

1 DAVID S. RATNER (SBN 316267)
2 SHELLEY A. MOLINEAUX (SBN 277884)
3 RATNER MOLINEAUX, LLP
4 1990 N. California Blvd., Suite 20
5 Walnut Creek, CA 94596
6 Tel: (925) 239-0899
7 david@ratnermolineaux.com
8 shelly@ratnermolineaux.com

9 Attorneys for Plaintiff
10 GREGORY CROWLEY

Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 12/19/2023 3:41 PM
Reviewed By: L. Martinez
Case #23CV418364
Envelope: 13908526

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

GREGORY CROWLEY, individually

Plaintiff,

v.

CLARI, INC., a California corporation; and DOES
1 through 50, inclusive.

Defendants.

Case No. 23CV418364

AMENDED COMPLAINT FOR DAMAGES

1. Failure to Prevent Discrimination and Harassment, Cal. Gov. Code § 12940
2. Wrongful Termination in Violation of Public Policy
3. Intentional Infliction of Emotional Distress
4. Age Discrimination, Cal. Gov. Code § 12940
5. Breach of Covenant of Good Faith and Fair Dealings

DEMAND FOR JURY TRIAL

1. Plaintiff GREGORY CROWLEY (“Crowley”) individually, brings this action against Defendants CLARI, INC. (“Clari”) a California corporation, and DOES 1 through 50, inclusive.

PARTIES

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

3. Plaintiff is informed and believes, and based thereon alleges, that Defendant Clari is a California corporation and is authorized to do business in California.

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

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

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

7. Clari and Does 1 through 50, inclusive, are collectively referred to hereafter as “Defendants”.

JURISDICTION AND VENUE

8. This Court has jurisdiction over Defendants because at all times relevant, they were authorized to transact, and are transacting business in California.

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

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. On or about April 20, 2023, Plaintiff obtained a Right to Sue Letter from the California Civil Rights Department attached hereto as Exhibit A.

GENERAL ALLEGATIONS

11. Gregory Crowley (“Crowley”) is a 52-year-old male who began working for Clari, Inc. on September 1, 2021, as a Senior Account Manager until his wrongful termination on February 2, 2023.

12. Clari, Inc. held Mr. Crowley in high regard. Mr. Crowley finished the fiscal year as #1 in

1 the company and was the only Enterprise Account Manager to exceed quota, qualifying him for the
2 annual award trip, and President's Club. Mr. Crowley received a \$15,000 bonus for this prestigious
3 award.

4 13. On February 2, 2023, and without warning Clari wrongfully fired Mr. Crowley. Along
5 with Mr. Crowley, his colleague Matthew Dickenson, who is 54 years of age, was also terminated from
6 the Enterprise Account Manager role. Mr. Crowley was informed by Defendants that his position was
7 being eliminated, alleging a reduction in force.

8 14. Defendants also terminated Ryan Goodline, aged 46 years old, from his title as Senior
9 Sales Director of Strategic.

10 15. Clari fired Plaintiff, Mr. Dickenson, and Mr. Goodline because they were over Forty (40).

11 16. Clari did not fire Plaintiff's younger comparators.

12 17. Clari's explanation that it fired Plaintiff as well as Mr. Dickenson and Mr. Goodline as
13 part of a reduction in force was a pretext for the real reason it fired Plaintiff and his colleagues.

14 18. The real reason Clari fired Plaintiff was Plaintiff's age – over Forty (40).

15 19. As further evidence of Clari's discriminatory animus in firing Plaintiff, on February 6,
16 2023, Clari promoted Tyler Stetson and Kelsie Strickler to Enterprise Account Managers. Both Mr.
17 Stetson and Ms. Strickler are younger, aged 29 and 32 years old respectively.

18 20. Clari promoted both what had been Crowley's former position - Enterprise Account
19 Manager.

20 21. Clari fired Plaintiff using its so-called reduction in force as a pretext to rid itself of older
21 workers in violation of both Federal and California law.

22 22. As a direct result of the discriminatory and harassing treatment by Defendants, Mr.
23 Crowley became upset, depressed, oversleeping, generally lethargic, anxious, and embarrassed. Due to
24 the treatment from Defendants, Mr. Crowley sought help from a psychiatrist that he sees regularly and
25 takes prescribed medications to treat his depression and anxiety.

26 23. Defendants discriminated and retaliated against Mr. Crowley based on his age in violation
27 of Cal. Gov. Code § 12940. As a result of such conduct, Defendants have caused Mr. Crowley intentional
28 infliction of emotional distress, stress, and anxiety.

1 **FIRST CAUSE OF ACTION**

2 *Failure to Prevent Discrimination and Harassment*

3 *Cal. Gov. Code § 12940*

4 *(Against All Defendants)*

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

7 25. Government Code section 12940(m)(2) provides in relevant part:

8 It is an unlawful employment practice . . . (k) For an employer . . . to fail to
9 take all reasonable steps necessary to prevent discrimination and harassment
from occurring.

10 26. Defendants wrongfully failed to take all reasonable steps necessary to prevent harassment
11 and discrimination of Plaintiff based on his age.

12 27. Plaintiff suffered and continues to suffer harm as a result of Plaintiff's discharge by
13 Defendants.

14 28. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

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

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

23 **SECOND CAUSE OF ACTION**

24 *Wrongful Termination in Violation of Public Policy*

25 *(Against All Defendants)*

26 31. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set
27 forth in this Complaint.
28

32. Art. I, § 8, of the California Constitution provides that a person may not be disqualified from pursuing a profession or employment because of their gender or age.

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

34. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

35. Defendant terminated Plaintiff in violation of Plaintiff's rights and public policy.

36. Plaintiff is informed and believes and thereon alleges that his protected status (age) and/or his protestation against being discriminated against based on said protected status as alleged above, were, in part, factors in Defendants' decision to terminate Plaintiff's employment.

37. Plaintiff was harmed.

38. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

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

40. As a further direct and proximate result of Defendants' conduct, Plaintiff has suffered loss of financial stability, peace of mind and future security, and has suffered embarrassment, humiliation, mental and emotional pain and distress and discomfort, all to his detriment and damage in amounts not fully ascertained but within the jurisdiction of this court and subject to proof at the time of trial.

41. In violation of public policy, Defendants terminated Plaintiff because he is 52-year-old male who was wrongfully terminated, despite the fact that Defendants knew that Plaintiff was experienced and able to perform the essential functions of his position and had done so since 2021.

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

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

3 ***THIRD CAUSE OF ACTION***

4 *Intentional Infliction of Emotional Distress*

5 *(Against All Defendants)*

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

8 44. Defendant's treatment of Plaintiff as discussed supra, exceeds the bounds of decency, is
9 intolerable within our civilized community, and is therefore outrageous.

10 45. Defendant's actions, as discussed supra, were intended to cause Plaintiff to suffer the
11 resulting emotional distress.

12 46. Defendants succeeded in their attempt to cause Plaintiff to suffer extreme emotional
13 distress, as indicated by the lingering anxiety, stress, depression, finding himself upset, oversleeping,
14 generally lethargic and embarrassed, that are the direct and proximate results of Defendant's conduct.

15 47. Plaintiff was harmed.

16 48. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

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

21 ***FOURTH CAUSE OF ACTION***

22 *Age Discrimination*

23 *Cal. Gov. Code § 12940*

24 *(Against All Defendants)*

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

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

28 It is an unlawful employment practice. . . (a) [f]or an employer, because
of the race, religious creed, color, national origin, ancestry, physical

1 disability, mental disability, medical condition, genetic information,
2 marital status, sex, gender, gender identity, gender expression, age, sexual
3 orientation, or military and veteran status of any person, to refuse to hire
4 or employ the person or to refuse to select the person for a training
5 program leading to employment, or to bar or to discharge the person from
6 employment or from a training program leading to employment, or to
7 discriminate against the person in compensation or in terms, conditions, or
8 privileges of employment.

9 52. At all times herein mentioned, Government Code § 12940, et seq. was in full force and
10 effect and binding upon Defendants, and each of them. These laws make it an unlawful employment
11 practice to discriminate against any employee on the basis of his age.

12 53. Defendants were Plaintiff's employer.

13 54. Plaintiff was a male over the age of 50.

14 55. Plaintiff was able to perform the essential job duties of Plaintiff's position.

15 56. Throughout the period of Plaintiff's employment, Plaintiff Crowley was discriminated
16 against by reason of his age, and was subjected to harassment, discrimination and retaliation by
17 Defendants.

18 57. Defendants wrongfully discriminated against Plaintiff based on his age.

19 58. Defendants continually gave employees of the younger age more work opportunities than
20 they offered or allowed for Plaintiff.

21 59. After Plaintiff's wrongful termination, Defendants promoted two younger employees into
22 Mr. Crowley's position who were less experienced than he.

23 60. Plaintiff believes and alleges that Plaintiff's age was a substantial and determining factor
24 in Defendant's decision to terminate Plaintiff's employment.

25 61. Defendants' termination of Plaintiff as alleged in this complaint constitutes an
26 unlawful employment practice in violation of Cal. Gov. Code § 12940(a).

27 62. As direct, foreseeable, and proximate results of Defendants' discriminatory acts, Plaintiff
28 has suffered and continues to suffer substantial losses in earnings and job benefits, and has suffered and
continues to suffer humiliation, embarrassment and mental and emotional distress, and discomfort, all to
Plaintiff's damage in an amount to be proven at trial.

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

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

FIFTH CAUSE OF ACTION

Breach of Covenant of Good Faith and Fair Dealings

(Against All Defendants)

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

66. Plaintiff was promised employment and to be compensated upon a salary at the annual rate of \$150,000 and relied, in good faith, on Defendants' promise to receive annual variable commission of \$100,000 at quota for a total on target compensation of \$250,000 per year.

67. Defendants breached the agreement by terminating Plaintiff to avoid compensating plaintiff for his work once he reached top Account Manager qualifying him for extra bonuses, trips, and prestigious awards.

68. The aforementioned acts and omissions of the Defendants and in particular the withholding/nonpayment of earned wages, constitute unfair business practices within the meaning of Business & Professions Code § 17200, and Defendants are therefore liable to Plaintiff under this statute. Pursuant to Business & Procession Code § 17205, any recovery for violation of this statue is cumulative and is thus in addition to any other damages recoverable in this complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants, 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: December 19, 2023.

RATNER MOLINEAUX, LLP

/s/ *David S. Ratner*

David S. Ratner
Shelley A. Molineaux
Attorneys for Plaintiff Gregory Crowley

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, Halsey Volker, declare:

At the time of service, I was over 18 years of age, and not a party to this action. My business mailing address is 1990 N. California Blvd, Suite 20, Walnut Creek, CA 94596.

On December 19, 2023, I served the following document(s) on the parties in the within action:

PLAINTIFF GREGORY CROWLEY'S FIRST AMENDED COMPLAINT

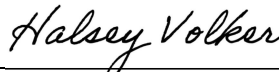
X

BY E-MAIL: Based on the parties' agreement to accept service by e-mail, the court's order and/or Local Rules ordering mandatory e-filing of all documents for this type of case, Civil Procedure Code section 1010.6, and California Rules of Court, Rule 2.251(c)(3), I attached the document(s) to an e-mail message, and invoked the send command to transmit the e-mail message to the person(s) at the e-mail address(es) listed below. I did not receive within a reasonable time after the transmission any electronic message or other indication that the transmission was unsuccessful.

Azniv Darbinian
GORDON REES SCULLY MANSUKHANI
275 Battery Street, Suite 2000
San Francisco, CA 94111
Ph: (916) 830-6556
adarbinian@grsm.com

Attorneys for Defendant
Clari, Inc.

I declare under penalty of perjury under the laws of the State of California the foregoing is a true and correct statement, and this certificate was executed on December 19, 2023.



Halsey Volker