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OF ORIGINAL FILED
Los Angeles Superior Court

MAY 10 2006

John A. Clarke, Executive Officer/Clerk
By D. Giles Deputy
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6 Attorneys for Plaintiff
IRWIN MAZUR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT

11 IRWIN MAZUR,
12 Plaintiff,
13 v.
14 MORGAN STANLEY, a corporation, and
15 DOES 1 through 50, inclusive,
Defendants.

Case No. BC352114

COMPLAINT FOR DAMAGES:

- (1) AGE DISCRIMINATION [Cal. Gov't Code § 12940];
- (2) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
- (3) RETALIATION;
- (4) BREACH OF CONTRACT;
- (5) INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS; AND
- (6) NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS

DEMAND FOR TRIAL BY JURY

24 Plaintiff IRWIN MAZUR (hereinafter "MR. MAZUR" or "PLAINTIFF"), as
25 an individual, complains and alleges as follows:

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2
INTRODUCTION
3

4 1. This action is brought by plaintiff Irwin Mazur against
5 Morgan Stanley (NYSE: MWD) – one of the Country's largest financial services companies.
6

7 2. Mr. Mazur is 64 years old. He was a Senior Vice-President with
8 Morgan Stanley when the Company summarily fired him. Prior to his employment in the
9 financial services sector, Mr. Mazur worked in the entertainment industry where he was
10 primarily known as the first manager for the internationally renowned
11 singer/songwriter/pianist, Billy Joel.
12

13 3. Morgan Stanley is a company dogged by a long and sordid history of
14 allegations that it routinely engages in illegal employment discrimination and other violations
15 of the law. For example, on July 12, 2004, the United States Equal Employment Opportunity
16 Commission announced that Morgan Stanley paid \$54 million to settle a sex discrimination
17 lawsuit under Title VII of the 1964 Civil Rights Act that had been filed on behalf of a class
18 of female officers and women eligible for officer promotion in the firm's Institutional Equity
19 Division. Similarly, Morgan Stanley paid \$1 million to settle a race discrimination lawsuit.
20 Morgan Stanley has also settled numerous other employment lawsuits but has insisted that
21 such settlements contain confidentiality clauses such that the public would never learn of its
22 misconduct. More recently, Morgan Stanley was hit with a \$1.578 billion judgment
23 (including \$850 million in punitive damages), in a case involving claims that Morgan Stanley
24 provided false financial information to investors (Morgan Stanley & Co., Inc. v. Coleman
25 (Parent) Holdings Inc., No. CA4D05-2606, Fla. Ct. App., 4th Dist.).
26

27 4. In this case, Mr. Mazur is informed and believes, and thereon alleges
28 that in the summer of 2005, Morgan Stanley, at its highest levels, embarked upon a plan that,
in purpose or effect, discriminated against older brokers, specifically targeting those brokers

1 who were over the age of 60.
2
3

JURISDICTION AND VENUE

5 The Court has personal jurisdiction over the defendants because they are
6 residents of and/or doing business in the State of California.
7

8 Venue is proper in this county in accordance with Section 395(a) of the
9 California Code of Civil Procedure because the defendants, or some of them, reside in this
10 county, and the injuries alleged herein, or some of them, occurred in this county. Venue is
11 further appropriate in this county in accordance with Section 395(a) and Section 395.5 of the
12 California Code of Civil Procedure because defendants and PLAINTIFF contracted to
13 perform their obligations in this county, because the contract was entered into in this county,
14 because the liability, obligation and breach occurred within this county, and because the
15 principal places of business of defendants, or some of them, are situated in this county.
16 Venue is further appropriate in this county in accordance with Section 12965(b) of the
17 California Government Code because the unlawful practices alleged by PLAINTIFF in
18 violation of the California Fair Employment and Housing Act [Cal. Gov't Code §§ 12940, et
19 seq.] were committed in this county.
20

PARTIES

21 7. MR. MAZUR is an individual who resides and, at relevant times during
22 the events alleged herein, resided in Los Angeles.
23
24

25 8. MR. MAZUR is informed and believes, and thereon alleges, that
26 defendant Morgan Stanley and DOES 1 through 50, and each of them, are, and at all times
27 herein mentioned were, corporations, limited liability companies, unincorporated
28

1 associations, partnerships or other business entities qualified to do business and/or doing
2 business in the State of California. MR. MAZUR is further informed and believes, and
3 thereon alleges, that said defendants are and were, at all relevant times mentioned herein,
4 "employer[s]" within the meaning of Sections 12926(d) and 12940(j)(4)(A) of the California
5 Government Code.

6

7 9. The true names and capacities, whether corporate, associate, individual
8 or otherwise of defendants DOES 1 through 50, inclusive, are unknown to MR. MAZUR,
9 who therefore sues said defendants by such fictitious names. Each of the defendants
10 designated herein as a DOE is negligently or otherwise legally responsible in some manner
11 for the events and happenings herein referred to and caused injuries and damages
12 proximately thereby to MR. MAZUR, as herein alleged. MR. MAZUR will seek leave of
13 Court to amend this Complaint to show their names and capacities when the same have been
14 ascertained.

15

16 10. At all times herein mentioned, defendants, and each of them, were the
17 agents, representatives, employees, successors and/or assigns, each of the other, and at all
18 times pertinent hereto were acting within the course and scope of their authority as such
19 agents, representatives, employees, successors and/or assigns and acting on behalf of, under
20 the authority of, and subject to the control of each other.

21

22 **FACTS COMMON TO ALL CAUSES OF ACTION**

23

24 11. On or about June 15, 2000, MR. MAZUR commenced employment with
25 defendant MORGAN STANLEY as a Senior Vice-President, Financial Advisor.

26

27 12. At the time that MR. MAZUR commenced his employment with
28 MORGAN STANLEY, the COMPANY had and continues to have a policy and practice

1 whereby all current and former employees are entitled to participate in the COMPANY's
2 employment dispute resolution program, which the COMPANY refers to as Convenient
3 Access to Resolutions for Employees ("C.A.R.E."). Among other things, C.A.R.E. mandated
4 a three-step process for the resolution of employment disputes: (1) informal resolution; (2)
5 mediation (all of the cost to be borne 100% by defendant MORGAN STANLEY); and (3)
6 arbitration (all of the costs – except for \$100.00 – to be borne 100% by MORGAN
7 STANLEY).

8

9 13. MR. MAZUR is informed and believes, and thereon alleges, that in or
10 about August 2005, defendant MORGAN STANLEY embarked upon a reduction-in-force
11 which, in purpose or effect, discriminated against older brokers specifically targeting brokers
12 who were over the age of 60. In this regard, MR. MAZUR is informed and believes, and
13 thereon alleges, that brokers over the age of 60 were subjected to termination standards that
14 were more onerous than brokers under the age of 60.

15

16 14. As part of this reduction-in-force, MR. MAZUR's employment was
17 terminated.

18

19 15. MR. MAZUR is informed and believes, and thereon alleges, that
20 brokers under the age of 60 who performed equivalently or worse than he performed were
21 retained while he was terminated.

22

23 16. From the time he was hired up through and including the date of his
24 unlawful termination, MR. MAZUR had a record of excellent work performance.

25

26 17. MR. MAZUR is informed and believes, and thereon alleges, that his
27 termination was caused by either disparate treatment or disparate impact age discrimination.

1 18. Following the wrongful termination of his employment, MR. MAZUR
2 engaged in protected activity by informing defendant MORGAN STANLEY that he believed
3 that he had been discriminated against on the basis of his age in violation of the California
4 Fair Employment and Housing Act. Mr. Mazur also engaged in protected activity by filing a
5 charge of age discrimination with the California Department of Fair Employment and
6 Housing.

7

8 19. Mr. Mazur contacted defendant MORGAN STANLEY in an effort to
9 exercise his rights under the C.A.R.E. program. Defendant MORGAN STANLEY refused to
10 participate in the C.A.R.E. program.

11

12 20. MR. MAZUR is informed and believes, and thereon alleges, that
13 defendant MORGAN STANLEY's refusal to participate in the C.A.R.E. program was in
14 retaliation for engaging in protected activity.

15

16 21. Prior to the filing of this action, MR. MAZUR filed a complaint with
17 the Department of Fair Employment and Housing ("DFEH") alleging that the acts of
18 defendants, and each of them, established a violation of the Fair Employment and Housing
19 Act, Government Code Section 12900 et. seq., and has received the requisite right to sue
20 letters.

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22 22. MR. MAZUR has been generally damaged in an amount within the
23 jurisdictional limits of this Court.

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FIRST CAUSE OF ACTION

AGE DISCRIMINATION

(Cal. Gov't Code § 12940)

(Against All Defendants)

23. MR. MAZUR realleges and incorporates by reference paragraphs 11 through 22, as though set forth in full.

24. In perpetrating the above-described actions, the defendants, and each of them, including DOES 1 through 50 and/or their agents and employees, subjected MR. MAZUR to age discrimination – disparate impact and/or disparate treatment – in violation of California Government Code Section 12940 et seq.

25. MR. MAZUR is informed and believes, and thereon alleges that in the summer of 2005, Morgan Stanley, at its highest levels, embarked upon the aforementioned plan that discriminated, in purpose or effect, against older brokers specifically targeting brokers over the age of 60.

26. By the aforesaid acts and omissions of defendants, and each of them, MR. MAZUR has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not presently ascertained.

27. As a further direct and legal result of the acts and conduct of defendants, and each of them, as aforesaid, MR. MAZUR has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, discomfort, anxiety, physical pain and suffering. The exact

1 nature and extent of said injuries is presently unknown to MR. MAZUR. MR. MAZUR
2 does not know at this time the exact duration or permanence of said injuries, but is informed
3 and believes and thereon alleges that some if not all of the injuries are reasonably certain to
4 be permanent in character.

5

6 28. MR. MAZUR is informed and believes, and thereon alleges, that the
7 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing
8 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
9 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
10 safety of MS. TARRY, thereby justifying the award of punitive and exemplary damages in an
11 amount to be determined at trial.

12

13 29. As a result of defendants' acts and conduct, as alleged herein, MR.
14 MAZUR is entitled to reasonable attorneys' fees and costs of suit as provided in Section
15 12965(b) of the California Government Code.

16

17 **SECOND CAUSE OF ACTION**

18 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

19 (Against all Defendants)

20

21 30. MR. MAZUR realleges and incorporates by reference paragraphs 11
22 through 22 and 24 through 29 as though set forth in full.

23

24 31. The termination of MR. MAZUR employment, and other adverse
25 employment actions by Defendants, and each of them, violated the fundamental public
26 policies of the State of California, which, among other things, mandate that employees be
27 free from age discrimination. As alleged herein, and in violation of public policy, defendants
28 MORGAN STANLEY and DOES 1 through 50, and each of them, discharged MR.

1 MAZUR from his employment, and otherwise retaliated against him, because of his age.
2 This fundamental public policies are embodied in Section 12940, et seq. of the California
3 Government Code and various other California and federal statutes and regulations.
4

5 32. By the aforesaid acts and omissions of defendants, and each of them,
6 MR. MAZUR has been directly and legally caused to suffer actual damages including, but
7 not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and
8 other pecuniary loss not presently ascertained.
9

10 33. As a further direct and legal result of the acts and conduct of defendants,
11 and each of them, as aforesaid, MR. MAZUR has been caused to and did suffer and
12 continues to suffer severe emotional and mental distress, anguish, humiliation,
13 embarrassment, fright, shock, discomfort, anxiety, physical pain and suffering. The exact
14 nature and extent of said injuries is presently unknown to MR. MAZUR. MR. MAZUR
15 does not know at this time the exact duration or permanence of said injuries, but is informed
16 and believes and thereon alleges that some if not all of the injuries are reasonably certain to
17 be permanent in character.
18

19 34. MR. MAZUR is informed and believes, and thereon alleges, that the
20 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing
21 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
22 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
23 safety of MR. MAZUR, thereby justifying the award of punitive and exemplary damages in
24 an amount to be determined at trial.
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THIRD CAUSE OF ACTION

RETALIATION FOR OPPOSING UNLAWFUL

EMPLOYMENT PRACTICES PURSUANT TO FEHA

(Cal. Gov't Code § 12940(h))

(Against all Defendants)

9 35. MR. MAZUR realleges and incorporates by reference paragraphs 11
10 through 22, 24 through 29, and 31 through 34 as though set forth in full.

13 36. As alleged herein and in violation of California Government Code §
14 12940(h), defendants, and each of them, retaliated against and otherwise discriminated
15 against MR. MAZUR by not allowing him to participate in the C.A.R.E program because he
16 reported, complained about age discrimination, and otherwise opposed practices forbidden by
17
18 California Government Code §12940 et. seq., including, inter alia, age discrimination.

20 37. By the aforesaid acts and omissions of defendants, and each of them,
21
22 MR. MAZUR has been directly and legally caused to suffer actual damages including, but
23 not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and
24 other pecuniary loss not presently ascertained.

27 38. As a further direct and legal result of the acts and conduct of defendants,
28 and each of them, as aforesaid, MR. MAZUR has been caused to and did suffer and

1 continues to suffer severe emotional and mental distress, anguish, humiliation,
2 embarrassment, fright, shock, discomfort, anxiety, physical pain and suffering. The exact
3 nature and extent of said injuries is presently unknown to MR. MAZUR. MR. MAZUR
4 does not know at this time the exact duration or permanence of said injuries, but is informed
5 and believes and thereon alleges that some if not all of the injuries are reasonably certain to
6 be permanent in character.
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10 39. MR. MAZUR is informed and believes, and thereon alleges, that the
11 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing
12 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
13 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
14 safety of MR. MAZUR , thereby justifying the award of punitive and exemplary damages in
15 an amount to be determined at trial.
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19 40. As a result of defendants' acts and conduct, as alleged herein, MS.
20 TARRY is entitled to reasonable attorneys' fees and costs of suit as provided in Section
21 12965(b) of the California Government Code.
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FOURTH CAUSE OF ACTION

BREACH OF CONTRACT

(Against all Defendants)

41. MR. MAZUR realleges and incorporates by reference paragraphs 11 through 22, 24 through 29, 31 through 34, and 36 through 40 as though set forth in full.

42. In or around June 2000, a contract of employment was entered into between MR. MAZUR and Defendants. One of the essential terms of the contract was that MR. MAZUR would be entitled to any of the benefits provided by defendant MORGAN STANLEY to all of its employees including the C.A.R.E. program.

43. In or around March 2006, MR. MAZUR requested that defendant MORGAN STANLEY participate in the C.A.R.E. program in an effort to resolve his employment-related claims. Defendant MORGAN STANLEY refused to participate in the C.A.R.E. Program.

44. By the aforesaid acts and omissions of the Defendants, MR. MAZUR has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings, reliance damages, costs of suit and other pecuniary loss not presently ascertained, in an amount to be proved at trial.

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1 45. MR. MAZUR has been generally damaged in an amount within the
2 jurisdictional limits of this Court.
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5 **FIFTH CAUSE OF ACTION**

6 **INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

7 (Against all Defendants)
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10 46. MR. MAZUR realleges and incorporates by reference paragraphs 11
11 through 22, 24 through 29, 31 through 34, 36 through 40, and 42 through 45 as though set
12 forth in full.
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15 47. Defendants' conduct as described above was extreme and outrageous
16 and was done with the intent of causing MR. MAZUR to suffer emotional distress or with
17 reckless disregard as to whether their conduct would cause her to suffer such distress.
18

19
20 48. As a further direct and legal result of the acts and conduct of defendants,
21 and each of them, as aforesaid, MR. MAZUR has been caused to and did suffer and
22 continues to suffer severe emotional and mental distress, anguish, humiliation,
23 embarrassment, fright, shock, discomfort, anxiety, physical pain and suffering. The exact
24 nature and extent of said injuries is presently unknown to MR. MAZUR. MR. MAZUR does
25 not know at this time the exact duration or permanence of said injuries, but is informed and
26 believes and thereon alleges that some if not all of the injuries are reasonably certain to be
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28

1 permanent in character.
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4 49. MR. MAZUR is informed and believes, and thereon alleges, that the
5 defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing
6 and/or ratifying such acts, engaged in wilful, malicious, intentional, oppressive and
7 despicable conduct, and acted with wilful and conscious disregard of the rights, welfare and
8 safety of MR. MAZUR, thereby justifying the award of punitive and exemplary damages in
9 an amount to be determined at trial.
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12 **SIXTH CAUSE OF ACTION**
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14 **NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**
15

16 (Against All Defendants)
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19 50. MR. MAZUR realleges and incorporates by reference paragraphs 11
20 through 22, 24 through 29, 31 through 34, and 36 through 40 as though set forth in full.
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23 51. Defendants' conduct, as alleged above, was done in a careless or
24 negligent manner, without consideration for the effect of such conduct upon MR. MAZUR'S
25 emotional well-being.
26
27

28 52. As a further direct and legal result of the acts and conduct of defendants,
29 and each of them, as aforesaid, MR. MAZUR has been caused to and did suffer and
30

continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, discomfort, anxiety, physical pain and suffering. The exact nature and extent of said injuries is presently unknown to MR. MAZUR. MR. MAZUR does not know at this time the exact duration or permanence of said injuries, but is informed and believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent in character.

PRAYER FOR RELIEF

WHEREFORE, **PLAINTIFF** prays for judgment against defendants, and each of them, as follows:

1. General damages in an amount to be proved at trial;
2. Special damages in an amount to be proved at trial;
3. Punitive damages in an amount appropriate to punish defendants and to make an example of Defendant to the community;
4. Reasonable attorneys' fees;
5. Costs of suit;
6. Interest;

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3 7. For such other relief as the Court deems proper.
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3 DATED: May 9, 2006
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By: 

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8 Attorneys for Plaintiff
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PLAINTIFF'S DEMAND FOR JURY TRIAL

Plaintiff IRWIN MAZUR hereby demands a trial by jury.

DATED: May 9, 2006

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Attorneys for Plaintiff
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