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8 RAENA KRESTOVNIKOV

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11 RAENA KRESTOVNIKOV,

12 Plaintiff,

13 v.

14 WELLS FARGO BANK, N.A., a national  
15 association, corporation, or other business  
entity; WELLS FARGO & COMPANY, a  
16 corporation; and DOES 1 through 50,  
inclusive,

17 Defendants.  
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CASE NO.: 20STCV30296

1. RETALIATION IN VIOLATION OF  
THE FAIR EMPLOYMENT AND  
HOUSING ACT  
(Cal. Gov't Code § 12940(h))
2. RETALIATION IN VIOLATION OF  
THE CALIFORNIA LABOR CODE  
(Cal. Labor Code § 1102.5)
3. DISCRIMINATION BASED ON SEX  
AND/OR GENDER  
(Cal. Gov't Code § 12940(a))
4. VIOLATION OF CALIFORNIA  
EQUAL PAY ACT (Cal. Labor Code  
§§ 1197.5(a), 1197.5(k))
5. WRONGFUL TERMINATION IN  
VIOLATION OF PUBLIC POLICY
6. FAILURE TO TAKE ALL  
REASONABLE STEPS TO PREVENT  
DISCRIMINATION AND

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**HARASSMENT**  
**(Cal. Gov't Code § 12940(k))**

**7. FAILURE TO PAY ALL WAGES  
EARNED**

**(Cal. Labor Code § 200, *et seq.*)**

**8. WAITING TIME PENALTIES**  
**(Cal. Labor Code § 203)**

**9. INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS**

**10. NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS**

**DEMAND FOR JURY TRIAL**

1 Plaintiff, RAENA KRESTOVNIKOV (hereinafter “MS. KRESTOVNIKOV” or  
2 “PLAINTIFF”), as an individual, complains and alleges as follows:

3  
4 **INTRODUCTION**

5 1. Defendants WELLS FARGO BANK, N.A. and WELLS FARGO &  
6 COMPANY (hereinafter “WELLS FARGO” or “the Company”) publicly boasts of its  
7 commitment to “diversity.” Yet internally, the Company vengefully fires employees who  
8 complain about gender discrimination and who exercise their right to consult an attorney. The  
9 Company perpetuates a harsh double standard between male and female employees, paying male  
10 employees their earned wages and commissions and giving them a free pass when they commit  
11 serious misconduct, while female employees are denied earned pay and placed under severe  
12 scrutiny and subjected to discipline including termination.

13 2. MS. KRESTOVNIKOV experienced this firsthand when she complained  
14 that WELLS FARGO was discriminating against her based on gender by denying her benefits  
15 readily given to male employees. When her complaints were dismissed and ignored, she  
16 informed the Company that she was going to exercise her right to consult with an attorney. The  
17 Company reacted punitively, swiftly recycling an alleged work criticism from over *a year and a*  
18 *half earlier* and blatantly using this as an excuse to fire her. Meanwhile, male employees who  
19 had been investigated for engaging in the same or even worse behavior were given no  
20 punishment or mere slaps on the wrist. In addition, the COMPANY has refused to pay MS.  
21 KRESTOVNIKOV her earned commission wages, instead assigning her accounts to male  
22 employees, allowing them to profit from her work.

23 3. By this action, MS. KRESTOVNIKOV seeks to recover all damages to  
24 which she is entitled, including, without limitation, general damages, special damages,  
25 exemplary damages, attorneys’ fees, and costs.

1 **JURISDICTION AND VENUE**

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

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

15 **PARTIES**

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17 6. MS. KRESTOVNIKOV is an individual who resides and who, at all  
18 relevant times during the events alleged herein, resided in Oak Park, County of Ventura,  
19 California.

20 7. MS. KRESTOVNIKOV is informed and believes, and thereon alleges,  
21 that defendants WELLS FARGO BANK, N.A., WELLS FARGO & COMPANY, and DOES 1  
22 through 50, inclusive, and each of them, are, and at all times herein mentioned were,  
23 corporations or other business entities qualified to and doing business in the State of California.  
24 MS. KRESTOVNIKOV is further informed and believes, and thereon alleges, that said  
25 defendants are and were, at all relevant times mentioned herein, “employer[s]” within the

1 meaning of Sections 12926(d) and 12940(j)(4)(A) of the California Government Code. MS.  
2 KRESTOVNIKOV is informed and believes, and thereon alleges, that defendants WELLS  
3 FARGO BANK, N.A., WELLS FARGO & COMPANY, and DOES 1 through 50, are a single  
4 employer and/or joint employers and, together, form a highly integrated enterprise for purpose of  
the unlawful employment practices alleged herein by MS. KRESTOVNIKOV. MS.

5 KRESTOVNIKOV is further informed and believes, and thereon alleges, that each of the  
6 business entity defendants were owned and/or controlled by the other business entity defendants.

7  
8 8. Defendant WELLS FARGO BANK, N.A. (“WELLS FARGO BANK”)  
9 is, and at all times mentioned herein, was a national bank organized and existing by virtue of and  
10 under the laws of the United States of America and a wholly owned subsidiary of the defendant  
11 WELLS FARGO & COMPANY, a bank holding company. WELLS FARGO BANK has offices  
12 throughout California, including the County of Los Angeles, with its principal place of business  
13 in San Francisco, California. At all relevant times WELLS FARGO BANK was qualified to do  
14 and doing business in the State of California, County of Los Angeles, wherein the actions alleged  
15 herein with respect to PLAINTIFF occurred.

16 9. Defendant WELLS FARGO & COMPANY is a corporation, and at all  
17 times mentioned in this Complaint, was authorized to operate and qualified to do business in the  
18 State of California. WELLS FARGO & COMPANY has offices throughout California,  
19 including the County of Los Angeles, with its principal place of business in San Francisco,  
20 California. At all relevant times WELLS FARGO & COMPANY was qualified to do and doing  
21 business in the State of California, County of Los Angeles, wherein the actions alleged herein  
22 with respect to PLAINTIFF occurred.

23 10. Defendants WELLS FARGO BANK and WELLS FARGO &  
24 COMPANY each directly and indirectly employed Plaintiff, as defined under the Fair  
25 Employment and Housing Act (“FEHA”) at California Government Code section 12926,  
subdivision (d). In addition, each defendant compelled, coerced, aided, and abetted the

1 discrimination, which is prohibited under California Government Code section 12940,  
2 subdivision (i). Finally, at all relevant times mentioned herein, all defendants acted as agents of  
3 all other defendants in committing the acts alleged herein.

4 11. Plaintiff has exhausted her administrative remedies by timely filing a  
5 complaint against each of the named Defendants herein with the California Department of Fair  
6 Employment and Housing (“DFEH”), pursuant to sections 12900, *et seq.*, of the California  
7 Government Code, alleging the acts described in this Complaint. The DFEH issued “Right-to-  
8 Sue” letters to Plaintiff. All conditions precedent to the institution of this lawsuit have been  
9 fulfilled.

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

11 **A. Ms. Krestovnikov was Hired by Wells Fargo and Worked Her Way**  
12 **Up to the Position of Home Mortgage Consultant.**

13  
14 12. In or around September 2011, MS. KRESTOVNIKOV was hired by  
15 Defendants WELLS FARGO BANK, N.A. and WELLS FARGO & COMPANY (collectively  
16 hereinafter referred to as “WELLS FARGO”) as a Teller in WELLS FARGO’s Escondido  
17 branch. She continued to work her way up in WELLS FARGO’s retail banking department for  
18 the next several years, being promoted to the positions of Lead Teller and Service Manager II.

19 13. In or around 2014, MS. KRESTOVNIKOV became a Customer Service  
20 Representative in WELLS FARGO’s Home Mortgage department. She was later promoted to  
21 the position of Junior Mortgage Representative. In or around 2016, she was again promoted, this  
22 time to the position of Home Mortgage Consultant, working out of the Calabasas, Studio City  
23 and Woodland Hills branches.

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1                   1.     ***Ms. Krestovnikov Excelled in the Position of Home Mortgage***  
2                                   ***Consultant.***

3                   14.     As a Home Mortgage Consultant, MS. KRESTOVNIKOV was  
4 responsible for “originating” residential loans. In general, she would assist clients and potential  
5 clients in locating the type of loan (“product”) that was right for them and would then assist them  
6 in the application process. The application would then be submitted to the Underwriting  
7 Department, which would meticulously verify and often re-verify all of the client/borrower’s  
8 information contained in the application. If Underwriting approved the application, the loan  
9 could then be “funded.” WELLS FARGO would then receive revenue either in the form of fees  
10 (“origination fees”) and interest payments charged to the client/borrower or, if it sold the loan to  
11 another lender, from the proceeds of that sale.

12                   15.     As part of the loan origination process, MS. KRESTOVNIKOV assisted  
13 clients in obtaining loan pre-approval letters. A pre-approval letter, which is based solely on a  
14 preliminary review of unverified, limited credit and financial information provided by the client  
15 to the Home Mortgage Consultant, *does not* constitute a commitment to lend and in fact, is  
16 subject to cancellation at the discretion of WELLS FARGO.<sup>1</sup> Instead, it is a conditional and  
17 preliminary *estimate* of the loan amount that the client might be qualified to borrow if they  
18 successfully complete and satisfy the painstakingly thorough application process. The loan is  
19 funded if, and only if, the full application is completed and submitted to the Underwriting  
20 Department (along with supporting documentation, such as state and federal tax returns, proof of  
21 expenses, statements from accountants, W-2s, pay stubs, profit and loss balance sheets, mortgage  
22 insurance statements, etc., to verify all of the client/borrower’s credit and financial information)

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21 <sup>1</sup> See <https://www.wellsfargo.com/mortgage/buying-a-house/actively-shopping/> (“A preapproval is based on our  
22 preliminary review of information provided and limited credit information only and is not a commitment to lend.  
23 We will be able to offer a loan commitment upon verification of application information, satisfying all underwriting  
24 requirements and conditions, and property acceptability and eligibility, including appraisal and title report.  
25 Preapprovals are subject to change or cancellation if a requested loan no longer meets applicable regulatory  
requirements.”). See also [https://www.consumerfinance.gov/owning-a-home/process/explore/get-prequalification-  
or-preapproval-letter/](https://www.consumerfinance.gov/owning-a-home/process/explore/get-prequalification-or-preapproval-letter/) (“A prequalification or preapproval letter is a document from a lender stating that the lender is  
tentatively willing to lend to you, up to a certain loan amount. This document is based on certain *assumptions* and it  
is not a guaranteed loan offer.”) (emphasis added).

1 and the Underwriting Department, after meticulous examination and re-examination, verifies the  
2 complete credit and financial information and approves the loan.

3           16. Throughout her employment with WELLS FARGO, MS.  
4 KRESTOVNIKOV excelled in her job performance, as evidenced by stellar performance  
5 reviews lauding, among other things, her work ethic and attention to compliance with banking  
6 regulations.

7                           **2. Ms. Krestovnikov Earned Various Types of Compensation for**  
8                           **Her Labor as a Home Mortgage Consultant.**

9           17. **Commissions.** As a Home Mortgage Consultant, MS.  
10 KRESTOVNIKOV's wages were primarily comprised of commission wages. Specifically,  
11 Home Mortgage Consultants earned commissions by "originating" loans to their clients. As an  
12 Home Mortgage Consultant, MS. KRESTOVNIKOV earned commissions, calculated as a  
13 percentage of the loan amount, which differed in their value based on factors such as whether the  
14 loan was self-generated or a referral from WELLS FARGO, as well as whether the underlying  
15 loan was a refinance of an existing WELLS FARGO loan, a refinance of a loan from an outside  
16 banking institution, or a new purchase. Each of these types of commissions translated to a  
17 different number of basis points ("bps"), which were used to calculate the amount of MS.  
18 KRESTOVNIKOV's commissions as a percentage of the dollar amount of each loan, calculated  
19 on a loan-by-loan basis at the end of each month. MS. KRESTOVNIKOV was also eligible to  
20 earn quarterly commissions based upon her productivity during the previous quarter or year. For  
21 example, MS. KRESTOVNIKOV would have been paid quarterly commissions for the quarter  
22 ending December 2019, based on an extra 7 basis points per loan had she not been prematurely  
23 and illegally fired. There were also special promotions put on by WELLS FARGO to award  
24 extra basis points and commissions to incentivize specific types of work such as bringing in new  
25 purchase loans.



1           18.     **Earned Benefits, Rewards, and Incentives.** As described in more detail  
2 below, MS. KRESTOVNIKOV was also eligible to earn, in exchange for her labor under  
3 WELLS FARGO’s “Productivity Rewards Plan,” “Rewards” and “Benefits” such as, *inter alia*,  
4 an HMA and a marketing budget. MS. KRESTOVNIKOV was also eligible to receive other  
5 incentives for performance such as an all-expenses paid trip to Florida for two to attend WELLS  
6 FARGO’s annual Sales Conference. MS. KRESTOVNIKOV had qualified to attend the 2019  
7 conference and was deprived of the all-expenses paid trip due to her untimely and illegal  
8 termination.

9           19.     **Hourly Wage.** During the time that MS. KRESTOVNIKOV worked for  
10 WELLS FARGO, WELLS FARGO compensated its Home Mortgage Consultants with an hourly  
11 wage, referred to as a “recoverable draw,” which would be paid out to Home Mortgage  
12 Consultants but then subtracted from their monthly commission payments.

13           20.     **Overtime Pay.** MS. KRESTOVNIKOV was also compensated for  
14 overtime hours she worked, but only if she reported the overtime worked. MS.  
15 KRESTOVNIKOV regularly worked more than eight (8) hours in one day and more than forty  
16 (40) hours in one week. MS. KRESTOVNIKOV was nevertheless discouraged by Defendants  
17 from claiming overtime compensation for the vast majority of the overtime hours which she  
18 worked; she was warned that her supervisors would get in trouble if she requested the accurate  
19 amount of overtime pay to which she was entitled, and questioned when she requested a realistic  
20 amount of overtime hours. Still, her supervisors were well aware that she was working more  
21 than eight (8) hours in one day and more than forty (40) hours in one week. Further, WELLS  
22 FARGO unlawfully calculated MS. KRESTOVNIKOV’s “regular rate of pay” for the purposes  
23 of determining the amount of overtime compensation she was due based on her hourly wage  
24 only, failing to take into account her other forms of compensation, including her commission  
25 pay.

1           21.    **Paid Time Off.** During MS. KRESTOVNIKOV’s employment with  
2 WELLS FARGO as a Home Mortgage Consultant, Home Mortgage Consultants also accrued  
3 vacation wages, (referred to as paid time off [“PTO”]), but WELLS FARGO illegally “clawed  
4 back” such earned vacation pay from earned sales commissions. WELLS FARGO would  
5 subtract MS. KRESTOVNIKOV’s earned vacation pay from her commission wages on a  
6 monthly basis, effectively forcing MS. KRESTOVNIKOV to forfeit such “clawed back” earned  
7 vacation wages.

8                   **B.    Ms. Krestovnikov Complained That She Was Denied the Services and**  
9                   **Assistance of a Junior Mortgage Representative That Her Male**  
10                  **Counterparts Received.**

11           22.    In or around June 2019, MS. KRESTOVNIKOV, due to her strong work  
12 performance, became eligible to have a Junior Mortgage Representative (“Junior”) work for her.  
13 Home Mortgage Consultants receive at least 25 percent of the commissions generated by a  
14 Junior who is working for them, directly increasing their incomes. Obtaining a Junior also  
15 would have placed MS. KRESTOVNIKOV on the path to becoming a manager by giving her  
16 management experience.

17           23.    Because she was eligible, MS. KRESTOVNIKOV reached out to her  
18 supervisor, Wisam Sabbah, to ask him to approve a Junior to report to her. Around the same  
19 time, two of MS. KRESTOVNIKOV’s similarly situated male coworkers, Michael Tulin and  
20 Ivan Pinchuk, also asked for approval for new Juniors to be assigned to them. Mr. Sabbah then  
21 told MS. KRESTOVNIKOV that she would not be approved to get a Junior. As of July 2019,  
22 Mr. Tulin and Mr. Pinchuk had received approvals to have Juniors working for them, while MS.  
23 KRESTOVNIKOV still had not. On July 1, 2019, she complained in writing to Mr. Sabbah of  
24 this gender discrimination. She wrote to him that she was performing at a level that would  
25 justify the assignment of a Junior to her and questioned why two male coworkers were assigned  
Juniors when she was not. In a pretextual effort to justify this blatant gender discrimination, MS.

1 KRESTOVNIKOV was later told by Regional Manager Ken Vils, Wisam Sabbah and Senior  
2 Vice President of Sales, Marty Widergren, that the Junior position that would have reported to  
3 her had been eliminated (even though Mr. Tulin and Mr. Pinchuk continued to reap the benefits  
4 of having Juniors assigned to them).

5 **C. Ms. Krestovnikov Was Denied Earned Compensation in the Form of**  
6 **an HMA, Even as Her Male Counterparts Received That**  
7 **Compensation.**

8 24. As additional “Elements” of their compensation packages, Home  
9 Mortgage Consultants who exceed specific and quantifiable measures of their prior year’s sales  
10 “production” thereupon earn and are compensated with additional “Benefits” and “Rewards.”  
11 These Benefits and Rewards are set forth in writing in WELLS FARGO’s “Productivity Rewards  
12 Plan,” which specifies both the “Qualifiers” (*i.e.*, the quantifiable sales thresholds required to be  
13 met) and the “Benefits” to which those who “qualify” are entitled.

14 25. Some of the earned “Rewards” and “Benefits” with which Home  
15 Mortgage Consultants are compensated once they satisfy the qualifying production requirements  
16 include, *inter alia*, specific monthly monetary amounts to use for marketing efforts and an HMA.  
17 The earned “Benefit” of an HMA greatly and quantifiably expands and increases the income of a  
18 Home Mortgage Consultant by allowing him or her to process more transactions.<sup>2</sup> Home  
19 Mortgage Consultants who have earned the benefit of an HMA are able to efficiently delegate  
20 time-consuming functions, such as obtaining documentation from customers, making calls to  
21 insurance companies and other administrative tasks, so that they have more time to pursue and  
22 secure new business. There is, accordingly, a direct correlation between the benefit of an HMA  
23 and a Home Mortgage Consultant’s receipt of higher commission earnings. As such, the  
24 “Benefit” of being compensated (“rewarded”) with an HMA constitutes a valuable element of a

25 \_\_\_\_\_  
<sup>2</sup> See <https://www.mba.org/publications/insights/archive/mba-insights-archive/2019/mba-chart-of-the-week-monthly-productivity-in-retail-production-channel> (finding loan officer productivity is increased relative to the number of non-producing retail staff supporting loan officers).

1 Home Mortgage Consultant’s wages, which are promised to them in return for labor performed.  
2 Under California law, “wages” are construed broadly to “include not only the periodic monetary  
3 earnings of the employee but also the other benefits to which he is entitled as a part of his  
4 compensation.” *Schachter v. Citigroup, Inc.*, 47 Cal. 4th 610, 618 (2009).

5 26. Numerous of MS. KRESTOVNIKOV’s male colleagues, after qualifying  
6 for the benefit, were rewarded with HMAs and, as a direct result, were amongst the highest wage  
7 earners in the division (including Richard Advani, John Demaria, Jason Wiley, Michael Tulin,  
8 Mickey Parseghian, and Ken Hilton). Some of them were earning well over \$1,000,000.00 per  
9 year.

10 27. In reliance upon, and incentivized by this plan, MS. KRESTOVNIKOV  
11 diligently performed her job duties so as to satisfy the specified production levels and, thus, to  
12 earn the “Benefits” that would reward her with increased compensation.

13 28. In June 2019, through her labor, MS. KRESTOVNIKOV satisfied the  
14 requirements (“qualifiers”) set forth in the Productivity Rewards benefits plan and, thus, earned  
15 her right to receive “\$150/month” in “Marketing \$ per month[,]” as well as an HMA.  
16 Understandably, MS. KRESTOVNIKOV was elated about her increased wages.

17 29. Immediately upon qualifying for and earning these valuable rewards, MS.  
18 KRESTOVNIKOV requested the benefits to which she was entitled, including the HMA.

19 30. Although MS. KRESTOVNIKOV had earned an HMA (which had readily  
20 been provided to similarly situated male employees), she was met with resistance, delay, and  
21 refusal. First, her direct supervisor (Mr. Sabbah) and her Regional Manager (Mr. Vils)  
22 misrepresented to MS. KRESTOVNIKOV that it would take one month to process. Then, in late  
23 July 2019, MS. KRESTOVNIKOV was summarily notified by Mr. Sabbah and Mr. Vils that she  
24 would not be given an HMA despite the fact that she had met all the “qualifiers” and had done  
25 everything she needed to do to earn one.

1           **D.     Ms. Krestovnikov Complained That She Was Denied Wages That**  
2           **Men Received And Invoked Her Right to Counsel.**

3           31.     On July 31, 2019, MS. KRESTOVNIKOV complained to Regional  
4 Manager Ken Vils that she was unlawfully being denied an HMA. MS. KRESTOVNIKOV told  
5 Mr. Vils she would be retaining counsel regarding this compensation issue (a term and/or  
6 condition of her employment).

7           32.     On July 31, 2019, MS. KRESTOVNIKOV also participated in a WELLS  
8 FARGO National Sales Call. The call was accompanied by an online chat and Q&A segment  
9 where employees could ask questions and raise work-related matters. MS. KRESTOVNIKOV  
10 posted a comment in the chat complaining that she was being denied an HMA despite having  
11 earned one. However, Senior Vice President of Sales Marty Widergren intercepted MS.  
12 KRESTOVNIKOV's message and blocked it from being seen by other employees in the chat.  
13 He privately messaged MS. KRESTOVNIKOV, chastising her for attempting to raise her  
14 complaint in the presence of other employees. She was counseled to speak to him in private.

15           33.     Later that day, in a phone call with Mr. Widergren, MS.  
16 KRESTOVNIKOV complained that denying her an earned HMA was unlawful (that it was  
17 neither "legal" nor "compliant"). She also complained that similarly-situated male employees  
18 had been given HMAs when they met the requirements and asked that she be treated the same.  
19 She informed him that she would be retaining legal counsel and that she knew an attorney. MS.  
20 KRESTOVNIKOV stated that she was going to consult with her attorney about what her "rights  
21 as an employee" were regarding "benefits" to which she was "entitled." At her statement about  
22 counsel, Mr. Widergren became irate. Mr. Widergren repeatedly tried to cut the conversation  
23 short, stating: "It is what it is."

24     \\

25     \\

1           34.     Following her phone call with Mr. Widergren, believing that she was  
2 being unlawfully deprived of earned compensation and being subjected to unlawful gender  
3 discrimination, MS. KRESTOVNIKOV sought the advice of, and consulted with, an attorney.  
4 The purpose of this consultation was for MS. KRESTOVNIKOV to retain an attorney to  
5 negotiate on her behalf regarding the denial of MS. KRESTOVNIKOV's earned HMA and to  
6 address issues of discrimination.

7           **E.     Mr. Widergren Demonstrated Explicit Retaliatory Animus Regarding**  
8           **Ms. Krestovnikov's Complaints of Unpaid Wages and Gender**  
9           **Discrimination, As Well As Her Exercise of Her Right to Counsel.**

10           35.     In reaction to her complaints and her notification that she would be  
11 designating counsel, Mr. Widergren formed a clear retaliatory animus and intent. Indeed, on  
12 July 31, 2019, following her call with Mr. Widergren, MS. KRESTOVNIKOV was contacted by  
13 her immediate supervisor, Mr. Sabbah. Mr. Sabbah stated that he had just gotten off the phone  
14 with Mr. Widergren. He stated that Mr. Widergren was very "unhappy" with MS.  
15 KRESTOVNIKOV, "pissed off" at her, and that now she had "a target on [her] back." Then,  
16 MS. KRESTOVNIKOV and Mr. Sabbah had a conference call with Mr. Vils, who had also just  
17 gotten off the phone with Mr. Widergren. Mr. Vils stated that Mr. Widergren had said that MS.  
18 KRESTOVNIKOV was "not a team player." Mr. Vils said that when MS. KRESTOVNIKOV  
19 told Mr. Widergren that she was going to retain counsel, that was a "trigger word" that "rubbed"  
20 Mr. Widergren "the wrong way." That day, MS. KRESTOVNIKOV texted Mr. Sabbah that she  
21 had told Mr. Widergren that what WELLS FARGO was doing was "not legal or compliant." Mr.  
22 Sabbah texted MS. KRESTOVNIKOV that "they are really upset about what you said about  
23 know[ing] someone[,]" referring to the fact that MS. KRESTOVNIKOV had stated to Mr.  
24 Widergren that she knew an attorney.

25           36.     On August 1, 2019, after MS. KRESTOVNIKOV's complaints regarding  
the legality of WELLS FARGO's conduct and her notice that she was going to retain counsel,

1 Mr. Widergren, in recognition of the fact that they had been caught and that there was no  
2 legitimate justification to deprive MS. KRESTOVNIKOV of earned compensation, begrudgingly  
3 approved an HMA for MS. KRESTOVNIKOV.

4 37. Mr. Sabbah and Mr. Vils, as set forth above, verified Mr. Widergren's  
5 retaliatory animus and intent. Despite this, they pressured MS. KRESTOVNIKOV to  
6 "apologize" to Mr. Widergren, indicating that her job was threatened if she did not. They  
7 warned her not to "stir things up," as if MS. KRESTOVNIKOV was the one who had done  
8 something wrong for making a complaint. Succumbing to this pressure, MS. KRESTOVNIKOV  
9 drafted an apology email and sent it to Mr. Vils and Mr. Sabbah for their review. In MS.  
10 KRESTOVNIKOV's draft, she apologized to Mr. Widergren only to the extent that the  
11 conversation had "upset" Mr. Widergren, but remained firm that she had believed she was being  
12 illegally deprived of an HMA. Mr. Vils and Mr. Sabbah both encouraged her to significantly  
13 water down her email by removing her explanation for why she had complained and providing a  
14 more unqualified apology. According to Mr. Vils, MS. KRESTOVNIKOV should refrain from  
15 "explaining herself" and just to keep it "simple and positive." MS. KRESTOVNIKOV did not  
16 feel she had anything to apologize for and believed that her complaint to Mr. Widergren had  
17 been completely justified. Still, she sent the email, which was mostly ghost-written by Mr. Vils,  
18 because of Mr. Sabbah's and Mr. Vils' incessant directions to apologize to Mr. Widergren.

19 38. Despite having a "target on her back," MS. KRESTOVNIKOV continued  
20 to diligently perform her job duties and continued to bring in business and revenue for WELLS  
21 FARGO. Indeed, with the benefit of the HMA, her total compensation increased and she soon  
22 earned further rewards (including additional money for marketing efforts) under the Productivity  
23 Rewards program.

24 39. Throughout August, September, and October 2019, Mr. Widergren  
25 continued to hold and exhibit a retaliatory animus toward MS. KRESTOVNIKOV. Indeed, in  
late October 2019, Mr. Widergren came to the WELLS FARGO's Westlake office. MS.

1 KRESTOVNIKOV asked Mr. Vils and Mr. Sabbah if she could meet one on one with Mr.  
2 Widergren when he arrived at the Westlake office. Mr. Vils and Mr. Sabbah informed MS.  
3 KRESTOVNIKOV that Mr. Widergren was still mad at her because of her complaints during the  
4 July 31<sup>st</sup> phone call and her statement that she was being discriminated against and going to  
5 retain counsel. When Mr. Widergren learned that MS. KRESTOVNIKOV was present in the  
6 office, he made a comment to Mr. Vils and Mr. Sabbah that he did not want to see her. After Mr.  
7 Widergren left the office, Mr. Vils and Mr. Sabbah confirmed to MS. KRESTOVNIKOV that Mr.  
8 Widergren had refused to see her and was still angry with her for her complaints of  
9 discrimination and her decision to retain counsel.

9 **F. In Retaliation for Her Complaints and Other Protected Activity, Ms.**  
10 **Krestovnikov Was Fired on November 13, 2019.**

11 40. On November 13, 2019, just a few short weeks after Mr. Widergren's  
12 most recent expression of retaliatory animus, MS. KRESTOVNIKOV was summoned into a  
13 meeting with Mr. Vils and Mr. Sabbah. In a Kafkaesque manner, Mr. Vils announced that  
14 "today will be your last day" and she was abruptly fired. MS. KRESTOVNIKOV was thereupon  
15 escorted out of the office.

16 41. Soon after her firing, MS. KRESTOVNIKOV learned that she was  
17 pregnant. She was suddenly facing an uncertain future, unemployed and emotionally distressed,  
18 while also going through a pregnancy.

19 42. Within a few days of her termination, one of MS. KRESTOVNIKOV's  
20 supervisors admitted that the reason for her termination was pretextual. According to the  
21 supervisor, the purported reason for her termination stemmed from a pre-approval letter that had  
22 been issued over a year and a half earlier (in early 2018) to one of MS. KRESTOVNIKOV's  
23 clients – a self-employed loan applicant, whose last name was Ashkenazi. Mr. Ashkenazi was  
24 self-employed, owning a dry-cleaning business in Los Angeles County. As with most self-  
25



1 employed loan applicants and unlike salaried employees, Mr. Ashkenazi's income and expenses  
2 significantly fluctuated year-to-year. For that reason, Mr. Ashkenazi, in the course of the loan  
3 pre-approval process, made several adjustments to his net income figures. Following this, MS.  
4 KRESTOVNIKOV received phone calls from WELLS FARGO inquiring about the net income  
5 figures that Mr. Ashkenazi had provided. MS. KRESTOVNIKOV explained that she had relied  
6 on the net income figures that Mr. Ashkenazi had provided to her, which had been difficult for  
7 him to readily calculate based on his fluctuating income and expenses as a self-employed client.  
8 The last call she received regarding Mr. Ashkenazi was in November 2018, a year before she  
9 was fired. The matter was not pursued any further (that is, until the company needed to resurrect  
10 it as a pretextual basis for firing MS. KRESTOVNIKOV).

11 43. MS. KRESTOVNIKOV's direct supervisor, Mr. Sabbah, admitted that the  
12 asserted reason for terminating MS. KRESTOVNIKOV was a fabricated pretext; in his words, it  
13 was "bullshit." Likewise, Mr. Vils told MS. KRESTOVNIKOV that the reason given by WELLS  
14 FARGO for firing MS. KRESTOVNIKOV was not justified.

15 **G. By Terminating Ms. Krestovnikov While Giving Her Male**  
16 **Counterparts Mere Slaps On the Wrist, Wells Fargo Again**  
17 **Discriminated Based on Gender.**

18 44. Defendants subjected MS. KRESTOVNIKOV to different standards of  
19 conduct and to different terms, conditions and privileges of employment, than similarly situated  
20 male employees, whose serious misdeeds were either swept under the rug or treated with mere  
21 slaps on the wrist. Through its firing of MS. KRESTOVNIKOV, WELLS FARGO perpetuated  
22 a cynical and gendered double standard in which it held a female employee to a ridiculously high  
23 level of scrutiny while turning a blind eye to the illicit actions of its male employees because of  
24 the immense profits they generated. These men represent some of the top producers at WELLS  
25 FARGO.

1           45.     Indeed, MS. KRESTOVNIKOV is informed and believes, and thereon  
2 alleges, that multiple similarly situated male colleagues (including, but not limited to, Michael  
3 Tulin, Ken Hilton, and Robert Rivera) have engaged in similar or, in some cases, far worse  
4 conduct than any allegations against MS. KRESTOVNIKOV. Yet, these male colleagues were  
5 not fired and, in many cases, were not even disciplined.

6           46.     In treating these male employees with such lenience, WELLS FARGO  
7 held MS. KRESTOVNIKOV to entirely different and more severe standards of conduct as  
8 compared to her male coworkers. WELLS FARGO fired MS. KRESTOVNIKOV based on  
9 allegations that she engaged in similar or, in many cases, much less severe activities to those  
10 engaged in by similarly situated male employees, but those male employees remained employed  
11 at WELLS FARGO.

12           **H.     Wells Fargo Refused to Pay MS. Krestovnikov Her Earned**  
13           **Commissions and Other Wages Upon Termination, Instead Paying**  
14           **Her Commissions to Her Male Counterparts.**

15           47.     Unpaid Commission Wages. WELLS FARGO has refused and failed to  
16 pay MS. KRESTOVNIKOV the commission wages that she earned during the course of her  
17 employment and to which she is entitled. As of the date of her termination, MS.  
18 KRESTOVNIKOV had successfully originated multiple loans totaling millions of dollars for  
19 which WELLS FARGO has unlawfully refused to pay her commissions. There is no dispute that  
20 MS. KRESTOVNIKOV originated and was the procuring cause of all of these loans. *E.A.*  
21 *Strout Western Realty Agency, Inc. v. Lewis*, 255 Cal. App. 2d 254, 259 (1967) (“When the  
22 [salesperson] is in fact the primary procuring cause, the law will not deprive him of his  
23 commission”); *Willson v. Turner Resilient Floors*, 89 Cal. App. 2d 589 (1949) (it is well-  
24 established that “he who shakes the tree is the one to gather the fruit”).  
25

1           48.     Following her firing, all of MS. KRESTOVNIKOV's pending loans were  
2 uniformly assigned to male employees (specifically, Peter Saboujian and Scott Nadler), who, in  
3 turn, received the commission wages/incentive pay that should have been paid to MS.  
4 KRESTOVNIKOV. In short, WELLS FARGO made MS. KRESTOVNIKOV forfeit her  
5 commissions, and then arbitrarily and discriminatorily awarded them to male employees, who  
6 profited from MS. KRESTOVNIKOV's efforts and labor. To add insult to injury, despite  
7 several requests that her loans be reassigned to her husband, Ivan Pinchuk (also a WELLS  
8 FARGO Home Mortgage Consultant), WELLS FARGO repeatedly refused, continuing to  
9 retaliate against MS. KRESTOVNIKOV by preventing her from even indirectly receiving any  
10 benefit from the work she had done on these loans.

11           49.     MS. KRESTOVNIKOV, both directly and through her counsel, made  
12 several demands to WELLS FARGO for all of her unpaid wages, including all unpaid earned  
13 commission wages. MS. KRESTOVNIKOV also demanded that WELLS FARGO provide  
14 documentation from which to calculate, with specificity, the commissions to which she is  
15 entitled.

16           50.     WELLS FARGO has refused to provide documentation from which to  
17 calculate, with specificity, the commissions to which MS. KRESTOVNIKOV is entitled.  
18 However, MS. KRESTOVNIKOV is informed and believes, and thereon alleges, that she is  
19 owed commissions on multiple loans and transactions, including, without limitation, the  
20 following:

<i>Customer Name</i>	<i>Approximate commissionable loan amount</i>
• Amiri	\$ 1,800,000
• Berns	\$ 882,000
• Haas	\$ 330,000
• Kaplan	\$ 824,000
• Kashfian	\$ 6,000,000
• Kraebel	\$ 610,000

1	• Liou	\$ 1,076,300
	• Rachmil	\$ 483,000
2	• Rutberg	\$ 276,500
	• Vahid	\$ 632,000
3	• Snett	\$ 780,000
	• Tacconelli	\$ 610,000
4	• Wolf	\$ 720,000
	• Rosenberg	unknown
5	• Diner	unknown
	• Diner (2)	unknown
6	• Diner (3)	unknown
	• Stern	unknown
7	• Feld	unknown
	• McCarey	unknown
8	• Ezeuka	unknown
	• Ezeuka (2)	unknown
9	• Ezeuka (3)	unknown
	• Levin	unknown
10	• Hay	unknown
	• Crawford	unknown
11	• Smith	unknown
	• Salehi	unknown
12	• Cooney	unknown
	• Predekker	unknown
13	• Ornelas	unknown
	• McMabell	unknown
14	• Blue	unknown
15	• Miller	unknown
	• Diller	unknown
16	• Motesharei	unknown
	• Campbell	unknown
17	• Zatica	unknown
	• Zatica (2)	unknown
18	• Zatica (3)	unknown
	• Palomo	unknown
19	• Aliber-Karson	unknown
	• Balas	unknown
20	• Coskun	unknown
	• Crossley	unknown
21	• Guandique	unknown
	• Hedrick	unknown
22	• Joseph	unknown
	• Kim	unknown
23	• Landin	unknown
24	• Lutz	unknown
25		

- Maas unknown
- Naima unknown
- Rifkin unknown
- Russell unknown
- Samari unknown
- Shaffer unknown
- Singh unknown
- Smith unknown
- Wong unknown

51. Despite WELLS FARGO’s failure to provide MS. KRESTOVNIKOV with information from which to calculate the amount of commission wages she is owed with specificity, MS. KRESTOVNIKOV is informed and believes, and thereon alleges, that she is owed \$200,000.00- \$800,000.00 in unpaid commission wages. Once WELLS FARGO provides her with the necessary information, she will be able to provide a more certain estimate.

52. **Unpaid Paid Time Off Wages.** After her termination, MS. KRESTOVNIKOV was never paid for the Paid Time Off (“PTO”) leave she had accrued during her employment with WELLS FARGO. In or around November 2019, she called a WELLS FARGO Human Resources hotline and a WELLS FARGO representative confirmed that she had accrued PTO for which she had not yet been paid. MS. KRESTOVNIKOV has never subsequently been paid for this accrued PTO leave or for the PTO that was illegally “clawed back” from her commission wages.

53. **Unpaid Overtime Wages.** WELLS FARGO also did not pay MS. KRESTOVNIKOV’s unpaid (or underpaid) overtime wages upon her termination or at any time since.

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1           **I. Wells Fargo Has Suspiciously Refused to Provide Any Documents**  
2                           **Supporting Its Pretextual Allegation Upon Which MS. Krestovnikov's**  
3                           **Termination Was Based.**

4           54. On January 6, 2020 and February 21, 2020, MS. KRESTOVNIKOV,  
5 through her counsel, made requests pursuant California Labor Code Section 1198.5 for her entire  
6 personnel record, including specifically all documents related to MS. KRESTOVNIKOV's work  
7 performance or any grievances, complaints or investigations related to MS. KRESTOVNIKOV.  
8 In response, WELLS FARGO provided *absolutely no* documentary support for the allegations  
9 cited as the reason for MS. KRESTOVNIKOV's termination. Any documents that would  
10 support MS. KRESTOVNIKOV's termination are necessarily and unavoidably required to be  
11 produced upon demand under Labor Code Section 1198.5, since they would all relate to MS.  
12 KRESTOVNIKOV's performance and/or a grievance against her. WELLS FARGO's failure to  
13 produce any documentary support for its allegations against MS. KRESTOVNIKOV leading to  
her termination strongly indicates that the allegations were fabricated pretext.

14           **J. Wells Fargo Has Continued to Retaliate Against MS. Krestovnikov.**

15           55. WELLS FARGO has also continued to retaliate against MS.  
16 KRESTOVNIKOV even after firing her. Despite the fact that WELLS FARGO failed to pay  
17 MS. KRESTOVNIKOV all the wages it owed to her, including commission wages on millions of  
18 dollars of loans, WELLS FARGO sent MS. KRESTOVNIKOV two letters demanding that MS.  
19 KRESTOVNIKOV return approximately over \$1,000.00 in wages it falsely and maliciously  
20 alleges it overpaid her.

21           56. Further, in or around April 2020, MS. KRESTOVNIKOV applied for  
22 employment with Citibank. During the interview process, MS. KRESTOVNIKOV was  
23 informed that Citibank was excited about potentially hiring her but wanted to contact WELLS  
24 FARGO regarding the circumstances of her termination. Soon after Citibank employees  
25

1 involved in the hiring process told MS. KRESTOVNIKOV they would be reaching out to  
2 WELLS FARGO, specifically to Mr. Vils, they abruptly rejected her application. The Citibank  
3 employees stated the reason for MS. KRESTOVNIKOV's rejection was what they had been told  
4 by WELLS FARGO regarding the circumstances of MS. KRESTOVNIKOV's termination from  
5 WELLS FARGO. MS. KRESTOVNIKOV is informed and believes, and thereon alleges, that  
6 WELLS FARGO made knowingly false statements to Citibank and is making false and  
7 disparaging statements about her in the banking community, more generally, with the intention  
8 of preventing her from obtaining comparable employment.

9 57. MS. KRESTOVNIKOV has been generally damaged in an amount  
10 according to proof at time of trial, but in an amount in excess of the jurisdiction of this Court.

11 58. MS. KRESTOVNIKOV has exhausted her administrative remedies by  
12 timely filing a complaint against each of the named Defendants herein with the California  
13 Department of Fair Employment and Housing ("DFEH"), pursuant to sections 12900, et seq., of  
14 the California Government Code, alleging the acts described in this Complaint. The DFEH  
15 issued "Right-to-Sue" letters to MS. KRESTOVNIKOV. All conditions precedent to the  
16 institution of this lawsuit have been fulfilled.

17 **FIRST CAUSE OF ACTION**

18 **RETALIATION IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT**

19 **(Cal. Gov't Code § 12940(h))**

20 **(Against all Defendants)**

21 59. MS. KRESTOVNIKOV realleges and incorporates by reference  
22 paragraphs 1 through 58, as though set forth in full.  
23  
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1           60. As alleged herein and in violation of California Government Code Section  
2 12940(h), defendants, and each of them, retaliated against, discharged and otherwise  
3 discriminated against MS. KRESTOVNIKOV because she reported, complained about, and  
4 otherwise opposed practices forbidden, or which she reasonably suspected to be forbidden, by  
5 Sections 12940, *et seq.*, of the California Government Code.

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

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

18           63. MS. KRESTOVNIKOV is informed and believes, and thereon alleges,  
19 that the defendants, and each of them, by engaging in the aforementioned acts and/or in  
20 authorizing and/or ratifying such acts, engaged in willful, malicious, intentional, oppressive and  
21 despicable conduct, and acted with willful and conscious disregard of the rights, welfare and  
22 safety of MS. KRESTOVNIKOV, thereby justifying the award of punitive and exemplary  
23 damages in an amount to be determined at trial.  
24  
25





1           69. By the aforesaid acts and omissions of defendants, and each of them, MS.  
2 KRESTOVNIKOV has been directly and legally caused to suffer actual damages including, but  
3 not limited to, loss of earnings, reliance damages, costs of suit and other pecuniary loss in an  
4 amount not presently ascertained, but to be proven at trial.

5           70. As a further direct and legal result of the acts and conduct of defendants,  
6 and each of them, as aforesaid, MS. KRESTOVNIKOV has been caused to and did suffer and  
7 continues to suffer severe emotional and mental distress, anguish, humiliation, shame,  
8 embarrassment, fright, shock, pain, discomfort and anxiety. MS. KRESTOVNIKOV does not  
9 know at this time the exact duration or permanence of said injuries, but is informed and believes,  
10 and thereon alleges, that some if not all of the injuries are reasonably certain to be permanent in  
11 character.

12           71. MS. KRESTOVNIKOV is informed and believes and thereon alleges that  
13 the defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing  
14 and/or ratifying such acts, engaged in willful, malicious, fraudulent, intentional, oppressive and  
15 despicable conduct, and acted with willful and conscious disregard of the rights, welfare and  
16 safety of MS. KRESTOVNIKOV, thereby justifying the award of punitive and exemplary  
17 damage in an amount to be determined at trial.

18           72. The aforesaid acts and omissions of defendants, and each of them justify  
19 the imposition of any and all civil penalties pursuant to Cal. Labor Code §§ 1102.5(f).

20           73. As a result of defendants' conduct as alleged herein, MS.  
21 KRESTOVNIKOV is entitled to reasonable attorneys' fees and costs of suit as provided in  
22 Section 1021.5 of the California Civil Procedure Code.

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**THIRD CAUSE OF ACTION**

**DISCRIMINATION BASED ON SEX AND/OR GENDER**

**(Cal. Gov't Code §§ 12940, *et seq.*)**

**(Against All Defendants)**

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5           74.    MS. KRESTOVNIKOV realleges and incorporates by reference  
6 paragraphs 1 through 73, as though set forth in full.

7  
8           75.    As alleged herein and in violation of California Government Code Section  
9 12940(a), defendants, and each of them, disciplined MS. KRESTOVNIKOV, terminated MS.  
10 KRESTOVNIKOV, subjected MS. KRESTOVNIKOV to different standards of conduct than  
11 similarly situated male employees, subjected MS. KRESTOVNIKOV to different terms,  
12 conditions, and privileges of employment than similarly situated male employees and otherwise  
subjected MS. KRESTOVNIKOV to adverse employment actions because of sex and/or gender.

13           76.    By the aforesaid acts and omission of defendants, and each of them, MS.  
14 KRESTOVNIKOV has been directly and legally caused to suffer actual damages including, but  
15 not limited to, loss of earnings and future earning capacity, attorneys' fees, costs of suit and other  
16 pecuniary loss not presently ascertained.

17           77.    As a further direct and legal result of the acts and conduct of defendants,  
18 and each of them, as aforesaid, MS. KRESTOVNIKOV has been caused to and did suffer and  
19 continues to suffer severe emotional and mental distress, anguish, humiliation, embarrassment,  
20 fright, shock, discomfort, anxiety, and related symptoms. The exact nature and extent of said  
21 injuries is presently unknown to MS. KRESTOVNIKOV. MS. KRESTOVNIKOV does not  
22 know at this time the exact duration or permanence of said injuries, but is informed and believes,  
23 and thereon alleges, that some, if it not all, of the injuries are reasonably certain to be permanent  
24 in character.  
25

1 78. MS. KRESTOVNIKOV is informed and believes, and thereon alleges,  
2 that the defendants, and each of them, by engaging in the aforementioned acts and/or in  
3 authorizing and/or ratifying such acts, engaged in willful, malicious, intentional, oppressive and  
4 despicable conduct, and acted with willful and conscious disregard of the rights, welfare and  
5 safety of MS. KRESTOVNIKOV thereby justifying the award of punitive and exemplary  
6 damages in an amount to be determined at trial.

7 79. As a result of defendants' acts and conduct, as alleged herein, MS.  
8 KRESTOVNIKOV is entitled to reasonable attorneys' fees and costs of suit as provided in  
9 Section 12965(b) of the California Government Code.

10 **FOURTH CAUSE OF ACTION**  
11 **FAILURE TO PAY EQUAL WAGES**  
12 **(Cal. Lab. Code §§ 1197.5(a), 1197.5(k))**  
13 **(Against All Defendants)**  
14

15 80. MS. KRESTOVNIKOV realleges and incorporates by reference  
16 paragraphs 1 through 79, as though set forth in full.

17 81. By the aforesaid acts and omissions, Defendants willfully paid MS.  
18 KRESTOVNIKOV at a wage rate less than the rates paid to employees of the opposite sex for  
19 substantially similar work, when viewed as a composite of skill, effort, and responsibility, in  
20 violation of California Labor Code § 1197.5, *et seq.*

21 82. Defendants willfully discharged, discriminated and retaliated against MS.  
22 KRESTOVNIKOV by reason of MS. KRESTOVNIKOV's action taken to invoke or assist in  
23 enforcement of her rights under California Labor Code § 1197.5, *et seq.*, in violation of  
24  
25

1 California Labor Code § 1197.5(k).

2  
3 83. As a result of defendants' failure to pay MS. KRESTOVNIKOV her  
4 wages, as alleged herein, MS. KRESTOVNIKOV is entitled to the amount of wages she was  
5 deprived by Defendants' violations, liquidated damages in an equal amount, plus interest, as  
6 provided in California Labor Code § 1197.5(c). MS. KRESTOVNIKOV is also entitled to costs  
7 of the suit and reasonable attorney's fees, as provided in California Labor Code § 1197.5(h).

8 **FIFTH CAUSE OF ACTION**

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

10 **(Against All Defendants)**

11 84. MS. KRESTOVNIKOV realleges and incorporates by reference  
12 paragraphs 1 through 83, as though set forth in full.

13 85. As set forth herein, defendants, and each of them, wrongfully terminated  
14 MS. KRESTOVNIKOV' employment in violation of various fundamental public policies of the  
15 United States and the State of California. These fundamental public policies are embodied in,  
16 *inter alia*, the following California and Federal statutes and codes: Sections 12940, *et seq.*, of the  
17 California Government Code; Section 200, *et seq.*, of the California Labor Code; Section 923 of  
18 the California Labor Code; Section 1197.5, *et seq.*, of the California Labor Code; Article I,  
19 Sections 1 and 8 of the California Constitution; Sections 51, *et seq.*, of the California Civil  
20 Code; and various other California and federal statutes, regulations and codes.

21 86. By the aforesaid acts and omissions of defendants, and each of them, MS.  
22 KRESTOVNIKOV has been directly and legally caused to suffer actual damages including, but  
23 not limited to, loss of earnings, reliance damages, costs of suit and other pecuniary loss in an  
24 amount not presently ascertained, but to be proven at trial.

1           87. As a further direct and legal result of the acts and conduct of defendants,  
2 and each of them, as aforesaid, MS. KRESTOVNIKOV has been caused to and did suffer and  
3 continues to suffer severe emotional and mental distress, anguish, humiliation, shame,  
4 embarrassment, fright, shock, pain, discomfort and anxiety. MS. KRESTOVNIKOV does not  
5 know at this time the exact duration or permanence of said injuries, but is informed and believes,  
6 and thereon alleges, that some if not all of the injuries are reasonably certain to be permanent in  
7 character.

8           88. MS. KRESTOVNIKOV is informed and believes and thereon alleges that  
9 the defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing  
10 and/or ratifying such acts, engaged in willful, malicious, fraudulent, intentional, oppressive and  
11 despicable conduct, and acted with willful and conscious disregard of the rights, welfare and  
12 safety of MS. KRESTOVNIKOV, thereby justifying the award of punitive and exemplary  
13 damages in an amount to be ascertained at trial.

14           89. As a result of defendants' conduct as alleged herein, MS.  
15 KRESTOVNIKOV is entitled to reasonable attorneys' fees and costs of suit as provided in  
16 Section 1021.5 of the California Civil Procedure Code.

17                           **SIXTH CAUSE OF ACTION**  
18           **FAILURE TO TAKE ALL REASONABLE STEPS TO PREVENT DISCRIMINATION**  
19                           **AND HARASSMENT**  
20                           **(Cal. Gov't Code § 12940(k))**  
21                           **(Against all Defendants)**

22           90. MS. KRESTOVNIKOV realleges and incorporates by reference  
23 paragraphs 1 through 89, as though set forth in full.

1           91. As alleged herein and in violation of California Government Code Section  
2 12940(k), defendants, and each of them, failed to take all reasonable steps necessary to prevent  
3 discrimination and harassment from occurring.

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

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

16           94. MS. KRESTOVNIKOV is informed and believes, and thereon alleges,  
17 that the defendants, and each of them, by engaging in the aforementioned acts and/or in  
18 authorizing and/or ratifying such acts, engaged in willful, malicious, intentional, oppressive and  
19 despicable conduct, and acted with willful and conscious disregard of the rights, welfare and  
20 safety of MS. KRESTOVNIKOV, thereby justifying the award of punitive and exemplary  
21 damages in an amount to be ascertained at trial.

22           95. As a result of defendants' acts and conduct, as alleged herein, MS.  
23 KRESTOVNIKOV is entitled to reasonable attorneys' fees and costs of suit as provided in  
24 Section 12965(b) of the California Government Code.  
25

**SEVENTH CAUSE OF ACTION**  
**FAILURE TO PAY ALL WAGES**  
**(Cal. Labor Code § 200, *et seq.*)**  
**(Against All Defendants)**

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3  
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5           96.    MS. KRESTOVNIKOV realleges and incorporates by reference  
6 paragraphs 1 through 95, as though set forth in full.

7  
8           97.    By the aforesaid acts and omissions of defendants, and each of them, MS.  
9 KRESTOVNIKOV was deprived of the wages to which she was entitled pursuant to the  
10 California Industrial Welfare Commission's ("IWC") Wage Orders, the California Labor Code  
11 and other wage and hour laws.

12           98.    In violation of Labor Code Sections 200, *et seq.*, and other wage and hour  
13 laws, defendants failed and refused to pay MS. KRESTOVNIKOV the wages due and payable to  
14 her, including all commission wages and accrued leave wages earned by MS. KRESTOVNIKOV  
15 before the date of her termination.

16           99.    In addition, defendants routinely required MS. KRESTOVNIKOV to work  
17 more than eight (8) hours per day, and/or forty (40) hours per week during her employment with  
18 defendants, requiring defendants to compensate MS. KRESTOVNIKOV at one and one-half  
19 times her "regular rate of pay" for those hours under California Labor Code Section 510.  
20 However, as a result of defendants' knowing and intentional policies and procedures, defendants  
21 failed to fully compensate MS. KRESTOVNIKOV for all hours she worked.  defendants both (1)  
22 did not pay MS. KRESTOVNIKOV for each hour of overtime she worked and (2) did not pay  
23 her the correct amount of overtime wages for those hours for which it did pay her, instead  
24 underpaying her for those hours based on an incorrect calculation of her "regular rate of pay,"  
25 based on her hourly wage alone.



1           100. MS. KRESTOVNIKOV is informed and believes, and thereon alleges that  
2 the failure of defendants to fully compensate her for all hours worked was willful, purposeful,  
3 unlawful per California Labor Code section 1194, *et seq.*, and done in accordance with the  
4 policies and practices of Defendants' operations.

5           101. As a direct and proximate cause of the aforementioned violations, MS.  
6 KRESTOVNIKOV has been damaged in an amount according to proof at time of trial, but in an  
7 amount in excess of the jurisdiction of this Court. MS. KRESTOVNIKOV is entitled to recover  
8 the unpaid balance of all wages owed, penalties, reasonable attorney fees and costs of suit  
9 according to the mandate of California Labor Code Section 1194, *et seq.*

10           102. As a result of defendants' failure to pay MS. KRESTOVNIKOV her  
11 wages, and other benefits, as alleged herein, MS. KRESTOVNIKOV is entitled to interest on her  
12 unpaid wages from the date they were due, as provided in Section 218.6 of the California Labor  
13 Code.

14           103. As a result of defendants' failure to pay MS. KRESTOVNIKOV her  
15 wages, as alleged herein, MS. KRESTOVNIKOV is entitled to reasonable attorneys' fees and  
16 costs of suit, as provided in Section 218.5 of the California Labor Code.

17           104. As a result of defendants' willful failure to pay MS. KRESTOVNIKOV  
18 her wages as alleged herein, MS. KRESTOVNIKOV is entitled to penalties, including those set  
19 forth in Sections 200, *et seq.*, of the California Labor Code, including, without limitation, those  
20 set forth in Section 210 of the California Labor Code, as well as to an additional waiting time  
21 penalty in an amount equal to thirty days' of her regular rate of pay, as provided in Section 203  
22 of the California Labor Code.

23           105. Pursuant to California Labor Code § 201, if an employee is terminated  
24 from his or her employment, the wages earned and unpaid at the time of the discharge are due  
25 and payable immediately.

1 106. MS. KRESTOVNIKOV was terminated from her employment with  
2 defendants and did not receive the wages and compensation she rightfully earned.

3 107. Defendants willfully refused, and continue to refuse, to pay MS.  
4 KRESTOVNIKOV all wages earned in a timely manner as required by California Labor Code §  
5 203. MS. KRESTOVNIKOV therefore requests restitution and penalties as provided by  
6 California Labor Code § 203.

7 **EIGHTH CAUSE OF ACTION**

8 **WAITING TIME PENALTIES**

9 **(Cal. Labor Code § 203)**

10 **(Against All Defendants)**

11 108. MS. KRESTOVNIKOV realleges and incorporates by reference  
12 paragraphs 1 through 107, as though set forth in full.

13 109. Pursuant to California Labor Code § 201, if an employee is terminated  
14 from his or her employment, the wages earned and unpaid at the time of the discharge are due  
15 and payable immediately.

16 110. MS. KRESTOVNIKOV was terminated from her employment with  
17 defendants and did not receive the wages and compensation she rightfully earned.

18 111. Defendants willfully refused, and continue to refuse, to pay MS.  
19 KRESTOVNIKOV all wages earned in a timely manner as required by California Labor Code §  
20 203. MS. KRESTOVNIKOV therefore requests restitution and penalties as provided by  
21 California Labor Code § 203.

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1 **NINTH CAUSE OF ACTION**

2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

3 **(Against All Defendants)**

4 112. MS. KRESTOVNIKOV realleges and incorporates by reference  
5 paragraphs 1 through 111, as though set forth in full.

6 113. Defendants' conduct as described above was extreme and outrageous and  
7 was done with the intent of causing MS. KRESTOVNIKOV to suffer emotional distress and/or  
8 with reckless disregard as to whether MS. KRESTOVNIKOV would suffer emotional distress.

9 114. By the aforesaid acts and omissions of defendants, as aforesaid, MS.  
10 KRESTOVNIKOV has been caused to and did suffer and continues to suffer severe emotional  
11 and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort and  
12 anxiety. MS. KRESTOVNIKOV does not know of this time the exact duration or permanence  
13 of said injuries, but it informed and believes and thereon alleges that some if not all of the  
14 injuries are reasonably certain to be permanent in character.

15 115. MS. KRESTOVNIKOV is informed and believes and thereon alleges that  
16 the defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing  
17 and/or ratifying such acts, engaged in willful, malicious, fraudulent, intentional, oppressive and  
18 despicable conduct, and acted with willful and conscious disregard of the rights, welfare and  
19 safety of MS. KRESTOVNIKOV, thereby justifying the award of punitive and exemplary  
20 damages in an amount to be determined at trial.

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**TENTH CAUSE OF ACTION**

**NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

**(Against All Defendants)**

116. MS. KRESTOVNIKOV realleges and incorporates by reference paragraphs 1 through 115, as though set forth in full.

117. In the alternative, defendants breached their duty of care owed to MS. KRESTOVNIKOV to protect her from foreseeable harm. Defendants' conduct, as alleged above, was done in a careless or negligent manner, without consideration for the effect of such conduct upon MS. KRESTOVNIKOV's emotional well-being.

118. By the aforesaid acts and omissions of defendants, and each of them, MS. KRESTOVNIKOV 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.

119. As a further direct and legal result of the acts and conduct of defendants, and each of them, as aforesaid, MS. KRESTOVNIKOV has been caused to and did suffer and continues to suffer severe emotional and mental distress, anguish, humiliation, shame, embarrassment, fright, shock, pain, discomfort and anxiety. MS. KRESTOVNIKOV 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.

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**PRAYER FOR RELIEF**

**WHEREFORE, RAENA KRESTOVNIKOV** prays for judgment against Defendants

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 Defendants to the community;
4. Penalties;
5. Reasonable attorneys' fees;
6. Costs of suit;
7. Interest;
8. For such other relief as the Court deems proper.

Date: August 10, 2020

HELMER FRIEDMAN LLP



By: \_\_\_\_\_

Gregory D. Helmer  
Attorneys for Plaintiff,  
RAENA KRESTOVNIKOV

**PLAINTIFF'S DEMAND FOR JURY TRIAL**

Plaintiff RAENA KRESTOVNIKOV hereby demands a trial by jury.

Date: August 10, 2020

HELMER FRIEDMAN LLP



By: \_\_\_\_\_

Gregory D. Helmer,  
Attorneys for Plaintiff,  
RAENA KRESTOVNIKOV

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