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MAE QUINNE MCKINES

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

MAE QUINNE MCKINES, individually,

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION, a  
California corporation; CHRISTIAN ARCHILLA,  
an individual, and DOES 1 through 50, inclusive.

Defendants.

Case No. 3:24-cv-05187-RFL

**AMENDED COMPLAINT FOR DAMAGES**

1. Retaliation, Cal. Gov. Code §12940(h)
2. Hostile Work Environment Harassment, Cal. Gov. Code § 12940(j)
3. Failure to Prevent Discrimination and Harassment, Cal. Gov. Code § 12940
4. Race/Color/Ethnicity/National Origin Discrimination, Cal. Gov. Code § 12940
5. Retaliation, Labor Code §1102.5
6. Wrongful Termination in Violation of Public Policy
7. Intentional Infliction of Emotional Distress
8. Gender Discrimination, Cal. Gov't Code §12940
9. Retaliation, Cal. Lab. C. § 98.6
10. Sexual Harassment – Hostile Work Environment, Cal. Gov. Code § 12940(j)
11. Sexual Assault, Cal. Civ. Code § 1708.5
12. Sexual Battery, Cal. Civ. Code § 1708.5

**DEMAND FOR JURY TRIAL**

1. Plaintiff MAE QUINNE MCKINES (“McKines”) individually, brings this action against Defendants COSTCO WHOLESALE CORPORATION (“Costco”), a California corporation, Defendant

1 Christian Archilla, an individual, and DOES 1 through 50, inclusive.

2 ***PARTIES***

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

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

7 4. Plaintiff is informed and believes, and based thereon alleges, that Defendant Christian  
8 Archilla is a California citizen and resident.

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

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

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

23 8. Costco, and Does 1 through 50, inclusive, are collectively referred to hereafter as  
24 "Defendants".

25 ***JURISDICTION AND VENUE***

26 9. This Court has jurisdiction over Defendants because at all times relevant, they were  
27 authorized to transact, and are transacting business in California. This Court has jurisdiction over  
28 Defendant Archilla because he assaulted and battered Plaintiff in California.

10. Venue is proper under 28 U.S.C. §§ 1391(b)(2) since Plaintiff resided in California at all times during the events, during which she was working for Defendant Costco.

11. This Court lacks subject matter jurisdiction over this case because Plaintiff and Defendant Archilla are both citizens of the same state, California. Accordingly, this case should be remanded to the California Superior Court, Contra Costa County, the jurisdiction from which the case had been removed.

### ***EXHAUSTION OF ADMINISTRATIVE REMEDIES***

12. On or about June 20, 2024, Plaintiff obtained a Right to Sue Letter from the California Civil Rights Department and Housing attached as **Exhibit A**.

### ***GENERAL ALLEGATIONS***

13. Mae Quinne McKines is a 31-year-old African American woman who was hired by Costco Wholesale Corporation (“Costco”) on June 3, 2011, as a Cashier Assistant.

14. From 2011-2020, Ms. McKines received wage increases, bonuses, and positive reviews. Ms. McKines worked in many different departments throughout the years, showing her willingness to learn and cross train in different areas. Ms. McKines was a well-regarded, valued employee.

15. On November 1, 2020, around 9:00 PM, well after her normal working hours, Ms. McKines received two calls from Christian Archilla, a Manager at Costco. Ms. McKines did not answer the calls and did not return the calls because Ms. McKines knew that Mr. Archilla was known for his inappropriate behaviors towards women of color at Costco. He often made flirtatious comments to his female colleagues, mostly targeting Black and Latino female employees. Mr. Archilla also harassed his mixed-race female colleagues.

16. At work several days later, Ms. McKines asked Mr. Archilla why he called her twice after 9:00 PM on November 1, 2020, outside of working hours. Mr. Archilla claimed that he meant to call “a different Mae” in his contacts.

17. In the months following, Mr. Archilla made passes towards Ms. McKines. He repeatedly asked her if she had a boyfriend, if she *still* had a boyfriend, and other probing questions regarding her personal, romantic relationships. Mr. Archilla found Ms. McKines on social media and tried to add her as a “friend”, but she never approved any of his add requests. Mr. Archilla went as far as to ask Ms. McKines out on dates despite Ms. McKines constantly dismissing and ignoring his advances. Ms. McKines shared

1 her concerns about Mr. Archilla's inappropriate behaviors with her colleagues.

2 18. On February 18, 2021, on or around 3:10 AM, Ms. McKines glanced at the new Earl Stevens  
3 wine that Costco had received the day before. Mr. Archilla approached Ms. McKines and stated, "If I buy  
4 you a bottle of wine, would you drink it with me?" Ms. McKines told Mr. Archilla that she planned to buy  
5 it for someone else and walked away.

6 19. On February 22, 2021, on or around 3:10 AM, Ms. McKines was in the office at Costco  
7 shortly after clocking in. She reached for Return to Vendor ("RTV") papers when Mr. Archilla approached  
8 Ms. McKines in the office. He said good morning and she returned the greeting. Mr. Archilla began to ask  
9 Ms. McKines about her plans for the weekend. During his questioning, Mr. Archilla approached Ms.  
10 McKines with his arms extended, initiating a hugging gesture. Ms. McKines felt uncomfortable as she had  
11 never hugged or been hugged by Mr. Archilla before. Mr. Archilla wrapped his arms around Ms. McKines.  
12 Then Mr. Archilla placed his left hand on Ms. McKines's upper back, ran his right hands down her back,  
13 and groped the upper part of her buttocks. Ms. McKines quickly pulled away and left the office. She  
14 avoided Mr. Archilla for the remainder of her shift.

15 20. Plaintiff did not consent to Archilla touching her. Plaintiff did not welcome Archilla  
16 touching her. Archilla touching Plaintiff without her consent constituted a sexual assault and battery as  
17 defined by Cal. Civ Code § 1708.5.

18 21. On the same day, February 22, 2021, around 3:20 AM, Ms. McKines reported the sexual  
19 assault to the first managers who she came across, Robert Barazza and Jenny Nungaray. Ms. McKines told  
20 Mr. Barazza and Ms. Nungaray that Mr. Archilla had sexually assaulted her. Mr. Barazza instructed Ms.  
21 McKines to report the incident to an Assistant General Manager.

22 22. On the same day, February 22, 2021, immediately after reporting to Mr. Barazza and Ms.  
23 Nungaray, Ms. McKines reported the sexual assault to Pablo Gayton, an Assistant General Manager at  
24 Costco. Mr. Gayton responded, "What are you trying to do, get my managers fired?" Mr. Gayton continued,  
25 "Mae, I'm going to have to wrap you in bubble wrap." He completely disregarded Ms. McKines's report  
26 of sexual assault by making jokes, dismissing, and downplaying the incident.

27 23. The next day, on February 23, 2021, Ms. McKines reported the incident to a different Area-  
28 Level manager, Christa-Joy Truix. Ms. Truix requested Ms. McKines write a statement of the incident.

24. On the same day, February 23, 2021, Ms. McKines submitted a written statement to Ms. Truix. Ms. McKines outlined what happened and her concerns over the complete mishandling of the incident. Ms. McKines also emphasized the discriminatory tendencies of Costco's management department on the report. She mentioned Costco's unequal treatment of women of color and younger workers, and that Costco management exhibited favoritism towards non-Black male workers and older workers. Attached here to as **Exhibit B**.

25. On the same day, February 23, 2021, after filing the report, Ms. McKines returned to her section of the store. Then, Mr. Archilla approached Ms. McKines. He requested she perform a work-related task. Ms. McKines didn't respond to his request. Ms. McKines then informed her direct manager, Lex Elliot, of the sexual assault. Mr. Elliot called Mr. Gayton on his cell phone and requested Mr. Gayton to remove Mr. Archilla from Ms. McKines's section of the store. Mr. Gayton responded to Mr. Archilla by saying, "Stay the fuck away from Mae."

26. On or around February 23-25, 2021, Ms. McKines reported the sexual assault to the General Manager at Costco, Lamar Bell. Ms. McKines felt her reports were not being properly addressed. She provided Mr. Bell with a copy of her written statement. She expressed to Mr. Bell her concerns of the management department being discriminatory on the basis of race and gender.

27. Mr. Bell informed Ms. McKines that a thorough investigation was going to be performed. He assured Ms. McKines that Mr. Archilla was suspended pending the investigation. Mr. Bell confirmed that he would follow up with Ms. McKines on the matter. However, Mr. Bell never followed up with Ms. McKines regarding the investigation or incident after she reported the issues to him.

28. On March 20, 2021, Ms. McKines began to call out sick over the stress caused by the sexual assault. In addition to stress from the incident, Ms. McKines experienced stress over Costco's delay in taking corrective action and the complete lack of confidentiality regarding the incident report, as Costco was hesitant to respond to her reports of sexual assault. Costco's management exhibited a general sense of distrust towards Black workers, with a great sense of distrust towards Black female worker. Ms. McKines believes her reports were dismissed based on racial and gender identity. On top of this, the entire warehouse knew about the sexual assault, as Costco's management failed to keep the details of the report confidential. Ms. McKines felt sick, uncomfortable, and unsafe at work.

1           29.     On March 21, 2021, Ms. McKines called out sick due to the aftermath of incident. A string  
2 of absences followed over the next few months. The sexual assault, discrimination, and lack of support  
3 from Costco's management made work unbearable and Ms. McKines was unable to perform her duties at  
4 work.

5           30.     On August 15, 2021, without any prior oral warning, Ms. McKines was written up for  
6 absenteeism as a form of discipline for calling in sick. Ms. McKines was notified that she was going to  
7 receive an unpaid three-day suspension if she continued to call out. Ms. McKines believes that Costco  
8 targeted her by based on her race, gender, and acted in retaliation for reporting the sexual assault.

9           31.     On October 14, 2021, as a form of retaliation for reporting the sexual assault, Ms. McKines  
10 was suspended due to absenteeism. These absences were due to sexual assault, discrimination experienced,  
11 and Costco's mishandling of the reports. This was the first time Ms. McKines had ever been suspended  
12 from Costco in the eleven years that she had worked for the company.

13           32.     On January 24, 2022, Ms. McKines met with her Primary Care Provider ("PCP"), Doctor  
14 Jacky Luong, to discuss her anxiety and depression spurred by the incident and experiences at Costco. She  
15 was also diagnosed with COVID-19 for the first time and needed a return-to-work letter.

16           33.     On March 9, 2022, Ms. McKines met with Dr. Luong again to discuss the panic attacks and  
17 bad sleep patterns triggered by the sexual assault and discrimination experienced at Costco. Dr. Luong  
18 diagnosed her with anxiety and depression. He provided a note permitting an entire week off work due to  
19 the symptoms from the sexual assault and discrimination experienced at Costco.

20           34.     On April 11, 2022, Ms. McKines was written up after calling out sick for a scheduled shift.  
21 Ms. McKines's mental health struggles were also not afforded the same level of understanding and care as  
22 her non-Black male colleagues. Costco never reached out to Ms. McKines to work with her on a plan to  
23 address her mental health after the sexual assault, nor did Costco reach out to McKines to accommodate  
24 her mental health issues.

25           35.     On April 13, 2022, Ms. McKines was suspended again for absenteeism and placed on a  
26 suspension. Costco continued to retaliate against Ms. McKines on the basis of race, gender, and for  
27 reporting the sexual assault.

28           36.     On June 1, 2022, Ms. McKines was in a verbal altercation with a Club Demonstrations

Services (“CDS”) Manager, Chris (Last Name Unknown). Ms. McKines worked in her assigned department as an RTV Clerk. She noticed Chris placed saleable items in a basket full of trash. Ms. McKines asked Chris to place items on the shelf if he felt the products needed to be discarded. Chris responded in a threatening tone, “I don’t have time for this conversation.” Ms. McKines asked him why he was unable to have the conversation. Chris responded, “Don’t fucking talk to me!” He started to use threatening words toward her. McKines was frustrated with Costco allowing her to be mistreated as a Black woman, still processing the sexual assault.

37. On June 20, 2022, Ms. McKines called to inform Gus Palacios, Receiving Staff Level Manager and Ms. McKines’ direct manager, that she was experiencing crippling anxiety. Ms. McKines requested to be removed from the schedule since the department had coverage. Mr. Palacios agreed and removed Ms. McKines from the schedule for the day.

38. On June 21, 2022, Ms. McKines called to inform Andres Torres, Floor Staff Level Manager and Ms. McKines second in line direct manager, that she was experiencing worsened anxiety over work. Mr. Torres informed her that he was unable to take her off the schedule. Mr. Torres told her she needed to come to work or call out sick. Ms. McKines felt pressured, so she chose to work. She informed her colleague, Tashia Cook, that she was going to go through the HAZMAT buckets to give herself some space due to feeling anxious in Costco’s toxic work environment.

39. The following week, Ms. McKines was suspended after she was falsely accused of sleeping in the Return to Vendor (“RTV”) department where the HAZMAT buckets are located, inside of a cage with a blanket over her and a space heater.

40. Ms. Nungaray, whom Ms. McKines had initially reported the sexual assault to, falsely reported to management that Ms. McKines went to sleep in the RTV department. Ms. McKines’s had three other witnesses to confirm this was not true: Tashia Cook, Crystal Holt, and Danielle Willis. Crystal Holt and Danielle Willis are supervisors at Costco. Ms. McKines believes that Ms. Nungaray retaliated against her for reporting the sexual assault and discriminated against her based on her racial identity and gender. Ms. McKines also believes that due to the race and gender of the witnesses, two being African American, management disregarded their statements on witnessing Ms. McKines not sleeping in the HAZMAT cage in the RTV department.



41. On June 26, 2022, Ms. McKines returned to work following the suspension over false accusations. Mr. Bell and Mr. Gayton, the managers involved in the sexual assault reporting, gave Ms. McKines an ultimatum. They gave Ms. McKines the choice of being demoted and placed in a different department, moved to the night shift as a front-end cashier, or transferred to another store. Mr. Bell and Mr. Gayton both were aware that Ms. McKines had a second job. Ms. McKines had been working at both jobs since January 2019. Mr. Bell and Mr. Gayton also told Ms. McKines she was no longer allowed to start work at 2:30 AM and end her shift at 7:30 AM. Mr. Bell and Ms. McKines told Ms. McKines she would now work from 3:00 AM to 8:30 AM, adding an additional 30 minutes to her shift. Ms. McKines states that the second job started at 8:00 AM and would only be able to leave at that time. Mr. Bell and Mr. Gayton told Ms. McKines that all stockers had to stay until the store opened at 8:30-9:00 AM. Ms. McKines told both managers that this was not true and that it would affect her second job and income. Mr. Bell and Mr. Gayton told Ms. McKines to quit if she was unable to adhere to the updated work schedule. Ms. McKines believes that Mr. Bell and Mr. Gayton retaliated against her for reporting the sexual assault and discriminated against her based on her racial identity and gender as a young Black woman.

42. Mr. Bell and Mr. Gayton stated that two supervisors who were present at the time of the allegations were not able to confirm the allegations of sleeping on the job to be true or false. They told Ms. McKines this was the “only reason” she was able to keep her job. Mr. Bell and Mr. Gayton treated Ms. McKines as if the allegations were true. The accusations were a means to retaliate against and discriminate against Ms. McKines. To further the false allegations, Mr. Bell and Mr. Gayton informed Ms. McKines that they reviewed her entire workday. They alleged that she “didn't do any work.” Ms. McKines’ work was held to a higher standard than her non-Black male colleagues.

43. At the end of June 2022, Ms. McKines began work in a new department as a Food Stocker. This new position was a demotion, resulting in Ms. McKines taking a cut in pay of more than \$1.25/hour. While stocking product, she fell off a step stool and sprained her ankle due to the step stool being broken yet still accessible to all employees. Kelly Hamilton, an Assistant General Manager, instructed Ms. McKines to go home for the remainder of her shift.

44. On July 8, 2022, Ms. McKines met with Dr. Luong to follow up on her anxiety attacks and depression. Dr. Luong provided Ms. McKines a note excusing her for work due to her anxiety and



1 depression stemming from her experiences with sexual assault, race discrimination, and gender  
2 discrimination at Costco. Dr. Luong recommended therapy and possibly a psychiatrist to treat her anxiety  
3 and depression induced by her ongoing experiences at Costco.

4 45. On July 11, 2022, Ms. McKines reached out to the Employee Assistance Program (“EAP”)  
5 department to speak with an occupation health nurse. Ms. McKines spoke to an occupational health nurse,  
6 Celia (Last Name Unknown), to help get advice on how to report the sexual assault and seek therapy. Ms.  
7 McKines informed the nurse that she had been sexually assaulted at work, discriminated against at work  
8 based on her racial and gender identity, and continuously retaliated against for reporting the assault and  
9 ongoing discrimination. The nurse advised Ms. McKines to report the incident through workers’  
10 compensation and to find a therapist to begin treatment for her anxiety and depression.

11 46. On September 8, 2022, Ms. McKines met with a psychologist, Dr. David Green, to treat her  
12 anxiety and depression triggered by her experiences at Costco. She established care with Dr. Green. Dr.  
13 Green wrote Ms. McKines a doctor's note requesting Ms. McKines not return to work until September 30,  
14 2022.

15 47. On September 12, 2022, Ms. McKines established care with a psychologist, Dr. Trini  
16 Zavala, in Dr. Green’s office. She met with Dr. Zavala throughout September to October 2022.

17 48. On September 27, 2022, Dr. Zavala provided Ms. McKines with a modified work duty note,  
18 permitting working only 3-hour shifts at Costco.

19 49. On September 29, 2022, Ms. McKines’s informed Dr. Luong that she was waiting to be  
20 referred to a therapist after reporting her sexual assault to Costco’s workers’ compensation. Dr. Luong  
21 extended Ms. McKines’s medical leave from July 10, 2022, to October 3, 2022.

22 50. On October 5, 2022, Ms. McKines had to call off sick after three hours into her shift due to  
23 the severe anxiety she felt at Costco. McKines was then forced to call out sick the following day.

24 51. On October 9, 2022, Ms. McKines had to call off sick after three hours into her shift. She  
25 was paralyzed by sexual assault and ongoing discrimination, based on her race and gender. McKines did  
26 not feel safe or supported at Costco as a Black woman.

27 52. Therefore, on October 9, 2022, Ms. McKines worked her final day at Costco. Ms. McKines  
28 was placed on leave due to her ankle injury and ongoing emotional distress she experienced due to

1 discrimination, harassment, and retaliation that occurred throughout her employment.

2 53. On October 10, 2022, Ms. McKines was assigned a workers' compensation attorney, Ryan  
3 Sutherland, due to her ankle injury and work induced stress. Ms. McKines' case had previously been  
4 denied.

5 54. On October 10, 2022, Dr. Zavala provided Ms. McKines with a doctor's note for October  
6 10, 2022, to October 31, 2022, due to Ms. McKines's severe anxiety and depression caused by her  
7 experiences with sexual assault and discrimination at Costco.

8 55. On October 24, 2022, Ms. McKines met with Dr. Zavala for the last time as her workers'  
9 compensation case was denied for being past the statute of limitations. Dr. Zavala provided a note excusing  
10 Ms. McKines from work starting October 31, 2022, to December 31, 2022.

11 56. Additionally, Dr. Fieser provided a note excusing Ms. McKines from work from December  
12 8, 2022, through December 15, 2023, due to her ankle injury.

13 57. For two years Ms. McKines endured a toxic work environment of being dismissed,  
14 harassed, and discriminated. Ms. McKines submitted multiple formal and informal reports that have not  
15 been taken seriously by Defendants, have been ignored, or disregarded. Ms. McKines has reported the  
16 sexual harassment to managers Robert Barazza, Jenny Nungaray, Christa-Joy Truix, Lex Elliot, Lamar  
17 Bell, and Pablo Gayton, however no disciplinary actions occurred, the employee was not held  
18 accountable, and Ms. McKines received no support.

19 58. Ms. McKines was later informed by Mr. Gayton, the assistant manager who the sexual  
20 assault was originally reported to, that Christian Archilla was transferred to another store and demoted  
21 from his management position. Ms. McKines explained to Mr. Gayton that Mr. Archilla should have  
22 been fired and that previous employees have been fired in the past due to verbal sexual harassment. To  
23 which Mr. Gayton then asked Ms. McKines, "Was it not enough that he had to be transferred and  
24 demoted to a different warehouse, Mr. Archilla has to inform his family and take a pay cut."

25 59. As a result of Defendant's actions and lack of response toward Ms. McKines, she has  
26 feelings of being anxious, panic, loss of sleep and insomnia, scared, humiliated, uncomfortable, feelings  
27 of isolation and exclusion, feelings of not belonging and anxiety at the thought of coming to work. Ms.  
28 McKines suffered multiple panic attacks while working for Defendants. Ms. McKines was placed on

1 anxiety and panic disorder medication due to Defendants treatment.

2 60. As a result of Defendant's lack of response toward Ms. McKines, the history of  
3 Defendants' discriminatory animus towards Plaintiff, and the continued hostile work environment, Ms.  
4 McKines felt she had no choice but to take the offer of a demotion.

5 61. Additionally, as a result of Defendant's lack of response toward Ms. McKines, the history  
6 of Defendants' discriminatory animus towards Plaintiff, and the continued hostile work environment, Ms.  
7 McKines felts she had no choice but to resign.

8 62. On December 15, 2023, Ms. McKines was constructively terminated from Costco.

9 63. Defendant discriminated against Plaintiff based on her gender and race, ignored her  
10 complaints of discrimination and sexual harassment, and retaliated against her by forcing her to be  
11 demoted, ultimately leading to her constructive termination.

12 64. As of result of Defendants' actions, Plaintiff suffered emotionally and psychologically  
13 from the discrimination and harassment she endured. As a result of the hostile work environment and  
14 discrimination, Plaintiff has suffered and continues to suffer embarrassment, humiliation, mental and  
15 emotional pain and distress and discomfort.

## 16 ***FIRST CAUSE OF ACTION***

### 17 *Retaliation*

#### 18 *Cal. Gov. Code §12940(h)*

#### 19 *(Against Defendant Costco Wholesale Corporation)*

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

22 66. At all relevant times, the California Fair Employment & Housing Act, sections 12940, et  
23 seq., was in full force and effect, and binding on Defendants.

24 67. FEHA makes it an unlawful employment practice for an employer to retaliate against an  
25 employee who has opposed a forbidden practice or filed a complaint against an employer or supervisor.  
26 CGC §12940(h).

27  
28 68. Government Code section 12940(h) provides in relevant part:

1 It is an unlawful employment practice . . . (h) For any employer, labor  
 2 organization, employment agency, or person to discharge, expel, or  
 3 toherwise discriminate against any person because the person has opposed  
 any practices forbidden under this part or because the person has filed a  
 complaint, testified, or assisted in any proceeding under this part.

4 69. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

5 70. Plaintiff made multiple complaints to Defendants regarding discrimination, hostile work  
 6 environment, and sexual harassment by Mr. Archilla.

7 71. Plaintiff complained that her supervisors were allowing the harassment to continue and  
 8 failing to maintain Ms. McKines's confidential complaints.

9 72. Defendants retaliated against Plaintiff by demoting her, ultimately constructively  
 10 terminated her.

11 73. Plaintiff was harmed.

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

13 75. As a direct and proximate result of the above violations, Plaintiff has suffered damages in  
 14 the form of past and future wage losses, lost benefits, other pecuniary losses, and emotional distress in an  
 15 amount to be proven at trial.

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

21 ***SECOND CAUSE OF ACTION***

22 *Hostile Work Environment Harassment*

23 *Cal. Gov. Code § 12940(j)*

24 *(Against Defendant Costco Wholesale Corporation)*

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

27 78. Defendants, and each of them, either individually and/or through their agents, engaged in  
 28

1 the foregoing conduct, which constitutes a pattern and practice of hostile work environment harassment  
2 in violation of Government Code sections 12940(j), which provides that harassment of employees is an  
3 unlawful employment practice.

4 79. Plaintiff endured harassing conduct by Defendants and/or Defendant's managers that took  
5 place in Plaintiff's immediate work environment.

6 80. Defendant knew or should have known of the harassing conduct as Plaintiff made  
7 numerous complaints and the conduct occurred in front of Defendant's agents.

8 81. Plaintiff considered the work environment to be hostile or abusive towards people of  
9 African American descent, and people of the female gender.

10 82. Plaintiff was sexually assaulted by a manager at Costco and after complaining about the  
11 assault, Ms. McKines was left unsupported as she faced retaliatory actions by Defendants.

12 83. Plaintiff's managers engaged in the conduct.

13 84. Defendants knew or should have known of the conduct and failed to take a corrective  
14 action whatsoever, let alone immediate appropriate corrective action.

15 85. As a direct and proximate result of the above violations, Plaintiff has suffered damages in  
16 the form of past and future wage losses, lost benefits, other pecuniary losses, and emotional distress in an  
17 amount to be proven at trial.

18 86. 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  
22 damages against each of said Defendants.

23 ***THIRD CAUSE OF ACTION***

24 *Failure to Prevent Discrimination and Harassment*

25 *Cal. Gov. Code § 12940*

26 *(Against Defendant Costco Wholesale Corporation)*

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

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

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

89. Defendants wrongfully failed to take all reasonable steps necessary to prevent harassment and discrimination of Plaintiff based on her race and gender.

90. Plaintiff suffered and continues to suffer harm as a result of Defendant demoting Plaintiff.

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

92. As a direct and proximate result of the above violations, Plaintiff has suffered damages in the form of past and future wage losses, lost benefits, other pecuniary losses, and emotional distress in an amount to be proven at trial.

93. 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 agents/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.

#### ***FOURTH CAUSE OF ACTION***

##### ***Race/Color/Ethnicity/National Origin Discrimination***

##### ***Cal. Gov. Code § 12940***

##### ***(Against Defendant Costco Wholesale Corporation)***

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

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

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

96. Plaintiff was Defendant's employee and Defendants were Plaintiff's employer.

97. Defendant wrongfully demoted, and constructively terminated Plaintiff based on her race.

98. Plaintiff is an African American and, as an employee of Defendant, faced discrimination

1 based on her race and a hostile work environment during her time as an employee of Defendant.

2 99. Defendant knew or should have known of the discriminatory treatment Plaintiff suffered.

3 100. Defendant demoted Plaintiff's employment.

4 101. Plaintiff believes and alleges that Plaintiff's race was a substantial and determining factor  
5 in Defendant's decision to demote and ultimately constructively terminate Plaintiff's employment.

6 102. Defendant's demotion of Plaintiff as alleged in this complaint constitutes an unlawful  
7 employment practice in violation of Cal. Gov. Code § 12940(a).

8 103. As a direct, foreseeable, and proximate result of Defendant's discriminatory acts, Plaintiff  
9 has suffered substantial losses in earnings and job benefits, and has suffered and continues to suffer  
10 humiliation, embarrassment, mental and emotional distress, and discomfort, all to Plaintiff's damage in  
11 an amount to be proven at trial.

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

17 ***FIFTH CAUSE OF ACTION***

18 *Retaliation*

19 *Labor Code §1102.5*

20 *(Against Defendant Costco Wholesale Corporation)*

21 105. Plaintiff re-pleads, re-alleges, and incorporates by reference each allegation set forth in  
22 this Complaint.

23 106. At all relevant times, California Labor Code was in full force and effect, and binding on  
24 Defendants.

25 107. Labor Code §1102.5 makes it an unlawful for an employer to retaliate against an  
26 employee who has for disclosing information the employee reasonable believes discloses a violation of  
27 state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.  
28



108. Plaintiff made multiple complaints to Defendants regarding discrimination, hostile work environment, sexual harassment and intimidation she was experiencing from her superiors.

109. Defendants retaliated against Plaintiff by demoting her, and ultimately constructively terminating her.

110. Plaintiff was harmed.

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

112. As a direct and proximate result of the above violations, Plaintiff has suffered damages in the form of past and future wage losses, lost benefits, other pecuniary losses, and emotional distress in an amount to be proven at trial.

113. 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 agents/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.

### ***SIXTH CAUSE OF ACTION***

#### ***Wrongful Termination in Violation of Public Policy***

#### ***(Against Defendant Costco Wholesale Corporation)***

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

115. 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 national origin or religious creed in violation of FEHA and in retaliation for complaining of said discrimination.

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

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

118. Plaintiff is informed and believes and thereon alleges that her protected status (race/national

origin/religious creed) and/or her protestation against being discriminated against based on said protected status as alleged above, were, in part, factors in Defendants' decision to constructively terminate Plaintiff's employment.

119. Plaintiff was harmed.

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

121. 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.

122. 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 her detriment and damage in amounts not fully ascertained but within the jurisdiction of this court and subject to proof at the time of trial.

123. 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 their agents/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.

### ***SEVENTH CAUSE OF ACTION***

#### ***Intentional Infliction of Emotional Distress***

#### ***(Against Defendant Costco Wholesale Corporation and Archilla)***

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

125. Defendants' treatment of Plaintiff as discussed supra, exceeds the bounds of decency, is intolerable within civilized community, and is therefore outrageous.

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

127. Defendants succeeded in their attempt to cause Plaintiff to suffer extreme emotional distress as indicated by the lingering anxiety and shame, and that are the direct and proximate results of Defendants' conduct.

128. Plaintiff was harmed.

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

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

### ***EIGHTH CAUSE OF ACTION***

#### *Gender Discrimination*

#### *Cal. Gov. Code § 12940*

#### *(Against Defendant Costco Wholesale Corporation)*

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

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

It is an unlawful employment practice . . . (a) [f]or an employer, because of the . . . sex, gender . . . of any person . . . to discharge the person from employment . . . or to discrimination against the person in compensation or in terms, conditions, or privileged of employment.

133. Plaintiff is female.

134. Plaintiff was subjected to unwelcome gender discrimination.

135. Defendants was Plaintiff's employer, and Plaintiff was Defendants' employee.

136. Plaintiff was sexually assaulted by a male manager.

137. Plaintiff was harassed by her male managers. This harassment included being sexually assaulted, ignoring and dismissing Plaintiff, demoting Plaintiff, and receiving wages, cash bonuses and stock option grants that were less monetarily than her male counterparts in lower roles.

138. Throughout her employment, Plaintiff made multiple complaints to Defendants about the

1 harassment and discrimination she received from a male manager. Despite Plaintiff's complaints of the  
2 harassment, Defendants did not remedy the situation.

3 139. Plaintiff suffered harm when she was discriminated against by Defendants.

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

5 141. Under Government Code section 12940, Plaintiff is entitled to recover economic and  
6 noneconomic damages caused by Defendants' discriminatory practices based on Plaintiff's gender and  
7 violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees  
8 and costs pursuant to Government Code section 12965.

9 142. As a result of Defendants' discriminatory treatment Plaintiff suffered emotional distress  
10 and felt humiliated, embarrassed, anxious, and depressed.

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

## 16 ***NINTH CAUSE OF ACTION***

### 17 *Retaliation*

#### 18 *Cal. Gov. Code § 98.6*

#### 19 *(Against Defendant Costco Wholesale Corporation)*

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

22 145. Cal. Lab. Code § 98.6 provides:

23 (a) A person shall not discharge an employee or in any manner discriminate,  
24 retaliate, or take any adverse action against any employee . . . because the  
25 employee . . . engaged in any conduct delineated in this chapter, including .  
26 . . Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or  
27 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.

28 (b)(1) Any employee who is discharged, threatened with discharge,  
demoted, suspended, retaliated against, subjected to an adverse action, or in

any other manner discriminated against in the terms and conditions of his or 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.

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

147. Plaintiff made multiple complaints to Defendants regarding discrimination, hostile work environment, sexual harassment and intimidation she was experiencing from her superiors.

148. Defendants retaliated against Plaintiff by demoting her, and ultimately constructively terminating her.

149. Plaintiff was harmed.

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

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

152. 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 agents/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.

### ***TENTH CAUSE OF ACTION***

#### ***Sexual Harassment – Hostile Work Environment***

#### ***Cal. Gov. Code §§ 12940 Et Seq.***

#### ***(Against Defendant Costco Wholesale Corporation)***

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

154. At all relevant times, the California Fair Employment & Housing Act, sections 12940, et seq., was in full force and effect, and binding on Defendants.

155. Plaintiff was subject to harassing conduct because she is female and African American.

156. The harassing conduct, as alleged above, was severe or pervasive.

157. A reasonable African American female would have considered the work environment intimidating, hostile, abusive, offensive, oppressive, and abusive.

158. The above conduct by Area Manager, Archilla, was unwelcome, directed towards Plaintiff, and was part of an ongoing and continuing pattern of conduct.

159. The above conduct caused Plaintiff to perceive his work environment as intimidating, hostile, abusive, offensive, oppressive, and abusive.

160. Archilla, Plaintiff's manager engaged in the harassing conduct.

161. Plaintiff complained about the harassing conduct and Defendant failed to take immediate and appropriate corrective action.

162. As a result of Defendants' conduct, Plaintiff was harmed.

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

164. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress, including but not limited to, anxiety, depression, insomnia, withdrawing from friends and family, and feelings of hopelessness.

165. As a result of Defendants and each of their actions, Plaintiff sustained damages in an amount to be proven at trial. In addition, Plaintiff is entitled to attorney's fees and costs.

166. Archilla's acts were malicious, oppressive, or fraudulent with intent to vex, injure, annoy, humiliate, and embarrass Plaintiff, Plaintiff is entitled to recover punitive damages from Archilla.

### ***ELEVENTH CAUSE OF ACTION***

#### ***Sexual Assault***

#### ***Cal. Civ. Code § 1708***

#### ***(Against Defendant Archilla)***

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

168. Defendant Archilla's acts as alleged herein put Plaintiff in imminent apprehension of a harmful or offensive contact and/or were intended to put Plaintiff in imminent apprehension of such contact.





groped Plaintiff and touched her against her will.

180. As a direct and legal result of Defendant Archilla's conduct, Plaintiff suffered emotional distress, financial distress, including but not limited to, anxiety and depression.

181. The battery of the Plaintiff by Defendant Archilla was a substantial factor in causing the emotional injuries and damages alleged above.

**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: January 8, 2025.

**RATNER MOLINEAUX, LLP**



David S. Ratner  
Shelley A. Molineaux  
Attorneys for Plaintiff Mae Quinne McKines

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial of her claims by jury to the extent authorized by law.

Respectfully submitted,

Dated: January 8, 2025.

**RATNER MOLINEAUX, LLP**



David S. Ratner  
Shelley A. Molineaux  
Attorneys for Plaintiff Mae Quinne McKines