusing to comply with the mandates of the FEHA, female employees' right to seek
14 or hold employment free of unlawful discrimination will continue to be violated.

15 93. By reason of the continuous nature of Defendants' unlawful conduct, the continuing
16 violations doctrine is applicable to all violations alleged herein.

17 94. Plaintiff DFEH requests relief as described herein.

18 **FIFTH CAUSE OF ACTION**
19 **Employment Discrimination Because of Sex - Harassment**
20 **(Gov. Code, § 12940, subd. (a) and (j))**

21 95. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

22 96. Government Code section 12940 subdivision (j) states that it is an unlawful
23 employment practice for an employer "or any other person" "to harass an employee, an applicant, an
24 unpaid intern or volunteer, or a person providing services pursuant to a contract," because of that
25 person's sex.

26 97. Defendants' female employees were routinely subjected to unwelcome sexual
27 advances and other harassing conduct so severe or pervasive that it created a hostile work
28 environment.

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1 98. The harassment was perpetrated by Defendants' supervisors and/or Defendants knew
2 or should have known of the conduct and failed to take immediate and appropriate corrective action.

3 99. As a result of Defendants' unlawful employment practices, female employees
4 suffered and continue to suffer harm, including but not limited to emotional pain, humiliation,
5 embarrassment, belittlement, sadness, and mental anguish, in an amount to be determined at trial.

6 100. Defendants' actions were willful, malicious, fraudulent, and oppressive, and were
7 committed with the wrongful intent to injure female employees and in conscious disregard of their
8 rights.

9 101. Defendants engaged in, and by their refusal to comply with the law, continue to
10 engage in, unlawful employment harassment based on sex, including a pattern or practice of
11 unlawful employment conduct and disparate impact of the same, unless they are enjoined pursuant
12 to the police power granted by Government Code sections 12920 and 12920.5, from failing or
13 refusing to comply with the mandates of the FEHA, Government Code section 12900 et seq.

14 102. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),
15 from failing or refusing to comply with the mandates of the FEHA, female employees' right to seek
16 or hold employment free of unlawful discrimination, harassment, and retaliation will continue to be
17 violated.

18 103. By reason of the continuous nature of all Defendants' unlawful conduct, the
19 continuing violations doctrine is applicable to all violations alleged herein.

20 104. Plaintiff DFEH requests relief as described herein.

21 **SIXTH CAUSE OF ACTION**
22 **Retaliation**
23 **(Gov. Code, § 12940, subd. (h))**

24 105. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

25 106. Government Code section 12940 (h) states that it is an unlawful employment practice
26 for "any employer, labor organization, employment agency, or person to discharge, expel, or
27 otherwise discriminate against any person because the person has opposed any practices forbidden
28 under this part or because the person has filed a complaint, testified, or assisted in any proceeding
under this part."

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1 107. After female employees engaged in protected activities, such as complaining to
2 human resources, Defendants took adverse employment actions against female employees. Such
3 adverse employment actions included but was not limited to denial of professional opportunities,
4 negative performance reviews, forced transfers to less favorable units, constructive termination, and
5 selection for reductions in forces/layoffs likely based on discriminatory criteria applied to formal
6 and/or informal evaluations of performance.

7 108. As a result of Defendants' unlawful employment practices, aggrieved female
8 employees suffered and continue to suffer lost earnings, lost benefits, lost future employment
9 opportunities, and other financial loss as well as non-economic damages, including but not limited
10 to, emotional pain, humiliation, embarrassment, belittlement, sadness, and mental anguish, in an
11 amount to be determined at trial.

12 109. Defendants' actions were willful, malicious, fraudulent, and oppressive, and were
13 committed with the wrongful intent to injure the Group and in conscious disregard of their rights.

14 110. Defendants engaged in, and by their refusal to comply with the law, continue to
15 engage in, unlawful employment retaliation, including a pattern or practice of unlawful employment
16 conduct and disparate impact of the same, unless they are enjoined pursuant to the police power
17 granted by Government Code sections 12920 and 12920.5, from failing or refusing to comply with
18 the mandates of the FEHA, Government Code section 12900 et seq.

19 111. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),
20 from failing or refusing to comply with the mandates of the FEHA, female employees' right to seek
21 or hold employment free of unlawful discrimination, harassment, and retaliation will continue to be
22 violated.

23 112. By reason of the continuous nature of Defendants' unlawful conduct, the continuing
24 violations doctrine is applicable to all violations alleged herein.

25 113. Plaintiff DFEH requests relief as described herein.

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1 **SEVENTH CAUSE OF ACTION**
2 **Failure to Prevent Discrimination and Harassment (On Behalf of Group)**
3 **(Gov. Code, § 12940, subd. (k))**

4 114. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

5 115. Government Code section 12940 subsection (k) states that it is an unlawful
6 employment practice for employers to “fail to take all reasonable steps necessary to prevent
7 discrimination and harassment from occurring.”

8 116. Defendants violated Government Code section 12940 subsection (k), by failing to
9 take all reasonable steps necessary to prevent discrimination and harassment of employees.
10 Defendants’ failure to have and/or enforce adequate and consistent anti-discrimination and
11 harassment policies caused harm to the Group. Defendants failed to have an effective sexual
12 harassment policy, failed to adequately train all supervisors, managers and executives on the
13 prevention of discrimination and harassment based on sex, and/or failed to timely discipline or stop
14 discriminatory or harassing behavior from occurring in the workplace.

15 117. By engaging in the conduct set forth above, Defendants acted in conscious disregard
16 of the rights or safety of others and acted in an oppressive, fraudulent, or malicious manner in
17 violation of California Civil Code section 3294.

18 118. As a further result of the unlawful employment practices of Defendants, the Group
19 suffered lost earnings, lost benefits, lost future employment opportunities, and other financial loss as
20 well as non-economic damages, including but not limited to, emotional pain, humiliation,
21 embarrassment, belittlement, sadness, and mental anguish, in an amount to be determined at trial.

22 119. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),
23 from failing or refusing to comply with the mandates of the FEHA, female employees of color right
24 to seek or hold employment free of unlawful discrimination, harassment, and retaliation will
25 continue to be violated.

26 120. By reason of the continuous nature of Defendants’ unlawful conduct, the continuing
27 violations doctrine is applicable to all violations alleged herein.

28 121. DFEH requests relief as herein described.

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EIGHTH CAUSE OF ACTION
Failure to Prevent Discrimination and Harassment (On Behalf of DFEH)
(Gov. Code, § 12940, subd. (k); Cal. Code Regs., tit. 2, § 11023, subd. (a)(3))

122. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

123. Government Code section 12940 subdivision (k), requires employers to take all reasonable steps necessary to prevent discrimination and sexual harassment from occurring.

124. Defendants violated Government Code section 12940 subdivision (k), by failing to take all reasonable steps necessary to prevent discrimination and harassment of employees. Defendants' failure to have and/or enforce adequate and consistent anti-discrimination policies were substantial motivating factors in causing harm to the Group. Defendants failed to have an effective sexual harassment policy, failed to adequately train all supervisors, managers and executives on the prevention of discrimination and harassment based on sex, and/or failed to timely discipline or stop discriminatory or harassing behavior from occurring in the workplace.

125. Defendants' actions were willful, malicious, fraudulent, and oppressive and were committed with the wrongful intent to injure employees or persons in conscious disregard of their rights.

126. Unless Defendants are enjoined, pursuant to Government Code section 12965(c), from failing or refusing to comply with the mandates of the FEHA, female employees' right to seek or hold employment free of unlawful discrimination, harassment, and retaliation will continue to be violated.

127. By reason of the continuous nature of Defendants' unlawful conduct, the continuing violations doctrine is applicable to all violations alleged herein.

128. DFEH requests relief as herein described.

NINTH CAUSE OF ACTION
Unequal Pay
(Labor Code, § 1197.5; Gov. Code, § 12930, subd. (f)(5))

129. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

130. Labor Code 1197.5 subsection (a)(1) states that "[a]n employer shall not pay any of its employees at wage rates less than the rates paid to employees of the opposite sex for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under

1 similar working conditions,”

2 131. Defendants’ female employees received less total compensation than their male
3 counterparts while performing substantially similar work as each other, considering their
4 combination of skill, effort, and responsibilities, as well as their similar working conditions.

5 132. Defendants’ female employees received less base pay than their male counterparts
6 while performing substantially similar work as each other, considering their combination of skill,
7 effort, and responsibilities, as well as their similar working conditions.

8 133. Defendants’ female employees received less incentive pay, equity and/or benefits
9 compared to their male counterparts while performing substantially similar work as each other,
10 considering their combination of skill, effort, and responsibilities, as well as their similar working
11 conditions.

12 134. As a result of Defendants’ conduct, female employees suffered and continue to suffer
13 lost earnings and DFEH is entitled to recover unpaid wages and liquidated damages in addition to
14 costs of suit.

15 135. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),
16 from failing or refusing to comply with the mandates of the FEHA, female employees’ right to seek
17 or hold employment free of unlawful discrimination, harassment, and retaliation will continue to be
18 violated.

19 136. By reason of the continuous nature of Defendants’ unlawful conduct, the continuing
20 violations doctrine is applicable to all violations alleged herein.

21 137. Plaintiff DFEH requests relief as herein described.

22 **TENTH CAUSE OF ACTION**
23 **Waiver of Rights, Forums, or Procedures and Release of Claims**
24 **(Gov. Code, §§ 12953 and 12964.5 and Labor Code § 432.6)⁶**

24 138. DFEH incorporates and realleges all previous allegations as if fully set forth herein.

25 139. Government Code Section 12953 defines as an unlawful practice an employer’s

27 ⁶ DFEH does not allege a violation of Section 12953 of the Government Code or Section 432.6 of
28 the Labor Code based on the entry into an arbitration agreement covered by the Federal Arbitration
Act. (9 U.S.C. §§ 1-16; 9 U.S.C. §§ 201-208; 9 U.S.C. §§ 301-307).

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1 violation of Section 432.6 of the Labor Code.

2 140. Section 432.6 of the Labor Code states inter alia that “[a] person shall not, as a
3 condition of employment, continued employment, or the receipt of any employment-related benefit,
4 require any applicant for employment or any employee to waive any right, forum, or procedure for a
5 violation of any provision of the California Fair Employment and Housing Act...or this code,
6 including the right to file and pursue a civil action or a complaint with, or otherwise notify, any state
7 agency, other public prosecutor, law enforcement agency, or any court or other governmental entity
8 of any alleged violation.”

9 141. Based on information and belief, DFEH alleges that Defendants required female
10 employees to waive rights, forums, and/or procedures as a condition of employment, continued
11 employment, or the receipt of any employment-related benefit including but not limited to an
12 adjustment, payment, or severance pay in violation of Labor Code Section 432.6 and Government
13 Code Section 12953.

14 142. Government Code Section 12964.5 subsection (a)(1)(A) prohibits “an employer, in
15 exchange for a raise or bonus, or as a condition of employment or continued employment...to
16 require an employee to sign a release of a claim or right under this part.”

17 143. Based on information and belief, DFEH alleges that Defendants’ female employees
18 were required to sign a release of claims and/or rights in exchange for underpayment of
19 compensation, or an adjustment, bonus, raise or payment, and/or other employment-related benefit,
20 in violation of Government Code Section 12964.5.

21 144. By engaging in the conduct set forth above, Defendants acted in conscious disregard
22 of the rights or safety of others and acted in an oppressive, fraudulent, or malicious manner in
23 violation of California Civil Code section 3294.

24 145. As a further result of the unlawful employment practices of Defendants, the Group
25 suffered lost earnings, lost benefits, lost future employment opportunities, and other financial loss as
26 well as non-economic damages, including but not limited to, emotional pain, humiliation,
27 embarrassment, belittlement, sadness, and mental anguish, in an amount to be determined at trial.

28 146. Unless Defendants are enjoined, pursuant to Government Code section 12965(c),

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1 from failing or refusing to comply with the mandates of the FEHA, female employees' right to seek
2 or hold employment free of unlawful discrimination, harassment, and retaliation will continue to be
3 violated.

4 147. By reason of the continuous nature of Defendants' unlawful conduct, the continuing
5 violations doctrine is applicable to all violations alleged herein.

6 148. DFEH requests relief as herein described.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, DFEH prays that this Court issue judgment in favor of DFEH, and against
9 Defendants, ordering:

- 10 1. Compensatory and punitive damages;
- 11 2. Unpaid wages, liquidated damages, and other remedies and penalties available under
12 the Equal Pay Act;
- 13 3. Injunctive relief;
- 14 4. Declaratory relief;
- 15 5. Equitable relief, including but not limited to reinstatement and/or front pay, pay
16 adjustments, backpay, lost wages and benefits (including base pay, incentive pay, pension benefits
17 and awards), in an amount to be proven at trial;
- 18 6. Prejudgment interest, as required by law;
- 19 7. Attorneys' fees and costs to the Department of Fair Employment and Housing; and
20 8. Other relief the Court deems to be just and proper.

21
22 DATED: July 20, 2021

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

23
24 Rumduol Vuong
By: Rumduol Vuong
25 Attorneys for the Department
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27
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DEMAND FOR JURY TRIAL

Plaintiff DFEH hereby demands a trial by jury on all claims.

Dated: July 20, 2021

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

Rumduol Vuong
By: Rumduol Vuong
Attorneys for the Department

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