



SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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Jan-26-2010 11:42 am

Case Number: CGC-10-496272

Filing Date: Jan-26-2010 11:38

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COMPLAINT

AILEEN MARTINEZ VS. MORRISON & FOERSTER LLP, et al

001C02742140

Instructions:

Please place this sheet on top of the document to be scanned.

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO)**

MORRISON & FOERSTER LLP, a California
Limited Liability Partnership; **MIMI YANG**, an individual;
PAMELA LENTZ, an individual; and **DOES 1 through 50**
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
AILEEN MARTINEZ, an individual,

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): **SUPERIOR CT. OF SAN FRANCISCO**
400 McAllister Street
San Francisco, CA

CASE NUMBER
(Número del Caso): **CBC-10-496272**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Mary Shea Hagebols (SBN 113222) 1814 Franklin St., Suite 800, Oakland, CA 94612 510-208-4422

Gordon Park-Li
Clerk, by
(Secretario)

 Deputy
(Adjunto)

DATE:
(Fecha)

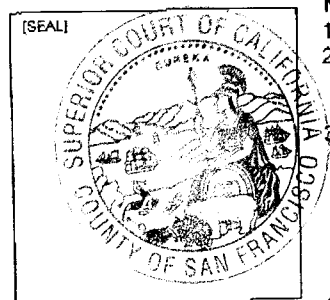
JAN 26 2010

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant
- 2. as the person sued under the fictitious name of (specify):

BY FAX



3. on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify):

4. by personal delivery on (date):

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Mary Shea Hagebols (SBN 113222)
SHEA LAW OFFICES
 1814 Franklin Street, Suite 800
 Oakland, CA 94612
 TELEPHONE NO.: **510-208-4422** FAX NO.: **415-52-9407**

ATTORNEY FOR (Name): **Plaintiff Aileen Martinez**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda

STREET ADDRESS: **400 McAllister Street**

MAILING ADDRESS:

CITY AND ZIP CODE: **San Francisco, CA 94612**

BRANCH NAME:

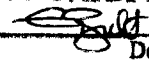
FOR COURT USE ONLY

FILED

Superior Court of California
 County of San Francisco

JAN 26 2010

GORDON PARK-LI, Clerk

BY:  Deputy Clerk

CASE NAME:
Martinez v. Morrison & Foerster et al

CASE NUMBER
CBC-10-496272

JUDGE:

DEPT:

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) **Limited** (Amount demanded is \$25,000 or less)

Counter **Joinder**

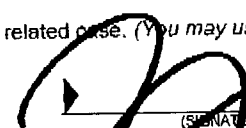
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|--|---|---|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (48) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input checked="" type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|---|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a. Large number of separately represented parties d. Large number of witnesses
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a. monetary b. nonmonetary, declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): **15 COAS including: Assault / Discrimination / Wrongful Term etc.**
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-010.)

Date: **January 24, 2010**
 Mary Shea Hagebols

 **BY FAX**

(TYPE OR PRINT NAME) **NOTICE** (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SUMMONS ISSUED

FILED

Superior Court of California
County of San Francisco

JAN 26 2010

GORDON PARK-LI, Clerk

Olivia Rult
Deputy Clerk

1 Mary Shea Hagebols (SBN 113222)
2 Shea Law Offices
3 1814 Franklin Street, Suite 800
4 Oakland, CA 94612
5 Tel: 510-208-4422
6 Fax: 415-520-9407
7 shealaw@aol.com

CASE MANAGEMENT CONFERENCE SET BY:

Attorney for Plaintiff AILEEN MARTINEZ

JUN 25 2010 - 9⁰⁰ AM

BY FAX

~~DEPARTMENT 212~~
SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
CIVIL -- UNLIMITED JURISDICTION

<p>AILEEN MARTINEZ, an individual, Plaintiff, vs. MORRISON & FOERSTER LLP, a California Limited Liability Partnership; MIMI YANG, an individual; PAMELA LENTZ, an individual; and DOES 1 through 50, Defendants.</p>	<p>CASE NO.: CBC-10-496272 COMPLAINT FOR DAMAGES</p> <ol style="list-style-type: none"> ASSAULT VIOLATION OF SAN FRANCISCO ANTI-DISCRIMINATION ORDINANCES VIOLATION OF FEHA: DISCRIMINATION BASED ON AGE, RACE, NATIONAL ORIGIN & DISABILITY; VIOLATION OF FEHA: HARASSMENT BASED ON AGE, RACE, NATIONAL ORIGIN & DISABILITY; VIOLATION OF FEHA: RETALIATION; VIOLATION OF FEHA: FAILURE TO PREVENT TO TAKE CORRECTIVE ACTION VIOLATION OF FEHA: FAILURE TO ACCOMMODATE DISABILITY VIOLATION OF FEHA: FAILURE TO ENGAGE IN GOOD FAITH INTERACTIVE PROCESS VIOLATION OF FEHA: FAILURE TO PREVENT DISCRIMINATION; BREACH OF EXPRESS AND IMPLIED CONTRACT; BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING; DEFAMATION INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY. DECLARATORY AND INJUNCTIVE RELIEF
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	<u>REQUEST FOR JURY TRIAL</u> AMOUNT IN CONTROVERSY EXCEEDS \$25,000
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Plaintiff AILEEN MARTINEZ complains against Defendants MORRISON & FOERSTER LLP, a California Limited Liability Partnership; MIMI YANG, an individual; PAMELA LENTZ, an individual; and DOES 1 through 50.

PARTIES

1. At all times material to this complaint, Plaintiff AILEEN MARTINEZ (hereinafter, "Plaintiff" or "Ms. Martinez") was a resident of California. Plaintiff is over the age of 40, an otherwise qualified disabled person who is of Asian and Pacific Islander race and descent.
2. Plaintiff is informed and believes that at all relevant times Defendant MORRISON & FOERSTER LLP, a California Limited Liability Partnership ("Morrison & Foerster" or Morrison & Foerster LLP) doing business in San Francisco, California.
3. Plaintiff is informed and believes that all relevant times that Defendant Mimi Yang is an associate of Defendant Morrison & Foerster LLP, a California Limited Liability Partnership and she works in San Francisco, California. Plaintiff is informed and believes that Defendant Morrison & Foerster values Ms. Yang because she brings a lot of business into Morrison & Foerster because she has an active China practice, focusing on Chinese clients or multinational companies with an interest in developing business relationships in China. Plaintiff is informed and believes that Defendant Yang has represented China's largest television manufacturer, China's first investment bank, and various U.S. businesses with a China presence, both in state and federal courts.
4. Plaintiff is informed and believes that all relevant times that Defendant PAMELA LENTZ

1 is an manager of Defendant Morrison & Foerster LLP, a California Limited Liability
2 Partnership and is a resident of California.

3 5. The names of the Defendants designated as DOES 1 through 50 are unknown to Plaintiff.
4 When their true names are discovered, this Complaint will be amended, per California Code of
5 Civil Procedure section 474. On information and belief, Plaintiff alleges that each of the Doe
6 Defendants is responsible in some manner for the occurrences herein alleged, and proximately
7 caused Plaintiff damages, as set forth below.

8 6. Plaintiff is informed and believes, and thereon alleges, that at all times material hereto and
9 mentioned herein, each Defendant sued (both named and DOE Defendants) was the successor
10 in interest, predecessor in interest, agent, servant, employer, joint-employer, joint venturer,
11 contractor, contractee, partner, division owner, owner, co-owner, subsidiary, division, alias,
12 and/or alter ego of each of the remaining defendants and was, at all times, acting within the
13 purpose and scope of such agency, servitude, employment, contract, ownership, subsidiary,
14 alias and/or alter ego and with the authority, consent, approval, control, influence and
15 ratification of each remaining Defendants sued herein.

16 7. Plaintiff is informed and believes, and thereon alleges, that at all times material to this
17 Complaint, each of the Doe Defendants acted as the agent or employee of each other in doing
18 the acts herein alleged, acting within the course and scope of said agency and/or employment
19 and/or aided, abetted, cooperated with, and/or conspired with, each other to commit the acts
20 herein alleged.

21 8. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and
22 omissions alleged herein were performed by, and/or are attributable to, all Defendants, each
23 acting as agents, employees, and/or co-conspirators, and/or under the direction and control, of
24 each of the other Defendants; and that said acts and failures to act were within the course and
25 scope of said agency, employment, conspiracy and/or direction and control.

26 9. On information and belief, Plaintiff alleges that at all times material to this Complaint, each
27 of the Doe Defendants acted as the agent or employee of each other in doing the acts herein
28 alleged, acting within the course and scope of said agency and/or employment and/or aided,
29 abetted, cooperated with, and/or conspired with, each other to commit the acts herein alleged.

30 10. Defendants, and each of them, were at all material times "employers" within the meaning
31 of California Government Code section 12926(d), and as such were bound by the California

1 Fair Employment and Housing Act (California Government Code section 12900 *et seq.*)
 2 ("FEHA"), prohibiting them from discrimination, harassment or retaliation against any
 3 employee based on age, requiring them to take all reasonable steps necessary to prevent
 4 discrimination and harassment from occurring, including to take immediate and appropriate
 5 corrective action in response to unlawful conduct under the FEHA.

6 **JURISDICTION AND VENUE**

7 10. This Court has jurisdiction under California Code of Civil Procedure section 410.10, in that
 8 this is a civil action where the matter in controversy, exclusive of interest and costs, exceeds
 9 \$25,000.00.

10 11. Venue is proper in that some or all of the acts complained of occurred in the County of San
 11 Francisco, California and that, at all relevant times, all Defendants conducted business in this
 12 County.

13 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

14 12. Plaintiff filed timely charges of discrimination with the California Department of Fair
 15 Employment and Housing (hereinafter "DFEH"). The DFEH issued a Right to Sue Notice
 16 on those charges and these Right to Sue Notices and copies of the DFEH charges were served
 17 on each of these Defendants via U.S. Certified Mail Return Receipt.

18 **CONTINUING VIOLATIONS/ RELATION BACK DOCTRINE**

19
 20 13. The acts and omissions alleged herein are "continuing" in nature as of the date of filing
 21 this Complaint. Plaintiff reserves the right to amend this Complaint as new and additional
 22 facts and claims arise or become known to Plaintiff. Plaintiff further alleges that given the
 23 totality of the circumstances as alleged here, all claims should be tolled due to Plaintiff's
 24 disability and Defendants' misrepresentations to Plaintiff and relate back all claims to at least
 25 January 29, 2008.

26 ///
 27 ///
 28 ///

RELEVANT FACTS

1
2 **A. June 1980: Plaintiff Aileen Martinez Begins Working at Morrison &**
3 **Foerster LLP.**

4 14. On or around June 23, 1980, Plaintiff Aileen Martinez ("Ms. Martinez") began working
5 as a Legal Secretary at Morrison & Foerster LLP in San Francisco. Ms. Martinez was highly
6 regarded by attorneys and staff alike. For that point forward Ms. Martinez dedicate her entire
7 professional life (28 years and 7 month) to Defendant Morrison & Foerster LLP.
8

9 **B. Ms. Martinez Develops a Psychological Disorder**
10 **Due to the 1982 Shootings at One Market Plaza.**

11 15. In 1982, Ms. Martinez was working at the One Market Plaza office of Morrison &
12 Foerster LLP when a man named Ricardo Contawe entered the building and proceeded to
13 shoot and kill workers at the Mission Insurance Company. The building and each floor were
14 locked down. This was a very frightening event. Ms. Martinez learned what was occurring via
15 the television and a radio that she had at her desk. She believed that she might be killed and
16 was traumatized by the event. It was the most terrifying time of her life. Ms. Martinez did not
17 realize that, as a result of this experience, she developed a psychological disorder (Post
18 Traumatic Stress Disorder) that lay dormant until January 2008.
19

20 **C. By 1993, Ms. Martinez Had Developed Carpal Tunnel**
21 **Syndrome.**

22 16. On or around February 18, 1993, Ms. Martinez began experiencing symptoms of Carpal
23 Tunnel Syndrome (CTS). Carpal Tunnel Syndrome occurs when too much pressure is put on a
24 nerve that runs through the wrist.

25 17. Ms. Martinez made a workers' compensation claim for her injury. On June 25, 1993,
26 Ms. Martinez was diagnosed with tendonitis in her wrist and early CTS. Ms. Martinez could
27 not type for two (2) weeks and had to wear a splint at nighttime. On or around July 16, 1993,
28 Ms. Martinez was released from her doctor's care for CTS.

1
2 **D. Ms. Martinez was a Valued Employee at Morrison &**
3 **Foerster LLP. -- Ms. Martinez Received Numerous Awards and Bonuses.**

4 18. Ms. Martinez was repeatedly awarded bonuses and other benefits for her years of
5 service.

6 19. In fact, on June 23, 1985, the firm awarded her with an extra personal holiday. On
7 June 23, 1990, Morrison & Foerster LLP awarded Ms. Martinez a bonus for her ten-year
8 anniversary and invited her to an event honoring employees who had been with the firm for ten
9 or more years.

10 20. After fifteen years of employment, Ms. Martinez was awarded extra vacation and a
11 cash bonus for her "loyalty and service." Ms. Martinez was also awarded with a bonus check
12 and ten additional paid time off days for her twenty-five year anniversary in 2005. Every year,
13 Ms. Martinez was invited to these anniversary events.

14 21. Of note, Ms. Martinez was hand-picked to assist in building up the litigation practice
15 in Walnut Creek. Ms. Martinez also supported Morrison & Foerster LLP's presence in Japan
16 and worked there for two months.

17
18 **E. Ms. Martinez's Overall Performance was Positive During Her 28 Years of**
19 **Service.**

20 22. Ms. Martinez received positive reviews for the vast majority of her tenure at Morrison
21 & Foerster LLP, and received regular merit-based raises.

22 23. In the 1980s, the 1990s, and the early 2000s, Ms. Martinez's performance was
23 routinely rated as "outstanding," "above standard"/"exceeds standards" and "standard met"/
24 "maintained expectations," or similarly (Morrison & Foerster LLP has changed its
25 performance evaluation form several times over the last three decades).

26 24. From 2002-2005, Ms. Martinez's contribution to the firm was rated as "valuable."

27 25. Although Ms. Martinez received mixed reviews for 2005-2006 (a time period that was
28 personally difficult for her), she improved her performance immediately.

- 1 26. For 2006-2007, Ms. Martinez's overall evaluation was rated "Valuable Contribution,"
2 and included such accolades as "*She has demonstrated that she takes her responsibilities*
3 *seriously and is focused on being at her best. Aileen has cultivated positive relationships with*
4 *her assignments and they are confident in her work product and appreciative of her positive*
5 *attitude.*"
- 6 27. In June 2007, Ms. Martinez received a merit-based salary increase.
- 7 28. A number of attorneys and support personnel with whom Ms. Martinez worked
8 recognized her skills and abilities. Recent reviews include:
- 9 "Her loyalty is high." (2002-2003)
- 10 "I enjoy working with Aileen very much – she gets the job done efficiently with minimal
11 input from me." (2002-2003)
- 12 "Because she is conscientious, I always have confidence that she will do whatever is
13 necessary to get a job done right." (2003-2004)
- 14 "She was always quick and diligent in responding to requests" (2003-2004)
- 15 "Aileen provides quality client service and is willing to go out of her way to help
16 people in doing so" (2003-2004)
- 17 "Aileen seems to have a solid understanding of her job" (2003-2004)
- 18 "I look forward to the day she is working with me, because I know it is going to be a
19 productive day." (2003-2004)
- 20 "She takes ownership of projects with a positive approach." (2004-2005)
- 21 "Aileen performs her job at a high level of competence." (2004-2005)
- 22 "She is efficient and pleasant to work with." (2004-2005)
- 23 "Aileen is very responsive." (2005-2006)
- 24 "She is very responsive, takes responsibility for finding answers to questions to get the
25 work done." (2006-2007)
- 26 "She is very friendly, helpful and a good resource of Morrison Foerster." (2006-2007)
- 27
- 28

1 *"Aileen has taken a positive approach to the work at the desk. She is willing to provide*
2 *backup coverage as assigned and as needed on the floor and has been flexible to relocate to*
3 *cover phones and provide secretarial assistance to a partner when needed."* (2006-2007)

4 *"Aileen has always gone the extra mile with client service issues."* (June 2007-June
5 2008)

6 *"Her attention to detail is superb."* (June 2007-June 2008)

7 *"She is very skilled and able to perform every task I asked her to perform."* (June
8 2007-June 2008)

9 *"She is an experienced litigation secretary and we have the utmost confidence in her*
10 *abilities to do the job right."* (June 2007-June 2008)

11
12 29. Not only was Ms. Martinez a competent legal secretary, she dedicated her career to
13 supporting the work of Morrison & Foerster LLP attorneys.

14
15 F. **January 29, 2008: Senior Associate Mimi Yang Assaults Ms.**
16 **Martinez By Threatening to Bring an "Uzi" to Work and "Kill" People.**

17
18 30. On or about January 29, 2008, a senior associate of Morrison & Foerster LLP, Mimi
19 Yang, was enraged because she could not find a fax that she had sent to a judge the prior week.
20 She threatened to bring an "Uzi" to work and "kill" people if the document was not located
21 (hereinafter "Yang Incident").

22 31. Ms. Martinez feared that she might be killed.

23 32. Ms. Yang looked directly at Ms. Martinez when she made this threat to "kill" people
24 and Ms. Martinez felt assaulted by this threat. Ms. Martinez developed extreme anxiety,
25 panic, and real fear that Ms. Yang might follow through with her threat. Ms. Yang was known
26 for being mercurial, strange, and erratic. Ms. Yang also routinely swore at and verbally abused
27 legal assistants.

28

1 33. Janie Fogel, Carol Peplinski, Karen Kreuzkamp, and Anne Marie O'Shea witnessed
2 Ms. Yang's aggressive and threatening rampage.

3 34. Ms. Martinez told Pam Lentz, Administrative Floor Coordinator for Orientation and
4 Development, about the incident. Ms. Lentz told Ms. Martinez that she (Ms. Lentz) had left a
5 message for Barrett Martinez and Hilary O'Brien. Ms. Lentz also asked Ms. Martinez to speak
6 with whomever contacted her first. Ms. Lentz assured Ms. Martinez, "*Please do not be*
7 *concerned about this [complaint against Yang] coming back to haunt you. This will be*
8 *handled in a diplomatic way.*" Unfortunately, that did not occur.

9 35. Ms. Martinez also told Lucia Sario, her floor coordinator, about the incident. Ms. Sario
10 reported the incident to Ms. O'Brien, Mr. Agoglia, and Peter Brodigan via e-mail. Ms.
11 O'Brien sent an e-mail to Ms. Sario stating that Mr. Agoglia and she (Ms. O'Brien) would take
12 the appropriate steps.

13 36. The evening of the Yang Incident, Ms. Martinez called Morrison & Foerster LLP's
14 Employee Assistance Program contact number and they gave her the name of a doctor.

15 37. By nighttime, Ms. Martinez was wholly distraught, agitated, tearful, ill, and wracked
16 with fear.

17

18 **G. January 30, 2008: Ms. Martinez Calls Into Work to Explain**
19 **that She is Too Ill to Come In.**

20

21 38. On or around the morning of January 30, 2008, Ms. Martinez called her supervisor,
22 Pamela Lentz, and told her that she was too upset to come to work. Ms. Martinez explained
23 that the Yang incident had brought back memories of the One Market Plaza incident and that
24 she was really ill. Ms. Martinez had been up all night and was tearful during her phone
25 conversation with Ms. Lentz.

26 39. Ms. Lentz was enraged that Ms. Martinez was taking time off. Incredibly, Ms. Lentz
27 told Ms. Martinez that she was "*overreacting,*" that she was acting like a "*baby,*" and that she

28

1 obviously "*did not want to work there anymore.*" Ms. Lentz then snapped, "*If you think they*
2 *are going to do anything about Yang, you are wrong!*"
3 40. Ms. Martinez tried to stand up for herself and pointed out that her fear and response to
4 what occurred were legitimate. Ms. Martinez told Ms. Lentz that "*these types of crazy things*
5 *happen every day*" (meaning that people snap and shoot others around them) and that Ms.
6 Martinez did not know what Ms. Yang did in her private life. For example, Ms. Yang could
7 be a gun collector. Ms. Martinez said she feared for her safety and that of her co-workers.
8 Instead of properly addressing this workplace violence, Ms. Lentz was wholly insensitive and
9 insisted that Ms. Martinez return to work immediately.

10

11 **H. January 30, 2008-March 10, 2008: Ms. Martinez Takes**
12 **Disability Leave.**

13

14 41. From about January 30, 2008 to about March 10, 2008, Ms. Martinez was placed on
15 short term disability leave for a serious medical condition. Ms. Martinez suffered serious
16 emotional harm due to the Yang Incident.

17 42. While on leave, Ms. Martinez told Morrison & Foerster LLP that Ms. Lentz needed
18 training because Ms. Martinez did not want Ms. Lentz harassing her when she returned to
19 work. However, when Ms. Martinez returned, Ms. Lentz did harass her and Ms. Martinez
20 again complained that Ms. Lentz needed training. Nothing happened to change this situation.

21

22 **I. February 7, 2008: Ms. Martinez's Doctor Continues Her**
23 **Leave for at Least Another Two Weeks.**

24

25 44. On February 7, 2008, Ms. Martinez's doctor, Clyde Burch, Ph.D. (the doctors
26 Defendants referred to Plaintiff in her workers compensation case), concluded that Ms.
27 Martinez was to remain off work for at least two weeks because she was "*temporarily totally*
28 *disabled on a psychological/psychiatric basis since a threatening work event was experienced*

1 on 01/29/08." Dr. Burch also noted that before Ms. Martinez returned to work, a meeting
2 between Ms. Martinez and at least an HR representative and Ms. Martinez's supervisor
3 needed to occur so that they could discuss how the situation with Ms. Yang was being handled
4 and how the work environment would be safe for Ms. Martinez.

5 43. Dr. Burch further suggested that it would likely be beneficial for an HR representative
6 to facilitate a meeting between Ms. Martinez and Ms. Yang if they were to continue to work
7 together.

8 44. Despite these explicit doctor's orders and recommendations, no one from upper
9 management at Morrison & Foerster LLP contacted Ms. Martinez regarding these meetings. In
10 fact, they never occurred.

11 45. None of Dr. Burch's recommendations were addressed and Ms. Martinez received no
12 accommodation for her psychological disability.

13
14 **J. Mid and Late February 2008: Ms. Martinez Arranges to**
15 **Return to Work in March 2008.**

16
17 46. On or around February 13, 2008, Ms. Martinez spoke to Brenda Dallmann, Senior
18 Employee Relations and Development Manager about returning to work. Ms. Dallmann sent
19 Ms. Martinez a letter dated February 22, 2008 confirming the details of their conversation. Ms.
20 Dallmann told Ms. Martinez that she (Ms. Martinez) would no longer be assigned to Ms.
21 Yang's desk, nor would Ms. Yang behave again towards Ms. Martinez as she had. Ms.
22 Dallmann also stated that a "*thorough investigation was completed in response to the incident*
23 *of January 29, 2008*" and that Ms. Lentz understood the seriousness of the matter and that Ms.
24 Martinez had "*no reason to be concerned about retaliation from her [Ms. Lentz].*" Ms.
25 Martinez never receive any information or results of such an investigation. Further, neither
26 Ms. Martinez nor any of her colleagues who were witnesses were interviewed if, in fact, such
27 a "thorough investigation" did occur.
28

1 47. Ms. Dallman's assurances that there would be no repercussions later proved to be
2 untrue.

3
4 **K. March 7, 2008: Ms. Martinez's Doctor Faxes Her Release**
5 **Back to Work.**

6
7 48. On March 7, 2008, Clyde Burch, Ph.D., faxed a note releasing her back to work on
8 Monday, March 10, 2008. Dr. Burch released Ms. Martinez to return to work on the condition
9 that she "*be allowed to avoid contact with the co-worker who threatened her*" and that Ms.
10 Martinez's status be monitored.

11 49. That limited request for accommodation was never honored by Defendants.

12
13 **L. March 7, 2008: Ms. Martinez Files a Police Report about**
14 **the Yang Incident.**

15
16 50. On or about March 7, 2008, Ms. Martinez filed a police report regarding the Yang
17 Incident.

18
19
20 **M. March 10, 2008: Ms. Martinez Returns to Work.**

21
22 51. Ms. Martinez returned to work on March 10, 2008. However, things had not changed as
23 Ms. Dallmann had promised. Ms. Lentz continued to harass Ms. Martinez and Ms. Martinez
24 complained about this to management and in her evaluation of Ms. Lentz, but nothing was done.
25 Contrary to doctor's orders, Ms. Martinez was never moved away from Ms. Yang. In fact, Ms.
26 Martinez's desk was still outside of Ms. Yang's office. This was greatly distressing to Ms.
27 Martinez because she was truly frightened by Ms. Yang.

28

1 52. Contrary to doctor's orders, Ms. Dallmann failed to maintain communication with Ms.
2 Martinez to facilitate Ms. Martinez's return to work and to prevent future difficulties.

3 53. Ms. Martinez did not complain about her desk's close proximity to Ms. Yang's office,
4 and other concerns, because Ms. Martinez believed it would be fruitless and she was fearful of
5 losing her job.

6
7 **N. April 18, 2009: Chubb Group of Insurance Companies Accepts**
8 **Ms. Martinez's Claim as Work-Related.**

9 56. Based on its investigation, Chubb Group accepted Ms. Martinez's workers'
10 compensation claim for injuries caused by the Yang incident. Ms. Martinez received no
11 recovery on this claim.

12
13 **O. Ms. Martinez Receives a Positive Performance Evaluation**
14 **for June 2007-June 2008.**

15
16 57. Despite working under extraordinary stressors, the Overall Summary of Ms. Martinez's
17 performance for the evaluation period of June 2007 – June 2008 stated:

18
19 *Employee provides valuable contribution to clients and the Firm. Value is provided . . . and*
20 *in some areas the contribution may be exemplary and unique. Aileen's depth of experience*
21 *with the Firm has been very helpful to her assignments and co-workers. Aileen's willingness*
22 *to help others when back-up is needed is valued by everyone. Aileen has a great attitude and*
23 *tackles every task with a positive, can-do approach.*

24
25 58. In June 2008, Ms. Martinez received a salary increase.

26
27 **P. January 28, 2009: Ms. Martinez's Employment is Terminated.**

28

1 58. On or around January 28, 2009, Ms. Martinez's employment was terminated by
2 Morrison & Foerster LLP. Allegedly, Ms. Martinez was laid off as part of a re-organization
3 due to economic concerns. Ms. Martinez contends that this was a pretext and that in fact she
4 was being terminated for a myriad of improper reasons including "whistle-blowing" and
5 retaliation. Employees with less seniority and documented performance problems were
6 retained. Most of the employees who were laid off were Asian-American or Pacific Islanders.
7 Many of them also had CTS from their years of word processing.

8 59. After the layoff, Ms. Lentz openly gloated that she "fought to keep the temps" and
9 "her people" and implied that she had input on who was on the layoff list.

10 60. Among the employees that were laid off, nearly all were over age 40, Asian or Pacific
11 Islander, and had some form of disability or was on a medical leave. Plaintiff is informed and
12 believes that, by comparison, less senior, less experienced able-bodied Caucasian employees
13 (some of whom had performance problems or disciplinary action taken against them) retained
14 their jobs. Plaintiff is therefore informed and believes that races, national origin, and
15 disabilities were a motivating factor in the decision to terminate Plaintiff

16
17 **FIRST CAUSE OF ACTION**

18 **ASSAULT**

19 (Against Defendants MORRISON & FOERSTER LLP, a California Limited Liability
20 Partnership; MIMI YANG, an individual and Does 1 through 20)

21
22 61. Plaintiff incorporates by reference as though fully set forth herein, each and every
23 allegation set forth above in this Complaint. As a separate and distinct claim for relief,
24 Plaintiff complains against Defendants MORRISON & FOERSTER LLP, a California Limited
25 Liability Partnership; MIMI YANG, an individual and Does 1 through 20, but not Defendant
26 Pamela Lentz as follows:
27
28

1 62. Plaintiff alleges that Defendants MORRISON & FOERSTER LLP, a California
2 Limited Liability Partnership and Does 1 through 5 is strictly liable for the conduct of YANG
3 under the principles of *respondeat superior*.

4 63. On January 29, 2008, Defendant YANG physically threatened Plaintiff and
5 caused her imminent apprehension of offensive and/or harmful contact.

6 64. By engaging in the conduct herein above alleged, Defendant YANG intended to
7 cause or to place Plaintiff in apprehension of an imminent harmful or offensive contact.

8 65. As a result of Defendant YANG's acts as herein above alleged, Plaintiff was placed in
9 apprehension of an imminent harmful or offensive contact.

10 66. At no time did Plaintiff consent to any of the acts of Defendant YANG herein
11 above alleged.

12 67. Plaintiff Aileen Martinez suffered emotional distress as a legal result of the
13 conduct by Defendants of which Plaintiff Aileen Martinez complains. Plaintiff Aileen Martinez
14 suffered mental distress, indignity, great humiliation, emotional distress manifesting in
15 physical symptoms, humiliation, embarrassment, anger, disappointment and worry, all of
16 which is substantial and enduring.

17 68. Defendants' actions have caused and continue to cause Plaintiff substantial losses in
18 earnings, significant reputation and professional injury, loss of promotional opportunities and
19 other employment benefits, lost wages, attorneys' fees, medical expenses, future earnings and
20 benefits, cost of suit, humiliation, embarrassment and anguish, all to her damage in an amount
21 according to proof.

22 69. At all material times, Defendants, and each of them, knew that Plaintiff Aileen
23 Martinez depended on her wages and other employee benefits as a source of earned income. At
24 all material times, Defendants were in a position of power over Plaintiff Aileen Martinez --
25 physically and financially -- with the potential to abuse that power.

26 70. Plaintiff Aileen Martinez was in a vulnerable position because of her relative
27 lack of power, because of her reliance on Defendants' assurances and forbearance of the
28 possibility of becoming employed elsewhere, because she had placed her trust in Defendants,

1 because she depended on her employment for her self esteem and sense of belonging, because
 2 she relied upon her employment as a source of income for her support, because a wrongful
 3 termination of Plaintiff's employment would likely harm Plaintiff's ability to find other
 4 employment, and because of the great disparity in bargaining power between Plaintiff Aileen
 5 Martinez and her employer. Defendants were aware of Plaintiff's vulnerability and the reasons
 6 for it.

7 71. Notwithstanding such knowledge, Defendants, and each of them, acted oppressively,
 8 fraudulently, and maliciously, in willful and conscious disregard of Plaintiff's rights, and with
 9 the intention of causing or in reckless disregard of the probability of causing injury and
 10 emotional distress to Plaintiff Aileen Martinez.

11 72. Further, Defendants were informed of the oppressive, fraudulent and malicious conduct
 12 of their employees, agents and subordinates, and ratified, approved, and authorized that
 13 conduct.

14 73. The foregoing conduct of defendants, and each of them, was intentional, willful and
 15 malicious and Plaintiff Aileen Martinez is entitled to punitive damages in an amount to
 16 conform to proof. As a direct and proximate result of Defendant YANG's conduct, Plaintiff
 17 suffered humiliation, embarrassment, mental and emotional distress and anxiety, all in an
 18 amount according to proof at trial.

19 74. The acts of Defendants, as alleged herein, were willful, wanton, and malicious and were
 20 intended to oppress and cause injury to Plaintiff. In light of the willful, wanton, malicious and
 21 intentional conduct engaged in by Defendants, Plaintiff is entitled to an award of punitive
 22 damages.

23 Wherefore, Plaintiff prays for judgment against Defendants as set forth below.

24 ///

25 ///

26 ///

27 ///

28 ///

SECOND CAUSE OF ACTION

VIOLATION OF SAN FRANCISCO ANTI-DISCRIMINATION ORDINANCES

(Against Defendants MORRISON & FOERSTER LLP, a California Limited Liability Partnership and DOES 1 through 20)

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2
3
4
5 75. Plaintiff Ms. MARTINEZ incorporates by reference as though fully set forth herein,
6 each and every allegation set forth above in this Complaint. As a separate and distinct claim
7 for relief, Plaintiff complains against Defendants MORRISON & FOERSTER LLP, a
8 California Limited Liability Partnership and DOES 1 through 20 as follows:

9 76. Plaintiff was an employee and Defendants Defendants MORRISON & FOERSTER
10 LLP, a California Limited Liability Partnership and DOES 1 through 20 were employers
11 subject to the laws of The City and County of San Francisco.

12 77. The City and County of San Francisco Municipal Code/Administrative Code of the
13 City of San Francisco, Chapter 12 A, and San Francisco Police Code, Article 33 (hereinafter
14 collectively referred to as the "Code") makes it unlawful for any person to fail or refuse to
15 hire, or to discharge any individual, to discriminate against any individual with respect to
16 compensation, terms, conditions or privileges of employment, including promotion, or to
17 limit, segregate or classify employees in any way which would deprive or tend to deprive any
18 individual of employment opportunities, or otherwise adversely affect her/her status as an
19 employee in whole or in part because of an employee's or an applicant for employment's
20 actual or perceived race, color, ancestry, national origin, place of birth, sex, age, religion,
21 creed, disability, sexual orientation, gender identity, weight or height.

22
23 78. The Code makes it unlawful to engage in any of the proscribed activities based on the
24 employee's association or relation to other individuals who are in the protected classifications.

25 79. The Code also prohibits retaliation.

26 80. The Code provides liability for any employer and for any individual who violates or
27 who aids in the violation of any provision of the Code. Plaintiff is informed and believes that
28 the word "person" as used in the Code means any individual, person, firm, corporation,