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DAVID S. RATNER (SBN 316267)
SHELLEY A. MOLINEAUX (SBN 277884)
RATNER MOLINEAUX, LLP
1990 N. California Blvd., Suite 20
Walnut Creek, CA 94596
Tel: (925) 239-0899
david@ratnermolineaux.com
shelley@ratnermolineaux.com

Attorneys for Plaintiff
MEGAN OLSEN

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SOLANO

MEGAN OLSEN, individually,
Plaintiff,

v.

COSTCO WHOLESALE CORPORATION, a
California corporation, and DOES 1 through 50,
inclusive.

Defendants.

Case No. **FCS059139**

COMPLAINT FOR DAMAGES

1. Retaliation, Cal. Lab. C. § 98.6
2. Disability Discrimination, Cal. Gov. Code § 12940
3. Failure to Provide Reasonable Accommodations, Cal. Gov. Code § 12940
4. Failure to Engage in Good Faith Interactive Process, Cal. Gov. Code § 12940
5. Harassment, Cal. Gov. Code § 12940
6. Hostile Work Environment Harassment, Cal. Gov. Code § 12940(j)
7. Failure to Prevent Discrimination and Harassment, Cal. Gov. Code § 12940
8. Negligent Infliction of Emotional Distress
9. Discrimination and Retaliation Under the CFRA
10. Wrongful Termination in Violation of Public Policy
11. Worker's Compensation Discrimination, Labor Code 132(a)
12. Interference in Violation with FMLA

DEMAND FOR JURY TRIAL

1. Plaintiff MEGAN OLSEN ("Ms. Olsen" or "Plaintiff"), individually, brings this action against Defendant, COSTCO WHOLESALE CORPORATION ("Costco") and DOES 1 through 50.

1 ***PARTIES***

2 2. Plaintiff is, and at all times relevant to this action was, a resident of the City of Vacaville,
3 California. The events giving rise to this action arose in Solano County, California.

4 3. Plaintiff is informed and believes, and based thereon alleges, that Costco was at all relevant
5 times a government entity organized under the laws of the State of California.

6 4. Plaintiff does not know the true names of Defendants Does 1 through 50, inclusive, and
7 therefore sues them by those fictitious names. The names, capacities, and relationships of Defendants Does
8 1 through 50, inclusive, will be alleged by amendment to this Complaint when the same are known to
9 Plaintiff.

10 5. The true names and capacities, whether individual, corporate, associate or otherwise, of
11 Defendants Does 1 through 50 ("Does"), inclusive and each of them, are not known to Plaintiff at this time.
12 Such Does are legally responsible for the events and happenings described herein and for the damages
13 proximately caused thereby. Plaintiff will seek the leave of the Court to amend this complaint to set forth
14 the true names and capacities of any such Does when they have been ascertained.

15 6. On information and belief, at all times mentioned herein, Costco, inclusive and each of
16 them, including without limitation any Does, were acting in concert and participation with each other; were
17 joint participants and collaborators in the acts complained of; and were the agents and/or employees of one
18 another in doing the acts complained of herein, each acting within the course and scope of said agency
19 and/or employment.

20 7. Costco and Does 1 through 50, inclusive, are collectively referred to hereafter as "Costco".

21 ***JURISDICTION AND VENUE***

22 8. This Court has jurisdiction over Costco, because at all times relevant, it is and was
23 authorized to transact, and is transacting business in Solano County, California.

24 9. Venue is proper in this Court pursuant to Code of Civil Procedure § 395, because the acts,
25 events and omissions complained of herein occurred in Solano County, California.

26 ***EXHAUSTION OF ADMINISTRATIVE REMEDIES***

27 10. On or about August 25, 2022, Plaintiff filed a complaint with the California Department of
28 Fair Employment and Housing (DFEH). Plaintiff obtained a Right to Sue Letter from the California

Department of Fair Employment and Housing on August 25, 2022, attached hereto as Exhibit A.

GENERAL ALLEGATIONS

11. Megan Olsen is a 38 year old woman.

12. Ms. Olsen began working for Costco Wholesale Corporation in November 2002 she held many different positions over the course of 16 years of employment with Costco.

13. At all times in the past five years Ms. Olsen's evaluations were great, always meeting or exceeding company standards.

14. On February 21, 2018, Ms. Olsen sustained an injury while at work when a pallet jack on a ramp crushed her foot when she held the position of a Return-to-Vendor Clerk. Ms. Olsen was performing a task that Costco required her to do, but never been trained her to do. This injury caused severe nerve damage which ultimately lead to a surgery, loss of 80% of function of her foot, and CRPS (Complex Regional Pain Syndrome).

15. Ms. Olsen continued to work, despite her injury, but was unable to wear steel toe boots due to her injury, and after being advised by a doctor to take breaks, she experienced severe pain, swelling, and discomfort when Costco refused to give her the breaks and follow the specific restrictions based off her doctor's note.

16. Between March 2018 and April 2018, Ms. Olsen followed doctors orders to remain at home due to Costco refusing to follow the doctor's orders.

17. On June 19, 2018, after complaining about her treatment and lack of following medical advise for her injury, Costco placed Ms. Olsen on Worker's Compendation and announced this would be her last day of work in her current position.

18. Ms. Olsen subsequently had surgery on September 12, 2018.

19. On July 9, 2020, Doctor Jacquelyn A. Weiss M.D., Ph. D. released a medical evaluation on Ms. Olsen that included that she had developed symptoms consistent with Complex Regional Pain Syndrome. The pain spread to her knees, lateral pelvic walls and low back. Her mild restriction to her lumbar motion proved her 5% whole person impairment. While her ambulatory capacity is quite limited, with the use of a cane and the CAM walker, she could only walk a block at at time. Findings proved that she has ambulatory restrictions with verifiable CRPS and Class 3 impairment at 30% whole person

1 impairment. In order to return to work the doctor explains she could work in a capacity where she spent
2 most of her time sitting and weightbearing less than 10-15% of the day.

3 20. On February 23, 2021, Ms. Olsen had a job assessment meeting with Costco via telephone
4 where it was decided that Costco was unable to offer a position with or without accommodation. Ms. Olsen
5 was to remain on a Leave of Absense.

6 21. After Ms. Olsen's injury at work, where she was left injured and disabled, Ms. Olsen was
7 released to go back to work on March 21, 2021.

8 22. Costco continued to make it impossible for Ms. Olsen to apply for a new position to come
9 back to work. Defedants claims there were no possible positions available to pursue, however, there were
10 open positions available at that time. Ms. Olsen continued to communicate with corporate about job
11 availability opportunities and was being lied to and denied options. Instead, she was forced to remain on
12 medical leave.

13 23. On January 19, 2022, Ms. Olsen had her second job assessment meeting with Costco where
14 she had expressed interest in a full time Payroll Clerk option that she would have physically been able to
15 perform. Costco did not make this job position available publically like they should have and stated they
16 were unaware of this position availability and would have to respond to her within the next two weeks.
17 Two weeks later, Costco stated that this position does not follow her medical restrictions, that she would
18 have to lift more than she was able, and denied her access to the position.

19 24. Following her job assessment meeting, Worker's Compensation produced Ms. Olsen's
20 Appeals Board Stipulations with Request for Award forms, stating that according to the AME and
21 Worker's Compensation calculations, Ms. Olsen is 47% disabled.

22 25. Ms. Olsen was terminated on April 19, 2022, via the mail, for the reason that she had
23 exhausted all leave of absense was unable to find a job that she could do with her disability.

24 26. Ms. Olsen experienced anxiety and depression because of the lack of care and
25 accomodiation, her termination by Costco.

26 27. Costco has failed to prevent harassment and discrimination against Plaintiff by Costco
27 based on her physical disability.

28 28. Costco was aware of Plaintiff's physical disability and need for reasonable work

1 accommodations. Plaintiff obtained physician certification regarding her disability.

2 29. Costco's conduct was a substantial factor in causing Plaintiff's harm by failing to prevent
3 harassment and discrimination toward the plaintiff by never offering a job position to Plaintiff.

4 30. Costco's conduct was a substantial factor in causing Plaintiff's harm by failing to provide
5 reasonable accommodations based on her physical disability.

6 31. The accommodations Plaintiff requires will not cause Costco any undue hardship.

7 32. Costco's failure to provide Plaintiff with reasonable accommodations has caused Plaintiff
8 severe and ongoing emotional distress.

9 ***FIRST CAUSE OF ACTION***

10 *Retaliation*

11 *Cal. Gov. Code § 98.6*

12 *(On Behalf of Plaintiff Against All Defendants)*

13 33. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
14 forth in this Complaint.

15 34. Cal. Lab. Code § 98.6 provides:

16 (a) A person shall not discharge an employee or in any manner discriminate,
17 retaliate, or take any adverse action against any employee . . . because the
18 employee . . . engaged in any conduct delineated in this chapter, including .
19 . . Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or
20 because the employee . . . or because of the exercise by the employee or
applicant for employment on behalf of himself, herself, or others of any
rights afforded him or her.

21 (b)(1) Any employee who is discharged, threatened with discharge,
22 demoted, suspended, retaliated against, subjected to an adverse action, or in
23 any other manner discriminated against in the terms and conditions of his or
24 her employment because the employee engaged in any conduct delineated in
this chapter, including . . . Chapter 5 (commencing with Section 1101) of
Part 3 of Division 2 . . . shall be entitled to reinstatement and reimbursement
for lost wages and work benefits caused by those acts of the employer.

25
26 35. Costco was Plaintiff's employer, and Plaintiff was Costco's employee.

27 36. Costco was aware of plaintiff's disabilities. Plaintiff obtained physician certification
28 regarding her disabilities.

37. Plaintiff requested reasonable accommodations, but Costco refused, instead, began to discriminate and retaliate against her.

38. Costco retaliated against Plaintiff by discriminating against Plaintiff, denying her work opportunities, accommodations, rather than providing Plaintiff with reasonable accommodation.

39. Plaintiff was harmed.

40. Costco's conduct was a substantial factor in causing Plaintiff's harm.

41. Pursuant to Cal. Lab. Code § 98.6(b)(3), Costco is liable to Plaintiff for a civil penalty of ten thousand dollars (\$10,000) for each violation.

42. The conduct of Costco and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them, and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against Costco.

SECOND CAUSE OF ACTION

Disability Discrimination

Cal. Gov. Code § 12940

(On Behalf of Plaintiff Against All Defendants)

43. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

44. Government Code section 12940(a) provides in relevant part:

It is an unlawful employment practice. . . (a) [f]or an employer, because of the. . . physical disability, neurodevelopmental disability to discharge the person from employment. . . or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

45. Costco wrongfully discriminated against Plaintiff based on Plaintiff's physical disability.

46. Costco was Plaintiff's employer, and Plaintiff was Costco's employee.

47. Costco became aware that Plaintiff had a disability that limited a major life activity, when a work related injury occurred during Costco's employment.

48. Plaintiff was able to perform the essential job duties of Plaintiff's position with reasonable accommodation for Plaintiff's disability. Costco refused to provide a reasonable accommodation to

1 Plaintiff without engaging in a good faith interactive process. Instead, Costco retaliated against Plaintiff
2 by discriminating against plaintiff, denying her work opportunities, accomodations, rather than providing
3 Plaintiff with reasonable accomodation.

4 49. Plaintiff was denied work accommodations and opportunities in violation of the Fair
5 Employment and Housing Act by Costco due to Plaintiff's disability.

6 50. Plaintiff suffered harm when she was discriminated against by Costco.

7 51. Costco's conduct was a substantial factor in causing Plaintiff's harm.

8 52. Under Government Code section 12940, Plaintiff is entitled to recover economic and
9 noneconomic damages caused by Costco's discriminatory practices based on Plaintiff's disability and
10 violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees
11 and costs pursuant to Government Code section 12965.

12 53. The conduct of Costco and each of them as described above was malicious, fraudulent, or
13 oppressive and done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them,
14 and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each
15 other. Consequently, Plaintiff is entitled to punitive damages against Costco.

16 ***THIRD CAUSE OF ACTION***

17 *Failure to Provide Reasonable Accommodations*

18 *Cal. Gov. Code § 12940*

19 *(On Behalf of Plaintiff Against All Defendants)*

20 54. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
21 forth in this Complaint.

22 55. Government Code section 12940(m)(1) provides in relevant part:

23 It is an unlawful employment practice. . . (m)(1) [f]or an employer or other
24 entity covered by this part to fail to make reasonable accommodation for
25 the known physical or mental disability of an applicant or employee.

26 56. California Code of Regulations, Title 2 section 11068 provides in relevant part:

27 (a) Affirmative Duty. An employer or other covered entity has an
28 affirmative duty to make reasonable accommodation(s) for the disability of
any individual applicant or employee if the employer or other covered

entity knows of the disability, unless the employer or other covered entity can demonstrate, after engaging in the interactive process, that the accommodation would impose an undue hardship.

...

(e) Any and all reasonable accommodations. An employer or other covered entity is required to consider any and all reasonable accommodations of which it is aware or that are brought to its attention by the applicant or employee, except ones that create an undue hardship. The employer or other covered entity shall consider the preference of the applicant or employee to be accommodated but has the right to select and implement an accommodation that is effective for both the employee and the employer or other covered entity.

57. Costco was Plaintiff's employer, and Plaintiff was Costco's employee.

58. Costco became aware that Plaintiff had a disability that limited a major life activity, when a work related injury occurred during Costco's employment.

59. Plaintiff was able to perform the essential job duties of Plaintiff's position with reasonable accommodation for Plaintiff's disability. Costco refused to provide a reasonable accommodation to Plaintiff without engaging in a good faith interactive process. Instead, Costco retaliated against Plaintiff by discriminating against plaintiff, denying her work opportunities, accommodations, rather than providing Plaintiff with reasonable accommodation.

60. Plaintiff requested that Costco make reasonable accommodation(s) for Plaintiff's disability so that she would be able to perform the essential job requirements.

61. Costco refused to provide a reasonable accommodation to Plaintiff without engaging in a good faith interactive process. Instead, Costco retaliated against Plaintiff by discriminating against plaintiff, denying her work opportunities, accommodations, rather than providing Plaintiff with reasonable accommodation.

62. Plaintiff was denied work accommodations and opportunities in violation of the Fair Employment and Housing Act by Costco due to Plaintiff's disability.

63. Plaintiff suffered harm when she was denied a reasonable accommodation by Costco.

64. Costco's conduct was a substantial factor in causing Plaintiff's harm.

65. Under Government Code section 12940, Plaintiff is entitled to recover economic and noneconomic damages caused by Costco's discriminatory practices based on Plaintiff's disability and

violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees and costs pursuant to Government Code section 12965.

66. The conduct of Costco and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them, and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against Costco.

FOURTH CAUSE OF ACTION

Failure to Engage in Good Faith Interactive Process

Cal. Gov. Code § 12940

(On Behalf of Plaintiff Against All Defendants)

67. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

68. Government Code section 12940(n) provides in relevant part:

It is an unlawful employment practice. . . (n) For an employer or other entity covered by this part to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

69. California Code of Regulations, Title 2 section 11069 provides in relevant part:

(a) Interactive Process. When needed to identify or implement an effective, reasonable accommodation for an employee or applicant with a disability, the FEHA requires a timely, good faith, interactive process between an employer or other covered entity and an applicant, employee, or the individual's representative, with a known physical or mental disability or medical condition. Both the employer or other covered entity and the applicant, employee or the individual's representative shall exchange essential information identified below without delay or obstruction of the process.

70. Costco was Plaintiff's employer, and Plaintiff was Costco's employee.

71. Costco became aware that Plaintiff had a disability that limited a major life activity, when a work related injury occurred during Costco's employment.

72. Plaintiff was able to perform the essential job duties of Plaintiff's position with reasonable

1 accommodation for Plaintiff's disability.

2 73. Plaintiff requested that Costco make reasonable accommodation(s) for Plaintiff's disability
3 so that she would be able to perform the essential job requirements.

4 74. Costco refused to provide a reasonable accommodation to Plaintiff without engaging in a
5 good faith interactive process. Instead, Costco retaliated against Plaintiff by discriminating against
6 plaintiff, denying her work opportunities, accommodations, rather than providing Plaintiff with reasonable
7 accommodation.

8 75. Plaintiff was denied work accommodations and opportunities in violation of the Fair
9 Employment and Housing Act by Costco due to Plaintiff's disability.

10 76. Plaintiff suffered harm when Costco failed to engage in a good faith interactive process with
11 Plaintiff.

12 77. Costco's conduct was a substantial factor in causing Plaintiff's harm.

13 78. Under Government Code section 12940, Plaintiff is entitled to recover economic and
14 noneconomic damages caused by Costco's discriminatory practices based on Plaintiff's disability and
15 violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees
16 and costs pursuant to Government Code section 12965.

17 79. The conduct of Costco and each of them as described above was malicious, fraudulent, or
18 oppressive and done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them,
19 and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each
20 other. Consequently, Plaintiff is entitled to punitive damages against Costco.

21 ***FIFTH CAUSE OF ACTION***

22 *Harassment*

23 *Cal. Gov. Code § 12940*

24 *(On Behalf of Plaintiff Against All Defendants)*

25 80. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
26 forth in this Complaint.

27 81. At all time mentioned in this complaint, California Government Code § 12940(j)(1) was in
28

1 full force and effect and was binding on Costco. This law requires Costco to refrain from harassing any
2 employee on the basis of age, sex, physical disability or medical condition, and to refrain from exposing
3 Plaintiff or any employee to a hostile working environment based on discrimination.

4 82. Costco wrongfully harassed Plaintiff based on her disability and knowingly permitted
5 plaintiff to find other work opportunities within the company.

6 83. During the course of Plaintiff's employment, Costco created and allowed to exist a hostile
7 work environment, and discriminated against and harassed Plaintiff in a continuous and persistent manner
8 on the basis of disability, and because Plaintiff reported discriminatory and other wrongful conduct, as
9 alleged above.

10 84. Costco failed to take immediate and appropriate corrective action with respect to the
11 harassment of Plaintiff and failed to take all reasonable steps to prevent harassment of Plaintiff from
12 occurring.

13 85. Costco's conduct was a substantial factor in causing Plaintiff's harm.

14 86. Costco engaged in the aforementioned unlawful actions, including but not limited to
15 discrimination, harassment and retaliation on the basis of Ms. Olsen's disability. Within the time frame
16 provided by law, Plaintiff filed a complaint with the Department of Fair Employment and Housing on
17 August 25, 2022. *See* attached hereto as Exhibits A.

18 87. Under Government Code section 12940, Plaintiff is entitled to recover Plaintiff's economic
19 and noneconomic damages caused by Costco's unlawful practices. Plaintiff is also entitled to reasonable
20 attorney's fees and costs pursuant to Government Code section 12965.

21 88. The conduct of Costco and each of them as described above was malicious, fraudulent, or
22 oppressive and done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them,
23 and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each
24 other. Consequently, Plaintiff is entitled to punitive damages against Costco.

25 ***SIXTH CAUSE OF ACTION***

26 *Hostile Work Environment Harassment*

27 *Cal. Gov. Code § 12940(j)*

28 *(On Behalf of Plaintiff Against All Defendants)*

99. Costco wrongfully failed to take all reasonable steps necessary to prevent harassment and discrimination of Plaintiff based on her disability.

100. Plaintiff suffered and continues to suffer harm as a result of Plaintiff's discrimination by Costco.

101. Costco conduct was a substantial factor in causing Plaintiff's harm.

102. Under Government Code section 12940, Plaintiff is entitled to recover Plaintiff's economic and noneconomic damages caused by Costco's unlawful practices. Plaintiff is also entitled to reasonable attorney's fees and costs pursuant to Government Code section 12965.

103. The conduct of Costco and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them, and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against Costco.

EIGHTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

(On Behalf of Plaintiff Against All Defendants)

104. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

105. Costco's failure to address a hostile and retaliatory environment, exceeds the bounds of decency, is intolerable within our civilized community, and is therefore outrageous.

106. By negligently allowing behavior as outrageous as discussed supra and by allowing disparate treatment to continue, Plaintiff was caused emotional distress.

107. Costco caused Plaintiff to suffer extreme emotional distress, as indicated by the lingering anxiety and shame that are the direct and proximate results of Costco's conduct.

108. Plaintiff was harmed.

109. Costco's conduct was a substantial factor in causing Plaintiff's harm.

110. The conduct of Costco as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them, and their

agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against Costco.

NINTH CAUSE OF ACTION

Discrimination and Retaliation Under the CFRA

In Violation of Cal. Gov. Code §§ 12945.2 Et Seq.

(On Behalf of Plaintiff Against All Defendants)

111. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

112. The CFRA requires employers to provide twelve (12) weeks of leave for any employee who has been employed by the company for over a year and has worked over 1,250 hours for the employer over the previous year for family medical leave. The CFRA also requires employers to return an employee who takes leave under the act to the same or comparable position at the conclusion of the employee's leave.

113. Costco is an employer as defined by the CRFA. Costco has over 50 employees within a 75-mile radius of Plaintiff's work location. At the time of Plaintiff's request for leave, she had been employed by Costco for over one year and had worked for Costco for over 1,250 hours during the previous year.

114. In violation of the CFRA, Costco and each of them retaliated and discriminated against Plaintiff by refusing to address discrimination and harassment Plaintiff was experiencing and terminating her for taking leave.

115. Costco's acts were malicious, oppressive, or fraudulent with intent to vex, injure, annoy, humiliate, and embarrass Plaintiff and in conscious disregard of the rights or safety of Plaintiff and other employees of Costco, and in futherance of Costco's ratification of the wrongful conduct of the employees and managers of Coscto. Accordingly, Plaintiff is entitled to recover punitive damages from Costco.

116. By reason of the conduct of Costco and each of them as alleged herein, Plaintiff has necessarily retained attorneys to prosecute the within action. Plaintiff is therefore entitled to reasonable attorney's fees and litigation expenses, including expert witness fees and costs, incurred in bringing the within action.

117. As a result of Costco and each of their actions, Plaintiff sustained economic damages to be proven at trial. As a further result of Costco and each of their actions, Plaintiff suffered emotional distress

1 resulting in damages to be proven at trial.

2 118. The above discriminating conduct violates the CFRA, Cal. Gov. Code §§ 12945.2 *et seq.*,
3 and California public policy and entitles Plaintiff to all categories of damages, including exemplary or
4 punitive damages.

5 ***TENTH CAUSE OF ACTION***

6 *Wrongful Termination in Violation of Public Policy*

7 *(On Behalf of Plaintiff Against All Defendants)*

8 119. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
9 forth in this Complaint.

10 120. At all times herein mentioned in this complaint, California Government Code Section 12940
11 (a), was in full force and effect and were binding on Costco and Costco was subject to their terms, and
12 therefore Costco was required to refrain from violations of public policy, including discrimination based
13 on age, gender and disability in violation of FEHA and in retaliation for complaining of said discrimination.

14 121. Costco was Plaintiff's employer, and Plaintiff was Costco's employee.

15 122. Costco terminated Plaintiff in violation of Plaintiff's rights and public policy.

16 123. Plaintiff is informed and believes and thereon alleges that her protected status (disability)
17 and/or her protestation against being discriminated against based on said protected status as alleged above,
18 were, in part, factors in Costco's decision to terminate Plaintiff's employment.

19 124. Plaintiff was harmed.

20 125. Costco's conduct was a substantial factor in causing Plaintiff's harm.

21 126. As a proximate result of Costco's conduct, Plaintiff has suffered special damages in the
22 form of lost earnings, benefits and/or out of pocket expenses in an amount according to proof at the time
23 of trial. As a further direct and proximate result of Costco's conduct, Plaintiff will suffer additional special
24 damages in the form of lost future earnings, benefits and/or other prospective damages in an amount
25 according to proof at the time of trial.

26 127. As a further direct and proximate result of Costco's conduct, Plaintiff has suffered loss of
27 financial stability, peace of mind and future security, and has suffered embarrassment, humiliation, mental
28 and emotional pain and distress and discomfort, all to his detriment and damage in amounts not fully

1 ascertained but within the jurisdiction of this court and subject to proof at the time of trial.

2 128. In violation of public policy, Costco terminated Plaintiff because of her disability, despite
3 the fact that Costco knew that Plaintiff was experienced and able to perform the essential functions of other
4 positions available within the company.

5 129. The conduct of Costco as described above was malicious, fraudulent, or oppressive and
6 done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them, and their
7 agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each other.
8 Consequently, Plaintiff is entitled to punitive damages against Costco.

9 ***ELEVENTH CAUSE OF ACTION***

10 *Worker's Compensation Discrimination*

11 *Labor Code 132(a)*

12 *(On Behalf of Plaintiff Against All Defendants)*

13 130. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
14 forth in this Complaint.

15 131. Labor Code section 132(a) provides in relevant part:

16 It is the declared policy of this state that there should not be discrimination
17 against workers who are injured in the course and scope of their employment.
18 (1) Any employer who discharges, or threatens to discharge, or in any manner
19 discriminates against any employee because he or she has filed or made known
20 his or her intention to file a claim for compensation with his or her employer or
21 an application for adjudication, or because the employee has received a rating,
22 award, or settlement, is guilty of a misdemeanor and the employee's
23 compensation shall be increased by one-half, but in no event more than ten
24 thousand dollars (\$10,000), together with costs and expenses not in excess of
25 two hundred fifty dollars (\$250). Any such employee shall also be entitled to
26 reinstatement and reimbursement for lost wages and work benefits caused by
27 the acts of the employer.

28 132. Costco was Plaintiff's employer, and Plaintiff was Costco's employee.

133. Costco became aware that Plaintiff had a disability that limited a major life activity, when
a work related injury occurred during Costco's employment.

134. Plaintiff was able to perform the essential job duties of Plaintiff's position with reasonable
accommodation for Plaintiff's disability.

1 135. Plaintiff requested that Costco make reasonable accommodation(s) for Plaintiff's disability
2 so that she would be able to perform the essential job requirements.

3 136. Costco refused to provide a reasonable accommodation to Plaintiff without engaging in a
4 good faith interactive process. Instead, Costco retaliated against Plaintiff by discriminating against
5 plaintiff, denying her work opportunities, accomodations, rather than providing Plaintiff with reasonable
6 accomodation.

7 137. Plaintiff was denied work accommodations and opportunities in violation of the Fair
8 Employment and Housing Act by Costco due to Plaintiff's disability.

9 138. Plaintiff suffered harm when Costco failed to engage in a good faith interactive process with
10 Plaintiff.

11 139. Costco's conduct was a substantial factor in causing Plaintiff's harm.

12 140. The conduct of Costco and each of them as described above was malicious, fraudulent, or
13 oppressive and done with a willful and conscious disregard for Plaintiff's rights. Costco and each of them,
14 and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each
15 other. Consequently, Plaintiff is entitled to punitive damages against Costco.

16 ***TWELVTH CAUSE OF ACTION***

17 ***Interference in Violation of FMLA***

18 ***(On Behalf of Plaintiff Against All Defendants)***

19 141. The Family and Medical Leave Act (FMLA) provides in pertinent part that it is an unlawful
20 practice for an employer to interfere with, restrain, or deny the exercise or the attempt to exersive any right
21 provided by the FLMA.

22 142. Costco is an employer covered by the FMLA.

23 143. Plaintiff suffered from a serious health condition.

24 144. Plaintiff was eligible for a medical leave under the FMLA.

25 145. Plaintiff notified Costco of her serious health condition and her need for medical leave.

26 146. Costco interfered with Plaintiff's FMLA rights.

27 147. Plaintiff was harmed.

28 148. Costco's conduct was a substantial factor in causing Plaintiff's harm.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Costco, and each of them, as follows:

1. Compensatory damages including emotional distress damages and lost wages, benefits and interest in a sum according to proof;
2. Interest on judgment, including prejudgment interest, at the legal rate;
3. Punitive damages in a sum according to proof;
4. Attorney's fees and costs; and
5. For any further legal and equitable relief, the Court deems proper.

Dated: October 31, 2021.

RATNER MOLINEAUX, LLP

David S. Ratner
Shelley A. Molineaux
Attorneys for Plaintiff Megan Olsen