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COMPLAINT

Now comes PLAINTIFF in the above styled action, and files this First Amended Complaint and further shows the Court as follows:

PARTIES

1. PLAINTIFF, NOELLE HANRAHAN, is an adult female and resident of San Francisco, California, working for Defendants in the Alameda County, California.

2. Plaintiff is informed and believes and thereon alleges that defendant THE PACIFICA FOUNDATION d/b/a/ KPFA (Hereinafter, "PACIFICA FOUNDATION") is a non-profit foundation and media company organized and authorized to do business in the State of California, with principal places of business in Alameda County. Defendant PACIFICA FOUNDATION employs more than five employees in this State, within the meaning of the FEHA, California Government Code section 12926.

3. Plaintiff is informed and believes that KPFA RADIO is a wholly owned and operated subsidiary of the PACIFICA FOUNDATION, whose principal place of business is Alameda County. KPFA and PACIFICA FOUNDATION employ more than five employees in this State and are engaged in interstate commerce within the meaning of California Government Code section 12926.

4. DENNIS BERNSTEIN ("BERNSTEIN") is an employee of KPFA and PACIFICA FOUNDATION. He resides in Alameda County, California. At all relevant times, BERNSTEIN was a supervisor, as that term is defined under the FEHA, at KPFA and PACIFICA FOUNDATION where Plaintiff worked. Defendants KPFA and PACIFICA FOUNDATION are therefore strictly liable for the actions of BERNSTEIN.

5. Plaintiff is informed and believes that JIM BENNETT ("BENNETT") is an employee and

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3 General Manager of KPFA and PACIFICA FOUNDATION. He resides in Alameda County,
4 California. At all relevant times, BENNETT was a supervisor, as that term is defined under the
5 FEHA, at KPFA and PACIFICA FOUNDATION where Plaintiff worked. Defendants KPFA and
6 PACIFICA FOUNDATION are therefore strictly liable for the actions of BENNETT.

7 6. The true names or capacities of, whether individual, corporate, associate, subsidiary or
8 otherwise, of Defendants DOE 1 to DOE 20 are unknown to Plaintiff, who therefore sues such
9 Defendants under fictitious names, and will amend this Complaint to show their true names and
10 capacities when ascertained. Plaintiff is informed and believes and thereon alleges that each of the
11 Defendants designated as DOE is negligently responsible in some manner for the events and
12 happenings referred to, and thereby proximately caused injuries and damages to the Plaintiff as
13 alleged herein.

14 7. At all times mentioned herein, the Plaintiff is informed and believes and thereon alleges that
15 each and every Defendant was the agent, employee, and/or servant of every other Defendant, and
16 performed the acts complained of herein in the course and scope of such agency, servitude, and/or
17 employment, and acted with the consent, ratification, permission, knowledge, and/or authorization
18 of each of the remaining Defendants. All of the acts and/or conduct of each Defendant alleged in
19 the causes of action into which this paragraph is incorporated by reference were consented to,
20 ratified, approved, and/or authorized by the officers and/or managing agents of every other
21 Defendant. Defendants are sued both in their own right and on the basis of respondeat superior.

22 **VENUE AND JURISDICTION**

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24 8. PLAINTIFF brings this Complaint for violations of the California Government Code,
25 California Civil Code, and California common law and the amount in controversy exceeds the
26 minimum required by this Court. Accordingly, this Court has jurisdiction over the claims in this
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3 matter.

4 9. Given that the various events underlying this lawsuit occurred in the County of Alameda and
5 Defendants principal place of business is in Alameda County, venue is proper in this Court.

6 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

7 10. In accordance with the appropriate regulations, codes, and statutes, including but not limited
8 to the Government Code, the plaintiff has exhausted her administrative remedies by filing timely
9 complaints with the California Department of Fair Employment and Housing (“DFEH”). Plaintiff
10 received the “right to sue” letters as to each of the Defendants identified herein from the DFEH
11 dated **insert**.

12 11. All of the acts alleged herein were in the nature of a continuing violation and/or continuing
13 torts. All of the misconduct alleged herein was part of the same continuous pattern of
14 discrimination and harassing practices, and at least some of the misconduct occurred within one
15 year of the date plaintiff filed her claims with the DFEH.

16 **GENERAL ALLEGATIONS**

17 12. Prior to and during the Plaintiff’s term of employment at KPFA and PACIFICA
18 FOUNDATION, Defendants had an entirely ineffective policy against discrimination based on sex,
19 discrimination based on gender, and sexual harassment. Part of its ineffectiveness stemmed from
20 the fact that the policy, if it existed at all, was not disseminated properly, even-handedly or
21 efficiently to company employees. There was, and remains, no realistic, effective mechanism for
22 training employees, including management, in the recognition, prevention, or reporting of unlawful
23 discrimination and/or harassment. There was, and remains, no effective procedure for reporting,
24 investigating, or addressing complaints of discrimination and/or harassment. To the extent that
25 procedures do exist, they are not followed.

26 13. Plaintiff is a woman, a protected class under the Fair Employment and Housing Act
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3 “FEHA,” Cal. Govt. Code § 12940, *et. seq.*

4 14. Plaintiff has received numerous awards for her excellence in radio and television journalism,
5 including receiving three “Golden Reel” awards, from the National Federation of Community
6 Broadcasters.

7 15. On or about July 1998, Plaintiff was hired as Co-host of Flashpoints, a radio program
8 broadcast by KPFA Radio. During an on radio interview where Plaintiff was interviewing an
9 individual with Gulf War syndrome, DENNIS BERNSTEIN pressed the cough button and screamed
10 at Plaintiff “don’t you dare ask another fucking question.” BERNSTEIN prohibited Plaintiff from
11 performing her job or asking further questions of the interviewee. As a result of BERNSTEIN’s
12 abusive behavior, Plaintiff stepped down as a co-host of Flashpoints.

13 16. On or about 1999, Plaintiff was a member of the KPFA and PACIFICA FOUNDATION
14 Program Council as a community representative for nine months.

15 17. On or about July 2000, Plaintiff was hired as a temporary Reporter/Producer for
16 approximately 20 hours per week for the radio program on Flashpoints broadcast on KPFA,
17 PACIFICA FOUNDATION. BERNSTEIN was the co-producer of Flashpoints. Plaintiff was
18 informed and believes and thereupon alleges that BERNSTEIN sexually harassed and discriminated
19 against female employees of KPFA and PACIFICA FOUNDATION based on their sex, causing the
20 female employees to resign or be otherwise forced out of their positions. Plaintiff is also informed
21 and believes and thereupon alleges that KPFA and PACIFICA FOUNDATION was informed or had
22 reason to know of these prior incidents of sexual harassment and discrimination and refused to take
23 any remedial measures or to effectively discipline BERNSTEIN for his behavior. Plaintiff is
24 informed and believes and thereupon alleges that BERNSTEIN has committed assault and battery
25 on female and male employees of KPFA and PACIFICA FOUNDATION and was not disciplined
26 as a result of these actions.

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3 18. On or about December 2000, Plaintiff was hired as an Associate Producer of Flashpoints.
4 Prior to Plaintiff taking the permanent position of Associate Producer, Plaintiff was informed by
5 two donors of KPFA and PACIFICA FOUNDATION that BERNSTEIN had been informed
6 repeatedly that he cannot continue to harass and abuse female KPFA and PACIFICA
7 FOUNDATION employees. Plaintiff felt that she was more than qualified for the position and that
8 the radio network fit her documentary investigative reporting perfectly. She therefore took the
9 position as Associate Producer.

10 19. On or about January 2001, Aaron Glance and BERNSTEIN got into a fist fight in the KPFA
11 station. BERNSTEIN is not disciplined in any manner for the violence in the workplace.

12 20. On or about Summer 2001, BERNSTEIN warned Plaintiff that he has “beaten” sexual
13 harassment claims before and that counsel provided to him by KPFA has coached him regarding
14 how to beat any sexual harassment complaint.

15 21. On or about August 2001, Plaintiff was transferred to the position of Co-host of the
16 Flashpoints radio program.

17 22. On or about October 23, 2001, BERNSTEIN informed Plaintiff, “I’m going to torture you
18 until you quit or I force you to leave.” He also informed Plaintiff that she “would not be given any
19 airtime on the Flashpoints program” and that “you will do as you are told. You have no right to have
20 anything on the air. You will take what I will give you.” Plaintiff is informed and believes, and
21 thereupon alleges that BERNSTEIN took these actions against Plaintiff based on her sex.

22 23. Plaintiff immediately informed General Manager of KPFA, PACIFICA FOUNDATION,
23 JIM BENNETT of BERNSTEIN’s actions and that she believed the actions were the result of
24 sexual harassment and sex discrimination. Rather than investigate, or take any remedial actions,
25 BENNETT, KPFA and PACIFICA FOUNDATION refused to take any actions to address
26 BERNSTEIN’s abusive behavior. Instead, BENNETT discouraged Plaintiff from pursuing any
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3 redress stating, “if you file a grievance it will only get a lot worse.” BENNETT also stated to
4 Plaintiff in response to her complaints, “you will be like a cockroach, you will survive this.”

5 24. On or about October- November 2002, Plaintiff again requested of KPFA and PACIFIC
6 FOUNDATION that her complaints regarding sex discrimination and sexual harassment be
7 addressed. There was no response by KPFA and PACIFIC FOUNDATION to her complaints.

8 25. On or about October 2001, after Plaintiff’s complaints of sexual harassment and sex
9 discrimination, KPFA and PACIFIC FOUNDATION Leslie Kean was hired to serve as a “buffer”
10 between Plaintiff and BERNSTEIN. Plaintiff was never informed that Ms. Kean was hired by
11 KPFA and PACIFICA FOUNDATION and was not informed of her role at KPFA and PACIFICA
12 FOUNDATION.

13 26. After Plaintiff made her complaint of sexual harassment and sex discrimination,
14 BERNSTEIN refused to speak to Plaintiff regarding any work related issues, or to inform her of
15 work related issues regarding Flashpoints that she co-produced. Plaintiff is informed and believes
16 and thereupon alleges that BERNSTEIN’s behavior was a part of a consistent plan to force Plaintiff
17 to resign from her position based on her sex.

18 27. On or about October 2001, Plaintiff discovered that a master interview tape of an hour long
19 tape regarding the domestic violence homicide of Clare Joyce Tempongko was erased. Plaintiff
20 immediately complained to JIM BENNETT, as he served as the senior engineer as well as the
21 General Manager of KPFA and PACIFICA FOUNDATION. BENNETT stated that the distinctive
22 sound on the tape is from a degaussing machine that is a bulk eraser machine, meaning that the tape
23 was intentionally erased. The tape was locked in an office that Plaintiff shared with BERNSTEIN
24 and only management of KPFA had the key. Plaintiff is informed and believes that BERNSTEIN
25 erased Plaintiff’s interview in order to sabotage her work and force her to resign from her
26 employment, based on her sex.

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28. On or about October 2001, Plaintiff again complained to JIM BENNETT, asking him to intervene and address her complaints of sexual harassment and sex discrimination. She also stated that she felt that BERNSTEIN was sabotaging her work in an effort to make good on his threat to “torture her until she quits or resigns,” based on her sex. BENNETT, KPFA and PACIFICA FOUNDATION refused to take any action in response to Plaintiff’s complaints.

29. In response to plaintiff’s complaints, on or about November 2001, Tomas Moran, a member of the PACIFICA FOUNDATION National Board split the Flashpoints radio program in two pieces, with DENNIS BERNSTEIN allotted 60% of the airtime and Plaintiff demoted to only 40% of the Flashpoints program. Moran’s actions are ratified by BENNETT, KPFA and PACIFIC FOUNDATION. Tomas Moran informed Plaintiff that he had not reviewed any of Plaintiff’s complaints or memos to KPFA and PACIFICA FOUNDATION regarding her complaints of sex discrimination and sexual harassment prior to making the decision to reduce Plaintiff’s role in the Flashpoints program. Mr. Moran also stated that he has tried on two separate occasions to get KPFA and PACIFICA FOUNDATION management to require that BERNSTEIN receive psychological counseling in order to address BERNSTEIN’s abusive behavior.

30. On or about November 14, 2001, Plaintiff again made a request to JIM BENNETT, KPFA and PACIFICA FOUNDATION management that they investigate her complaints of sexual harassment and sex discrimination. JIM BENNETT responded, on behalf of KPFA AND PACIFICA FOUNDATION management that she should speak with Thomas Moran as “a mediator” of the situation. Plaintiff responded that speaking to Mr. Moran is not a substitute for management investigation and action in response to her complaints of sexual harassment and sex discrimination.

31. On or about November 20, 2001, DENNIS BERNSTEIN interrupted regularly scheduled Flashpoints programming and attacked Plaintiff, informing radio listeners that she had made false

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allegations against him and was trying to take over the radio program. BERNSTEIN asked that listeners call into the show and to KPFA and PACIFICA FOUNDATION to remove Plaintiff as a co-producer of Flashpoints and to call KPFA and PACIFICA FOUNDATION management in support of BERNSTEIN.

32. As a result of BERNSTEIN's actions, he was suspended for a period of 10 days. However, BENNETT, KPFA and PACIFICA RADIO without explanation allowed BERNSTEIN to return to his position within 6 days without finishing his suspension. After BERNSTEIN returned to work, he continued to harass Plaintiff.

33. From October 2001, until Plaintiff was removed from the Flashpoints radio program as a co-producer, BERNSTEIN attempted to undermine her work, and force Plaintiff to resign based on her sex.

34. On or about December 4, 2001, Ms. Hanrahan informed KPFA and PACIFICA FOUNDATION that they have an obligation to investigate her complaints of sexual harassment and discrimination and take immediate and appropriate action to address BERNSTEIN's discriminatory conduct. KPFA and PACIFICA FOUNDATION management failed to take any steps to investigate Plaintiff's complaints and instead inform her that they do not have a human resources specialist on staff or the staff time to address her complaints.

35. On or about January 2, 2002, KPFA and PACIFICA FOUNDATION management without Plaintiff's consent met with a third party donor, Barbara Lupin, for KPFA and PACIFICA FOUNDATION, and who provides substantial donations to BERNSTEIN, to discuss Plaintiff's employment. Ms. Lupin hired a moderator to address Plaintiff's continued employment at KPFA and PACIFICA FOUNDATION. Plaintiff is informed that she is barred from discussing her complaints of sexual harassment and discrimination at the moderated discussions regarding her employment.

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36. On or about January 2002, Plaintiff discussed her complaints of sexual harassment and discrimination with local and national board member Carol Spooner. Plaintiff was informed by Ms. Spooner that “it does not matter if you are right or wrong, you are going to lose.” She was also informed by Ms. Spooner to retain an attorney.

36. On or about February 4, 2002, when Plaintiff again complained that the moderated discussions about her employment did not address her complaints of sexual harassment and discrimination, as well as violence in the workplace, she was threatened by KPFA and PACIFICA FOUNDATION management with discipline up to and including termination. The moderator refused to discuss Plaintiff’s complaints of sexual harassment and discrimination, refused to inform Plaintiff who will be at the meetings, refused to disclose which members of management she had spoken to, and refused to allow Plaintiff to bring an observer or union representative to the moderated meetings.

37. On or about February 4, 2002, Plaintiff was crying in the lunch room regarding the discriminatory treatment by BERNSTEIN and the failure of KPFA and PACIFICA FOUNDATION to address her complaints. Plaintiff discussed her complaints and prior complaints of sex discrimination and sexual harassment made against DENNIS BERNSTEIN, and asked why KPFA and PACIFICA FOUNDATION continued to refuse to take any action to ensure female employees in the future are not similarly discriminated against.

37. On or about February 6-9, 2002, Plaintiff repeatedly requested to meet with KPFA and PACIFICA FOUNDATION management to address her complaints of sexual harassment and discrimination. JIM BENNETT responded that “we are too busy” to address Plaintiff’s complaints.

38. On or about February 9, 2002, without Plaintiff’s knowledge or consent, BENNETT, Assistant Manager Phil Osguenda and third party donors to KPFA and PACIFICA FOUNDATION discussed whether Plaintiff should continue to be employed with KPFA and PACIFICA

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3 FOUNDATION, given her complaints.

4 39. On or about February 11, 2002, Plaintiff was prohibited by BERNSTEIN, KPFA and
5 PACIFICA FOUNDATION management from attending an editorial meeting to discuss the content
6 of the Flashpoints radio program, for which Plaintiff was a co-producer.

7 40. On or about February 11, 2002, at 2:00 p.m., BENNETT informed Plaintiff that “there are
8 no disciplinary complaints against you, but if you persist in your grievances, there will be.”
9 BENNETT again informed Plaintiff that KPFA and PACIFICA FOUNDATION does not have the
10 resources or staff to investigate her complaints. At 3:50 p.m. that day, Plaintiff was placed on an
11 involuntary four (4) day administrative leave when she asked JIM BENNETT why she was not
12 allowed to participate in show preparation including the editorial meeting for that day’s Flashpoints
13 show, which began at 5 p.m. Plaintiff pointed out to BENNETT that her job responsibilities include
14 hosting the show on air and creating content for the show, necessitating that she be allowed to
15 attend the editorial meeting about the show’s content and be allowed to prepare for the show.

16 41. On or about February 2002, Plaintiff received a “warning letter” for her complaints to other
17 employees that she is being discriminated against. This is the first time in Plaintiff’s employment
18 that Plaintiff is made aware that there was any form of discipline or complaints against her.

19 42. On or about February through March 2002, KPFA and PACIFICA FOUNDATION
20 management changed the locks on the doors so that Plaintiff could not come to work, or get her
21 belongings. Plaintiff was informed and believes and thereupon alleges that KPFA and PACIFICA
22 FOUNDATION management informed third parties and donors of KPFA and PACIFICA
23 FOUNDATION that she stole something from KPFA and that she attacked a co-worker. Neither of
24 these statements were true.

25 43. On or about February 11, 2002 until September 15, 2002, Plaintiff was placed on
26 involuntary leave and prohibited from performing her job. She was also banned from the KPFA
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3 building. No actions were taken by KPFA and PACIFICA to take any remedial measures to address
4 Plaintiff's complaints of sexual harassment, sex discrimination or workplace violence.

5 44. On or about March 2002, Plaintiff met with BENNETT and a union representative.
6 BENNETT inform Plaintiff that she must "apologize" for making complaints of sexual harassment,
7 sex discrimination, and work place violence, as well as violations of her rights under the California
8 Labor Code. Plaintiff refuses to apologize and again requests that BENNETT, KPFA and
9 PACIFICA FOUNDATION investigate her complaints and take all necessary remedial measures.

10 45. On or about March 7 2002, Plaintiff sent a memo to the PACIFICA FOUNDATION
11 National Board of Directors asking the Board of Directors address her complaints of sexual
12 harassment and discrimination and stated that it was retaliatory to ban her from the workplace for
13 making these complaints.

14 46. On or about April 2002, Plaintiff met with management from the PACIFICA
15 FOUNDATION national office. She was informed that PACIFICA FOUNDATION was
16 "investigating" her complaints. Plaintiff was never informed of the results of the "investigation," if
17 one was conducted. No actions are taken to return her to work. No disciplinary actions were taken
18 against BERNSTEIN.

19 47. On or about May 2002, KPFA and PACIFICA FOUNDATION hired Barbara Bryant to
20 "investigate" her complaints of sexual harassment and sex discrimination. KPFA and PACIFICA
21 FOUNDATION refused to inform Plaintiff what was the scope of the investigation, what were the
22 findings of the investigation, or provide her with a copy of the investigative report.

23 48. On or about May 2002, Plaintiff met with Leslie Cagan, national board chair of PACIFICA
24 FOUNDATION and requested that her complaints of sexual harassment, sex discrimination and
25 workplace violence be addressed and that she be returned to work.

26 49. On or about May 2002, Plaintiff received a "Golden Reel" national award for excellence in
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3 journalism in Washington D.C. Plaintiff met with management of PACIFICA FOUNDATION to
4 discuss her complaints of sexual harassment and sex discrimination and complaints about violence
5 in the workplace. Plaintiff was informed by Assistant to the Executive Director of PACIFICA
6 FOUNDATION that BERNSTEIN demanded that she be banned from the KPFA building, or he
7 would sue KPFA and PACIFICA FOUNDATION.

8 50. On or about August 30, 2002, KPFA and PACIFICA FOUNDATION sent Plaintiff a letter
9 stating that she will receive “no new assignment” and that her involuntary leave would end.

10 51. On or about September 15, 2002, Plaintiff’s pay was ceased.

11 52. On or about April 2003, BENNETT falsely informed the producer for “Democracy Now”
12 radio show that Plaintiff is “violent” and that is why she was banned from KPFA.

13 53. On or about May 2005, KPFA and PACIFICA FOUNDATION ended Plaintiff’s health care
14 benefits.

15 54. Following Plaintiff’s complaints of sexual harassment, sex discrimination and workplace
16 violence, Plaintiff was informed and believes that other female employees, as well as employees of
17 member stations of PACIFICA FOUNDATION and KPFA complained that BERNSTEIN was
18 violent in the workplace, discriminated against women and perpetrated sexual harassment. No
19 effective remedial measures were taken by PACIFICA FOUNDATION and KPFA to address these
20 complaints.

21 55. Plaintiff is informed and believes and thereupon alleges that male employees of PACIFICA
22 FOUNDATION and KPFA have engaged in workplace violence, including but not limited to
23 punching other employees, throwing furniture, and threatening violence but no remedial measures
24 are taken against the male employees to address the violence, even though PACIFICA
25 FOUNDATION and KPFA profess to have a “zero policy” against workplace violence.
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3 56. Plaintiff is informed and believes and thereupon alleges that on or about May 2005, that due
4 to the complaints against BERNSTEIN for discrimination and harassment, he will be allowed to
5 continue working from a private studio that is being created for BERNSTEIN's usage. No other
6 remedial measures were taken to address the complaints of violence and sexual harassment and sex
7 discrimination by BERNSTEIN.

8 57. Plaintiff is informed and believes and thereupon alleges that at least four female employees
9 have complained of sexual harassment and sex discrimination at KPFA and PACIFICA
10 FOUNDATION by management of KPFA and PACIFICA FOUNDATION. However, to date,
11 KPFA and PACIFICA FOUNDATION has refused to adequately investigate and address the
12 complaints of sexual harassment and sex discrimination.

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14 **FIRST CLAIM FOR RELIEF- SEXUAL HARASSMENT**
15 **(CAL. GOV. CODE §§ 12940, ET SEQ., SEXUAL HARASSMENT)**
16 **(AGAINST DEFENDANTS PACIFICA FOUNDATION, KPFA, JIM BENNETT, DENNIS**
17 **BERNSTEIN and DOES 1-20)**

18 x. Plaintiff hereby incorporates paragraph 1 through X as though fully set forth herein.
19 Plaintiff also incorporates by reference each and every other paragraph of this Complaint except
20 those that are inconsistent with a cause of action for sexual harassment in violation of the FEHA.

21 x. At all times herein mentioned, Government Code § 12940 *et seq.* was in full force
22 and effect and was binding upon Defendants. Said sections require DEFENDANTS to refrain from
23 discriminating against and harassing an employee on the basis of her sex or gender. At all times
24 herein mentioned, Plaintiff was an employee within the meaning and scope of the FEHA, Cal. Govt.
25 Code § 12926(c), and as such, Plaintiff had the right to maintain her employment without
26 experiencing discrimination on the basis of her sex or gender. Within the time provided by law,
27 PLAINTIFF made complaints to the California Department of Fair Employment and Housing
28 (DFEH) and received a "right to sue" notice.

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x. The aforementioned harassment was and remained sufficiently severe and/or pervasive to alter the conditions of Plaintiff's employment and created a hostile work environment. The unwelcome sexual harassment by Defendants created an oppressive, hostile, intimidating and/or offensive work environment for the Plaintiff and interfered with the emotional well being of Plaintiff and her ability to perform her job duties.

x. The misconduct of Defendants, and each of them, which constitutes a sexual harassment of females in general, and in particular Plaintiff, includes but is not limited to the facts alleged in each paragraph of this Complaint.

x. BERNSTEIN'S unlawful conduct at work was open and notorious. BERNSTEIN's prior harassing discriminatory conduct towards women was so egregious that before Plaintiff was hired she was promised that BERNSTEIN would not continue to be abusive to women. Prior to Plaintiff, several complaints by female employees of KPFA and PACIFICA FOUNDATION were made regarding BERNSTEIN's sexual harassment of female employees, discrimination based on sex and acts of workplace violence. KPFA and PACIFICA FOUNDATION management failed to take adequate remedial steps to ensure that female employees, including Plaintiff, would not be subjected to continued sexual harassment and sex discrimination by BERNSTEIN.

x. Plaintiff is informed, believes and thereon alleges that KPFA and PACIFICA FOUNDATION failed to comply with their statutory duty under the FEHA to take all reasonable and necessary steps to prevent sexual harassment from occurring and to eliminate sexual harassment from the workplace, including but not limited to (a) failing to have an ineffective policy regarding workplace harassment; (b) failing to have an effective procedure for addressing or investigating complaints of harassment; (c) failing to effectively implement any procedure it may have had for investigating complaints of harassment; (d) failing to adequately investigate Plaintiff's complaints, despite her numerous complaints to KPFA management, BENNETT, PACIFICA FOUNDATION

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3 management and Board members; and (e) failing to appropriately train its employees. KPFA and
4 PACIFICA FOUNDATION knew or should have known about the unwelcome and harassing
5 conduct toward Plaintiff and were remiss in failing to take immediate and appropriate corrective
6 action. KPFA and PACIFICA FOUNDATION are also strictly liable for the unlawful conduct of its
7 supervisors.

8 x. The aforementioned conduct of DEFENDANTS constitutes a continuing violation of
9 Plaintiff's rights from the first act to the latest action.

10 x. The aforementioned harassment and discrimination against Plaintiff in the terms,
11 conditions and /or privileges of employment on the basis of her sex and gender constitutes an
12 unlawful employment practice and is strictly prohibited under the FEHA, Cal. Govt. Code §
13 12940(j). The Defendants, and each of them, by refusing to take action to abate the offensive and
14 continuing discriminatory and/or harassing conduct of each of the other Defendants, acted and/or
15 failed to act and /or attempted to act in such a way as to aid, abet, incite, compel or coerce each of
16 the other Defendants in doing acts prohibited by the FEHA, as alleged above.

17 x. As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has
18 suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and
19 discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this
20 court, the precise amount to be proven at trial.

21 x. As a direct and proximate result of the harassment of Plaintiff and hostile and
22 offensive work environment, as described above, the Plaintiff has incurred, and will continue to
23 incur medical expenses, loss of deferred compensation, benefits, earning capacity, wages,
24 opportunities for employment and advancement, and work experience, all to her damage in an
25 amount according to proof.

26 x. As a further direct and proximate result of Defendants' violation of the FEHA,
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3 Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and
4 conditions of her employment relationship with Defendants, and has thereby incurred, and will
5 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to
6 Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided
7 by the FEHA, Cal. Govt. Code § 12965(b).

8 x. Plaintiff is informed and believes and thereon alleges that the conduct of
9 DEFENDANTS was grossly intentional, negligently reckless, willful, wanton, malicious,
10 oppressive and/or unmindful of obligations to PLAINTIFF and/or exhibits that entire want of care
11 which would rise to the presumption of conscious indifference to the consequences so as to warrant
12 the imposition of punitive damages in an amount sufficient to punish, penalize or deter Defendants,
13 for which Defendants are all liable to Plaintiff. Defendants, and each of them either intentionally
14 personally engaged in such outrageous misconduct, as alleged herein, or had advance knowledge of
15 the harassing, discriminatory conduct of the other Defendants and nevertheless failed to take action
16 to abate the wrongful conduct and continue to employ the offenders with conscious disregard of the
17 rights and safety of the Plaintiff and other employees, or otherwise authorized or ratified the
18 wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or otherwise incited
19 each of the other Defendants into doing acts forbidden by the FEHA, as alleged herein. As a result,
20 the Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

21 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth below.

22 **SECOND CLAIM FOR RELIEF**

23 **FAILURE TO PREVENT SEXUAL HARASSMENT**
(CAL. GOV. CODE § 12940(i), (j)(1))
(AGAINST DEFENDANTS KPFA, PACIFICA FOUNDATION, and DOES 1-20)

24 x. Plaintiff incorporates paragraph 1 through X as though fully set forth herein. Plaintiff
25 also incorporates by reference each and every other paragraph of this Complaint except those that
26 are inconsistent with a cause of action for failure to prevent sexual harassment in violation of the
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FEHA.

x. Defendants' conduct as alleged in this Complaint violates the California Fair Employment and Housing Act, Government Code § 12940, *et seq.*, prohibiting workplace harassment based on sex and/ or gender.

x. California Government Code § 12940(i) requires an employer to take all reasonable steps necessary to prevent harassment from occurring.

x. Plaintiff is informed, believes and thereon alleges that KPFA and PACIFICA FOUNDATION (a) had an ineffective policy regarding workplace harassment; (b) had no effective procedure for addressing or investigating complaints of harassment; (c) failed to effectively implement any procedure it may have had for investigating complaints of harassment; (d) did not adequately investigate Plaintiff's complaints; and (e) failed to appropriately train its employees. KPFA and PACIFICA FOUNDATION knew or should have known about the unwelcome and harassing conduct toward Plaintiff and were remiss in failing to take immediate and appropriate corrective action. KPFA and PACIFICA FOUNDATION are also strictly liable for the unlawful conduct of its supervisors.

x. Plaintiff repeatedly made KPFA and PACIFICA FOUNDATION aware about the misconduct described in this complaint. KPFA and PACIFICA FOUNDATION did not take seriously, or ignored, Plaintiff's statements which made them aware of BERNSTEIN's unlawful conduct. KPFA and PACIFICA FOUNDATION failed to take immediate and effective steps to conduct a fair, impartial and comprehensive investigation of the incidents.

x. In doing the acts and omissions set forth above, Defendants directly harassed Plaintiff, failed to take immediate and appropriate corrective action to stop the harassment reported by Plaintiff, and failed to prevent the harassment from occurring, thereby violating Government Code § 12940(i).

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x. As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this court, the precise amount to be proven at trial.

x. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or unmindful of obligations to Plaintiff and/or exhibits that entire want of care which would rise to the presumption of conscious indifference to the consequences so as to warrant the imposition of punitive damages in an amount sufficient to punish, penalize or deter KPFA and PACIFICA FOUNDATION and the individuals, for which DEFENDANTS are all liable to PLAINTIFF.

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS as set forth below.

THIRD CLAIM FOR RELIEF- EMPLOYMENT DISCRIMINATION: SEX
(CAL. GOV. CODE §§ 12940, ET SEQ., DISPARATE TREATMENT)
(AGAINST DEFENDANTS KPFA and PACIFICA FOUNDATION and DOES 1-20)

x. Plaintiff incorporates by reference paragraphs 1 through x as though fully set forth herein. Plaintiff also incorporates by reference each and every other paragraph of this Complaint except those that are inconsistent with a cause of action for sex discrimination in violation of the FEHA.

x. At all times herein mentioned, California Government Code §12940, *et seq.*, was in full force and effect and was binding upon Defendants. Said sections require Defendants to refrain from discriminating against an employee because of gender or sex, among other things. Within the time provided by law, Plaintiff made a complaint to the California Department of Fair Employment and Housing ("DFEH").

x. At all times herein mentioned, Plaintiff was an employee within the meaning and scope of the FEHA, Cal. Govt. Code § 12926(c) and, as such, Plaintiff had the right to maintain her

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employment without experiencing discrimination on the basis of her sex or gender.

x. At all times herein mentioned, Defendants were employers, or agents of employers, within the meaning of the FEHA, Cal. Govt. Code § 12926(d) and, as such, are barred from discriminating in employment decisions on the basis of sex or gender.

x. From July 2000, and continuously thereafter until she was terminated from her employment, Defendants and each of them maintained and required Plaintiff to work in an environment which was, and continues to be discriminatory to females in general and in particular to Plaintiff. Plaintiff alleges that similarly situated male employees were not subjected to the same treatment.

x. Defendants violated California Government Code §12940(a) by discriminating against Plaintiff based on her gender. Specifically, Plaintiff was subjected to disparate treatment by Defendants in the terms and conditions of employment, including when Plaintiff was subjected to sexual harassment and sex discrimination, workplace violence, and Plaintiff and other women were treated in a disparate manner from similarly situated male employees in the application of work rules and employee discipline. Plaintiff was also discriminated against on the basis of sex and gender on the basis Defendants failed to respond effectively to her complaints of harassment, discrimination and retaliation.

28. The misconduct of Defendants, and each of them, which constitutes a sexual harassment and sex discrimination of females in general, and in particular Plaintiff, includes but is not limited to the facts alleged in each paragraph of this Complaint.

x. Plaintiff repeatedly reported the misconduct of BERNSTEIN to BENNETT, KPFA and PACIFICA FOUNDATION management, and PACIFICA FOUNDATION Board of Directors. However, KPFA and PACIFICA FOUNDATION did not appropriately investigate the matter, nor did Defendants and each of them take appropriate action to cause BERNSTEIN's behavior to cease,

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3 or to prevent any similar misconduct from occurring in the future.

4 x. Defendants failed to properly, promptly and effectively acknowledge the existence of
5 sex and gender discrimination which exists at KPFA and PACIFICA FOUNDATION. Defendants
6 further failed to respond to Plaintiff's complaints, to develop a plan for dealing with the
7 discrimination and harassment in the future, and to inform Plaintiff of such a plan or any actions
8 that they were taking. Defendants' failure to follow up on these complaints and/or to take any
9 action to eradicate the sexual harassing and/or discriminating practices at KPFA and PACIFICA
10 FOUNDATION unfairly, negatively and disparately impacted Plaintiff in particular, and female
11 employees in general.

12 x. Plaintiff is informed, believes and thereon alleges that KPFA and PACIFICA
13 FOUNDATION failed to comply with their statutory duty under the FEHA to take all reasonable
14 and necessary steps to prevent discrimination based on sex and gender from occurring and to
15 eliminate such discrimination from the workplace, including but not limited to (a) failing to have an
16 ineffective policy regarding workplace harassment and sex discrimination; (b) failing to have an
17 effective procedure for addressing or investigating complaints of sexual harassment and sex
18 discrimination ; (c) failing to effectively implement any procedure it may have had for investigating
19 complaints of sexual harassment and sex discrimination; (d) failing to adequately investigate
20 Plaintiff's complaints, despite her numerous complaints to KPFA management, BENNETT,
21 PACIFICA FOUNDATION management and Board members; and (e) failing to appropriately train
22 its employees.

23 x. The aforementioned discrimination and harassment against Plaintiff in the terms,
24 conditions, and/or privileges of employment on the basis of sex and gender constitutes an unlawful
25 employment practice and is expressly prohibited under the FEHA. The Defendants and each of
26 them, by refusing to take action to abate the offensive and continuing discriminatory and/or
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3 harassing conduct of each of the other Defendants, acted and/or failed to act and/or attempted to act
4 in such a way as to aid, abet, incite, compel and/or coerce each of the other Defendants in doing
5 such acts prohibited by the FEHA, as alleged above.

6 x. The aforementioned conduct of Defendants constitutes a continuing violation of
7 Plaintiff's rights from the first act to the latest action.

8 x. As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has
9 suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and
10 discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this
11 court, the precise amount to be proven at trial.

12 x. As a direct and proximate result of the harassment of the Plaintiff and hostile and
13 offensive work environment, as described above, the Plaintiff has incurred, and will continue to
14 incur medical expenses, loss of deferred compensation, benefits, earning capacity, wages,
15 opportunities for employment and advancement, and work experience, all to her damage in an
16 amount according to proof.

17 x. As a further direct and proximate result of Defendants' violation of the FEHA,
18 Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and
19 conditions of her employment relationship with Defendants, and has thereby incurred, and will
20 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to
21 Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided
22 by the FEHA, Cal. Govt. Code § 12965(b).

23 x. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants
24 were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or
25 unmindful of obligations to Plaintiff and/or exhibits that entire want of care which would rise to the
26 presumption of conscious indifference to the consequences so as to warrant the imposition of
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3 punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which
4 Defendants are all liable to Plaintiff. The Defendants, and each of them either intentionally
5 personally engaged in such outrageous misconduct, as alleged herein, or had advance knowledge of
6 the harassing, discriminatory conduct of the other Defendants and nevertheless failed to take action
7 to abate the wrongful conduct and continue to employ the offenders with conscious disregard of the
8 rights and safety of the Plaintiff and other employees, or otherwise authorized or ratified the
9 wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or otherwise incited
10 each of the other Defendants into doing acts forbidden by the FEHA, as alleged herein. As a result,
11 the Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

12 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth below.

13 **FOURTH CLAIM FOR RELIEF- RETALIATION**
14 **(CAL. GOVT. CODE § 12940(F))**
15 **(AGAINST ALL DEFENDANTS)**

16 x. By this reference, Plaintiff hereby incorporates paragraphs 1-X of this document as if
17 they were set forth within this cause of action. Plaintiff also incorporates into this cause of action
18 each and every allegation set forth in every paragraph of this Complaint, except those that are
19 inconsistent with a cause of action for retaliation in violation of the FEHA.

20 x. At all times herein mentioned, Government Code §12940, *et seq.*, was in full force
21 and effect and was binding upon Defendants. Said sections require Defendants to refrain from
22 retaliating against a person who opposes discrimination forbidden by the Fair Employment and
23 Housing Act (“FEHA”), or who files a complaint, or who assists in any proceeding under the
24 FEHA.

25 50. At all times during Plaintiff’s tenure with Defendants KPFA and PACIFICA
26 FOUNDATION, Plaintiff performed her duties in a satisfactory fashion as hereto set forth.

27 51. Defendants retaliated against Plaintiff by:

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- 3 a. Failing to adequately investigate her repeated complaints of sexual harassment, sex
- 4 discrimination and workplace violence;
- 5 b. Failing to take appropriate and sufficient correct action to stop the harassment and
- 6 discrimination in employment or prevent any similar misconduct from occurring in the future;
- 7 c. Failing to keep Plaintiff about the progress of the “investigation,” of her complaints,
- 8 if such investigation took place;
- 9 d. Soliciting negative feedback regarding Plaintiff’s job performance after she made
- 10 complaints of sexual harassment, discrimination and workplace violence.
- 11 e. Failing to effectively counsel BERNSTEIN and BENNETT that retaliatory conduct
- 12 would not be tolerated;
- 13 f. Failing to assure Plaintiff in words and action that retaliation would not be tolerated;
- 14 g. Failing to recognize retaliation by BERNSTEIN and BENNETT when it occurred;
- 15 h. Attacking Plaintiff on the air on the Flashpoints radio program, falsely informing
- 16 listeners that Plaintiff was seeking to take over the program and asking them to make phone calls
- 17 and write letters to have Plaintiff removed from her position;
- 18 i. Failing to address Plaintiff’s complaints that her work had been intentionally erased
- 19 by BERNSTEIN and that he was undermining her work after she made complaints of violations of
- 20 the FEHA;
- 21 j. Refusing to address Plaintiff’s complaints of sexual harassment, sex discrimination,
- 22 retaliation and workplace violence, informing her there was no time, no staff and informed Plaintiff
- 23 that she was “like a cockroach” and would survive the discrimination and harassment;
- 24 k. Discussed Plaintiff’s confidential employment issues with third parties in violation
- 25 of Plaintiff’s right to privacy as guaranteed by the California Constitution Article I, Sec. I.;
- 26 l. Barred Plaintiff from discussing her complaints of sexual harassment, sex
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3 discrimination and workplace violence;

4 m. Issued a written warning to Plaintiff as a result of her making informing other co-
5 workers of her complaints of sexual harassment, sex discrimination and workplace violence;

6 n. Prohibited Plaintiff from attending mandatory work meetings to plan for the content
7 of the Flashpoints radio program, for which Plaintiff was a co-producer;

8 o. Demoted Plaintiff, allowing her only 40% of the air time on the Flashpoints program
9 after she complained of sexual harassment, sex discrimination and workplace violence, rather than
10 continuing in her position of co-producer of Flashpoints;

11 p. Threatened Plaintiff with discipline if she continued to make complaints of sexual
12 harassment, sex discrimination, and workplace violence;

13 q. Placed Plaintiff on an involuntary leave for 4 days when she refused to acquiesce to
14 BENNETT, KPFA and PACIFICA FOUNDATION's demands that she be silent about her
15 complaints of sexual harassment, sex discrimination and workplace violence;

16 r. Changed the locks on the doors of KPFA and Plaintiff's office so that she could not
17 do her work or collect her personal property;

18 s. Falsely informed individuals that Plaintiff had stolen something from KPFA and was
19 violent;

20 t. Placed Plaintiff on an involuntary administrative leave and barred Plaintiff from
21 entering the KPFA building;

22 u. Demanded that Plaintiff apologize form making complaints of violations of the
23 FEHA;

24 v. Informed Plaintiff whether she was right or wrong "she was going to lose" by
25 making complaints of sexual harassment, sex discrimination and workplace violence; and

26 w. Terminated Plaintiff's employment.
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x. Plaintiff is informed and believes that in addition to the practices enumerated in this Cause of Action, Defendants have engaged in other retaliatory practices which are not fully known by Plaintiff. The above enumerated acts of retaliation are not meant to be exhaustive, but merely exemplary of the kinds of acts of retaliation against Plaintiff.

x. The Defendants and each of them, by refusing to take action to abate the offensive and continuing discriminatory and/or harassing conduct of each of the other Defendants, acted and/or failed to act and/or attempted to act in such a way as to aid, abet, incite, compel and/or coerce each of the other Defendants in doing such acts prohibited by the FEHA, as alleged above.

x. The aforementioned conduct of Defendants constitutes a continuing violation of Plaintiff's rights from the first act to the latest action.

x. As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this court, the precise amount to be proven at trial.

x. As a direct and proximate result of the harassment of the Plaintiff and hostile and offensive work environment, as described above, the Plaintiff has incurred, and will continue to incur medical expenses, loss of deferred compensation, benefits, earning capacity, wages, opportunities for employment and advancement, and work experience, all to her damage in an amount according to proof.

x. As a further direct and proximate result of Defendants' violation of the FEHA, Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and conditions of her employment relationship with Defendants, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided

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3 by the FEHA, Cal. Govt. Code § 12965(b).

4 x. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants
5 were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or
6 unmindful of obligations to Plaintiff and/or exhibits that entire want of care which would rise to the
7 presumption of conscious indifference to the consequences so as to warrant the imposition of
8 punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which
9 Defendants are all liable to Plaintiff. Defendants, and each of them either intentionally personally
10 engaged in such outrageous misconduct, as alleged herein, or had advance knowledge of the
11 harassing, discriminatory conduct of the other Defendants and nevertheless failed to take action to
12 abate the wrongful conduct and continue to employ the offenders with conscious disregard of the
13 rights and safety of the Plaintiff and other employees, or otherwise authorized or ratified the
14 wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or otherwise incited
15 each of the other Defendants into doing acts forbidden by the FEHA, as alleged herein. As a result,
16 the Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

17 WHEREFORE, PLAINTIFF prays for judgment as hereinafter set forth.

18 **FIFTH CLAIM FOR RELIEF- ENCOURAGING VIOLATION OF THE FEHA**
19 **(CAL GOVT. CODE § 12940(i))**
20 **(AGAINST DEFENDANTS KPFA, PACIFICA FOUNDATION AND DOES 1-20)**

21 x. By this reference, Plaintiff hereby incorporates paragraphs 1-x of this document as if
22 they were set forth within this cause of action. Plaintiff also incorporates into this cause of action
23 each and every allegation set forth in every paragraph of this Complaint, except those that are
24 inconsistent with a cause of action for encouraging violation of the FEHA.

25 x. Despite notice by Plaintiff, and complaints by other employees of KPFA and
26 PACIFICA FOUNDATION, KPFA and PACIFICA FOUNDATION failed to adequately
27 investigate the violations of the FEHA. KPFA and PACIFICA FOUNDATION failed to take

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3 appropriate and sufficient corrective action to stop the violations of the FEHA from occurring in the
4 future.

5 x. Such action and inactions by KPFA and PACIFICA FOUNDATION constitute
6 implicit approval of and sanction for violations of the FEHA. Through its various forms of action
7 and inaction, as specified above, KPFA and PACIFICA FOUNDATION encouraged violations of
8 the FEHA to occur.

9 x. The Defendants, and each of them, by refusing to take action to abate the offensive
10 and continuing discriminatory and/or harassing conduct of each of the other Defendants, acted
11 and/or failed to act and/or attempted to act in such a way as to aid, abet, incite, compel and/or
12 coerce each of the other defendants in doing acts prohibited by the FEHA, as alleged above.

13 x. The acts/and or omissions and/or attempts of the Defendants, and each of them,
14 undertaken for the purpose of, of which had the effect of, aiding, abetting, inciting, compelling
15 and/or coercing the other Defendants to violate the FEHA, constitutes unlawful conduct on the part
16 of the Defendants, and each of them, separately and apart from the harassing and discriminatory
17 behavior itself, as provided in the FEHA, Cal. Govt. Code § 12940(i).

18 x. As a direct and proximate result of the role of Defendants, and each of them, in
19 aiding, abetting, inciting, compelling and/or coercing the other Defendants to commit sexual
20 harassment, sex discrimination and retaliation of the Plaintiff as described above, the Plaintiff has
21 suffered and will continue to suffer embarrassment, humiliation, mental anguish, severe emotional
22 and physical distress.

23 x. As a further direct and proximate result of the role of Defendants, and each of them,
24 in aiding, abetting, inciting, compelling and/or coercing the other Defendants to commit sex
25 discrimination, sexual harassment and retaliation as described above, the Plaintiff has and will
26 continue to incur medical expenses, loss of deferred compensation, benefits, earning capacity,
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3 wages, opportunities for employment and advancement, and work experience, all to her damage in
4 an amount according to proof.

5 x. As a further direct and proximate result of Defendants' violation of the FEHA,
6 Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and
7 conditions of her employment relationship with Defendants, and has thereby incurred, and will
8 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to
9 Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided
10 by the FEHA, Cal. Govt. Code § 12965(b).

11 32. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants
12 were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or
13 unmindful of obligations to Plaintiff and/or exhibits that entire want of care which would rise to the
14 presumption of conscious indifference to the consequences so as to warrant the imposition of
15 punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which
16 Defendants are all liable to Plaintiff. Defendants, and each of them either intentionally personally
17 engaged in such outrageous misconduct, as alleged herein, or had advance knowledge of the
18 harassing, discriminatory conduct of the other Defendants and nevertheless failed to take action to
19 abate the wrongful conduct and continue to employ the offenders with conscious disregard of the
20 rights and safety of the Plaintiff and other employees, or otherwise authorized or ratified the
21 wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or otherwise incited
22 each of the other Defendants into doing acts forbidden by the FEHA, as alleged herein. As a result,
23 the Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

24 WHEREFORE, PLAINTIFF prays for judgment as hereinafter set forth.

25 **SIXTH CLAIM FOR RELIEF-NEGLIGENT HIRING, RETENTION AND SUPERVISION**
26 **(AGAINST DEFENDANTS KPFA, PACIFICA FOUNDATION and DOES 1-20)**

27 x. By this reference, Plaintiff hereby incorporates paragraphs 1x of this document as if
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3 they were set forth within this cause of action. Plaintiff also incorporates into this cause of action
4 each and every allegation set forth in every paragraph of this Complaint, except those that are
5 inconsistent with a cause of action for negligent hiring, retention and supervision.

6 x. At all times relevant herein, Defendants KPFA and PACIFICA FOUNDATION
7 knew or reasonably should have known that the harassing, discriminatory and retaliatory conduct,
8 acts and omission of all other Defendants, and of other employees, as described elsewhere in this
9 Complaint and incorporated by reference into this cause of action, violated Plaintiff's rights under
10 federal and state statutes, and municipal statutes, codes and ordinances, and that said Defendants
11 and other employees of KPFA and PACIFICA FOUNDATION were engaged in the unlawful
12 behavior as described herein above.

13 x. KPFA and PACIFICA FOUNDATION knew or should have known BERNSTEIN
14 was unfit for his position because of his history of abuse of employees, shouting, engaging in acts of
15 violence, sexual harassment, sex discrimination, retaliation, and similar conduct. KPFA and
16 PACIFICA FOUNDATION knew or should have known that BERNSTEIN required supervision
17 and/or discipline, including but not limited to termination, in order to curb his harassing and
18 discriminatory behavior.

19 x. At all times relevant herein, said Defendants, and each of them, knew, or in the
20 exercise of reasonable care should have known, that unless they intervened to protect Plaintiff, and
21 adequately supervised, prohibited, controlled, regulated, disciplined and/or otherwise penalized the
22 improper conduct, acts and omission of the offending employee as described herein, Defendants'
23 failure to so protect, supervise and intervene would have the effect of encouraging, ratifying,
24 condoning, exacerbating, worsening and continuing said conduct, acts and failures to act, thereby
25 subjecting Plaintiff to personal injury and emotional distress.

26 x. At all times relevant herein, Defendants, and each of them, had the power, ability,
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3 authority, and duty to so intervene, supervise, prohibit, control, regulate, discipline and /or penalize
4 the conduct of all other Defendants and/or offending supervisors, agents, or employees as described
5 herein above.

6 x. Despite said knowledge, power and duty, Defendants, and each of them, negligently
7 failed to act so as to prevent, supervise, prohibit, control, regulate, discipline, and/or penalize the
8 offending conduct described above, or to otherwise protect Plaintiff from such conduct.

9 x. As a direct and proximate result of the negligent hiring, retention, and supervision of
10 Defendant BERNSTEIN, and other employees named herein, and each of them, as described above,
11 Plaintiff has suffered and will continue to suffer embarrassment, humiliation, mental anguish and
12 severe emotional and physical distress.

13 x. As a direct and proximate result of the negligent hiring, retention, and supervision
14 Defendant BERNSTEIN and other employees named herein, and each of them, as described above,
15 Plaintiff has and will continue to incur medical expenses, loss of deferred compensation, benefits,
16 earning capacity, wages, opportunities for employment and advancement, and work experience, all
17 to her damage in an amount according to proof.

18 x. As a further direct and proximate result of Defendants' violation of the FEHA,
19 Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and
20 conditions of her employment relationship with Defendants, and has thereby incurred, and will
21 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to
22 Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided
23 by the FEHA, Cal. Govt. Code § 12965(b).

24 x. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants
25 were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or
26 unmindful of obligations to PLAINTIFF and/or exhibits that entire want of care which would rise to
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3 the presumption of conscious indifference to the consequences so as to warrant the imposition of
4 punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which
5 DEFENDANTS are all liable to PLAINTIFF. The Defendants, and each of them either
6 intentionally personally engaged in such outrageous misconduct, as alleged herein, or had advance
7 knowledge of the harassing, discriminatory conduct of the other Defendants and nevertheless failed
8 to take action to abate the wrongful conduct and continue to employ the offenders with conscious
9 disregard of the rights and safety of the Plaintiff and other employees, or otherwise authorized or
10 ratified the wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or
11 otherwise incited each of the other Defendants into doing acts forbidden by the FEHA, as alleged
12 herein. As a result, the Plaintiff is entitled to recover punitive damages against said Defendants, and
13 each of them.

14 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

15 **SEVENTH CLAIM FOR RELIEF- WRONGFUL TERMINATION IN VIOLATION OF**
16 **PUBLIC POLICY**

17 x. Plaintiff realleges and incorporates by reference Paragraphs 1 through x of this
18 Complaint as if fully set forth herein. Plaintiff also incorporates into this cause of action each and
19 every allegation set forth in every paragraph of this Complaint, except those that are inconsistent
20 with a cause of action wrongful termination in violation of public policy.

21 x. It is a fundamental, substantial and well-established public policy under California
22 law that a workplace be free of sexual harassment, sex discrimination, and retaliation for complaints
23 of discrimination. This fundamental public policy is expressed under California Constitution Art. 1
24 § 8, and California Government Code § 12940, *et seq.* It is also a fundamental, substantial and
25 well-established public policy of California as expressed in California Labor Code Section 1102.5
26 that no employer shall retaliate against an employee for disclosing information to a government or
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3 law enforcement agency, where the employee has reasonable cause to believe that the information
4 discloses a violation of state or federal statute.

5 x. In acting as alleged herein, Defendants KPFA and PACIFICA FOUNDATION
6 discharged Plaintiff arbitrarily, without just cause, and in violation of statutes and/or fundamental
7 public policies of the State of California.

8 x. WHEREFORE, Plaintiff prays for relief as set forth below.

9 **EIGHTH CLAIM FOR RELIEF- VIOLATION OF BUSINESS AND PROFESSIONS CODE**
10 **SECTION 17200, ET. SEQ.**

11 x. Plaintiff realleges and incorporates by reference Paragraphs 1 through x of this
12 Complaint as if fully set forth herein. Plaintiff also incorporates into this cause of action each and every
13 allegation set forth in every paragraph of this Complaint, except those that are inconsistent with a cause
14 of action for violation of the Business and Professions Code Sec. 17200.

15 x. California Business and Professions Code sections 17200 *et seq.* allows any person
16 or group to sue on behalf of themselves or on behalf of the general public to enjoin an entity doing
17 business in California from engaging in unfair competition which is broadly defined to include any
18 unlawful business practices.

19 x. Defendants' unlawful policies and practices as alleged above, including failing to
20 prevent the sexual harassment against Plaintiff, sexually harassing Plaintiff, discriminating against
21 Plaintiff because of her sex, and retaliating against Plaintiff because she made complaints of
22 discrimination constitute an unlawful business practice that violates California Business and
23 Professional Code sections 17200, *et seq.*

24 x. The unlawful, unfair business practices of KPFA and PACIFICA FOUNDATION
25 described above present a continuing threat to members of the public in that there is a threat that
26 such discrimination and retaliation will continue in the future against other employees, clients and
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3 members of the public.

4 x. WHEREFORE, Plaintiff prays for relief as set forth below.

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6 **NINTH CAUSE OF ACTION**
7 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**
8 **(AGAINST ALL DEFENDANTS)**

9 x. Plaintiff realleges and incorporates by reference Paragraphs 1 through x of this
10 Complaint as if fully set forth herein. Plaintiff also incorporates into this cause of action each and every
11 allegation set forth in every paragraph of this Complaint, except those that are inconsistent with a cause
12 of action for negligent infliction of emotional distress.

13 x. By engaging in the conduct set forth herein, Defendants have negligently breached
14 their duty of care not to engage in the conduct alleged.

15 x. Defendants, and each of them, knew or should have known that their actions were
16 likely to result in serious emotional harm, anguish and distress to Plaintiff.

17 x. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer
18 discomfort, anxiety, humiliation and emotional distress, and will continue to suffer serious
19 emotional distress in the future in an amount according to proof.

20 x. Plaintiff is informed and believe that the wrongful acts and/or conduct alleged herein
21 which was perpetrated by all Defendants was done maliciously, oppressively, and/or fraudulently
22 and with a wrongful intent of harming and injuring Plaintiff and did in fact harm Plaintiff with an
23 improper and evil motive amounting to malice and in conscious disregard of the Plaintiff's rights.
24 As a result, Plaintiff is entitled to recover punitive damages against said Defendants, and each of
25 them.

26 **TENTH CAUSE OF ACTION**
27 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
28 **(AGAINST ALL DEFENDANTS)**

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x. Plaintiff realleges and incorporates by reference Paragraphs 1 through x of this Complaint as if fully set forth herein. Plaintiff also incorporates into this cause of action each and every allegation set forth in every paragraph of this Complaint, except those that are inconsistent with a cause of action for.

x. The conduct set forth hereinabove by Defendants was extreme and outrageous. Said conduct was intended to cause and did cause severe emotional distress, or was done in conscious disregard of the probability of causing such distress.

x. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer discomfort, anxiety, humiliation and emotional distress, and will continue to suffer serious emotional distress in the future in an amount according to proof.

x. Plaintiff is informed and believe that the wrongful acts and/or conduct alleged herein which was perpetrated by all Defendants was done maliciously, oppressively, and/or fraudulently and with a wrongful intent of harming and injuring Plaintiff and did in fact harm Plaintiff with an improper and evil motive amounting to malice and in conscious disregard of the Plaintiff's rights. As a result, Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against all Defendants as follows:

That process be issued and served as provided by law, requiring Defendants to appear and answer or face judgment;

That Plaintiff has and recovers a judgment against Defendants in an amount to be determined at trial as general, special, actual, compensatory and/or nominal damages;

That Plaintiff has and recovers a judgment against Defendants for punitive damages in an amount to be determined at trial sufficient to punish, penalize and/or deter

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Defendants;
That Plaintiff has and recovers a judgment against Defendants in an amount to be determined at trial for expenses of this litigation, including, but not limited to, reasonable attorneys' fees, costs and expert fees;
That Plaintiff have and recover a judgment against Defendants enjoining Defendants from engaging in each of the unlawful practices set forth in this Complaint;
For disgorgement of Defendants' profits as a result of their unlawful business practices;
That Plaintiff recovers pre-judgment and post-judgment interest; and
That Plaintiff has such other relief as this Court deems just and appropriate.

PLAINTIFF DEMANDS TRIAL BY JURY.

Dated: June 5, 2005 LAW OFFICES OF WENDY E. MUSELL

By: _____
 Wendy E. Musell

Elisa J. Stewart
LAW OFFICES OF ELISA J. STEWART

Attorneys for Plaintiff