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7

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

AUG 29 2017
Sherri R. Carter, Executive Officer/Clerk
By Jenny Chea, Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
10

11 ANDREW RUDNICKI,
12 Plaintiff,

13 vs.

14 FARMERS INSURANCE
EXCHANGE, FARMERS
15 INSURANCE GROUP, ZURICH
INSURANCE, ZURICH, ZURICH
16 NORTH AMERICA, FARMERS
GROUP, INC., ZURICH
17 INSURANCE COMPANY, TRUCK
INSURANCE EXCHANGE, FIRE
18 INSURANCE EXCHANGE, and
DOES 1 to 100, inclusive,
19 Defendants.
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Case No.: BC630158

*[Assigned for All Purposes to the Honorable
Rafael A. Ongkeko in Department 73]*

**PLAINTIFF ANDREW RUDNICKI'S
FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:**

- (1) RETALIATION IN VIOLATION OF
GOVERNMENT CODE § 12940(h);**
- (2) DISCRIMINATION ON THE BASIS
OF AGE IN VIOLATION OF FEHA;**
- (3) DISCRIMINATION ON THE BASIS
OF GENDER IN VIOLATION OF
FEHA;**
- (4) DISCRIMINATION ON THE BASIS
OF DISABILITY IN VIOLATION
OF FEHA;**
- (5) BREACH OF EXPRESS ORAL
CONTRACT NOT TO TERMINATE
WITHOUT GOOD CAUSE;**
- (6) BREACH OF IMPLIED-IN-FACT
CONTRACT NOT TO TERMINATE
WITHOUT GOOD CAUSE;**
- (7) COERCED SELF-DEFAMATION;**
- (8) WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**

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} (9) VIOLATION OF CALIFORNIA
} LABOR CODE § 1102.5;
} DEMAND FOR JURY TRIAL

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1 Plaintiff, Andrew Rudnicki, alleges, on the basis of personal knowledge and/or
2 information and belief:

4 SUMMARY

5 This is an action by plaintiff, Andrew Rudnicki (“plaintiff” or “Rudnicki”), whose
6 employment with defendants Farmers Insurance Exchange (“Farmers Exchange”),
7 Farmers Insurance Group (“Farmers Group”), Zurich Insurance (“Zurich Insurance”),
8 Zurich (“Zurich”), Zurich North America (“Zurich N.A.”), Farmers Group, Inc.
9 (“Farmers, Inc.”), Zurich Insurance Company (“Zurich Company”), Truck Insurance
10 Exchange (“Truck Exchange”), and Fire Insurance Exchange (“Fire Exchange”) was
11 wrongfully terminated while other civil rights of his were also violated. All of the
12 defendants either directly or indirectly employed plaintiff and/or employed the decision-
13 makers involved in the discriminatory and retaliatory decision to terminate plaintiff.
14 Plaintiff brings this action against all defendants for economic, non-economic,
15 compensatory, and punitive damages pursuant to Civil Code section 3294, pre-judgment
16 interest pursuant to Code of Civil Procedure section 3291, costs and reasonable
17 attorneys’ fees pursuant to Government Code section 12965(b) and Code of Civil
18 Procedure section 1021.5, and any other remedy the honorable Court and/or the jury
19 enforces.

21 PARTIES

22 1. *Plaintiff:* Plaintiff Rudnicki is, and at all times mentioned in this Complaint
23 was, a resident of the County of Ventura, California.

24 2. *Defendants:* Defendants Farmers Exchange, Farmers Group, Zurich Insurance,
25 Zurich, Zurich N.A., Farmers, Inc., Zurich Company, Truck Exchange, and Fire
26 Exchange are, and at all times mentioned in this Complaint were, authorized to operate
27 by the State of California and the United States government and authorized and qualified
28 to do business in the County of Los Angeles. Defendants’ place of business, where the

1 following causes of action took place, was and is in the County of Los Angeles.

2 3. *Doe defendants:* Defendants Does 1 to 100, inclusive, are sued under fictitious
3 names pursuant to Code of Civil Procedure section 474. Plaintiff is informed and be-
4 lieves, and on that basis alleges, that each of the defendants sued under fictitious names is
5 in some manner responsible for the wrongs and damages alleged below, in so acting was
6 functioning as the agent, servant, partner, and employee of the co-defendants, and in tak-
7 ing the actions mentioned below was acting within the course and scope of his or her auth-
8 ority as such agent, servant, partner, and employee, with the permission and consent of the
9 co-defendants. The named defendants and Doe defendants are sometimes hereafter re-
10 ferred to, collectively and/or individually, as “defendants.”

11 4. *Relationship of defendants:* All defendants compelled, coerced, aided, and/or
12 abetted the discrimination, retaliation, and harassment alleged in this Complaint, which
13 conduct is prohibited under California Government Code section 12940(i). All defen-
14 dants were responsible for the events and damages alleged herein, including on the fol-
15 lowing bases: (a) defendants committed the acts alleged; (b) at all relevant times, one or
16 more of the defendants was the agent or employee, and/or acted under the control or
17 supervision of, one or more of the remaining defendants and, in committing the acts
18 alleged, acted within the course and scope of such agency and employment and/or is or
19 are otherwise liable for plaintiff’s damages; (c) at all relevant times, there existed a unity
20 of ownership and interest between or among two or more of the defendants such that any
21 individuality and separateness between or among those defendants has ceased, and de-
22 fendants are the alter egos of one another. Defendants exercised domination and control
23 over one another to such an extent that any individuality or separateness of defendants
24 does not, and at all times herein mentioned did not, exist. Adherence to the fiction of the
25 separate existence of defendants would permit abuse of the corporate privilege and
26 would sanction fraud and promote injustice. All actions of all defendants were taken by
27 employees, supervisors, executives, officers, and directors during employment with all
28 defendants, were taken on behalf of all defendants, and were engaged in, authorized, rati-

1 fied, and approved of by all other defendants.

2 5. Defendants Farmers Exchange, Farmers Group, Zurich Insurance, Zurich,
3 Zurich N.A., Farmers, Inc., Zurich Company, Truck Exchange, and Fire Exchange
4 directly and indirectly employed plaintiff Rudnicki, as defined in the Fair Employment
5 and Housing Act ("FEHA") at Government Code section 12926(d).

6 6. In addition, defendants Farmers Exchange, Farmers Group, Zurich Insurance,
7 Zurich, Zurich N.A., Farmers, Inc., Zurich Company, Truck Exchange, and Fire
8 Exchange compelled, coerced, aided, and abetted the discrimination, which is prohibited
9 under California Government Code section 12940(i).

10 7. Finally, at all relevant times mentioned herein, all defendants acted as agents of
11 all other defendants in committing the acts alleged herein, including "aiding, abetting,
12 inciting, compelling, or coercing, or attempting to, the doing of any of the facts forbid-
13 den under California Government Code section 12940.

14
15 **FACTS COMMON TO ALL CAUSES OF ACTION**

16 8. *Plaintiff's hiring:* Plaintiff Rudnicki, a 64-year-old disabled man, began his
17 employment with Farmers in August of 1979, as a trial attorney.

18 9. *Plaintiff's job performance:* Plaintiff was promoted to supervising attorney in
19 1989, to managing attorney in 1997, and to division attorney in 2002. He was promoted
20 to vice president in 2005 and then to senior vice president in 2013. As senior vice presi-
21 dent, Rudnicki ran the in-house branch legal offices, overseeing more than 58 offices,
22 500 attorneys, and 350 staff members around the United States. He had control and
23 oversight of an annual in-house budget of \$140 million. He also had oversight over the
24 outside panel of the law firms and the legal vendors with approximate annual expendi-
25 tures of \$200 million.

26 10. *Plaintiff's protected status and activity:*

27 a. Plaintiff is more than 40 years old.

28 b. Plaintiff is male.

1 c. Plaintiff suffers from a disability, a heart condition, of which he informed
2 defendants.

3 d. Plaintiff participated in a discrimination and harassment investigation and
4 also raised complaints of illegality and unethical business practices.

5 11. *Defendants' adverse employment actions and behavior:*

6 a. Throughout his 37 years of employment, Rudnicki never had any perform-
7 ance issue or write-up until after he took disability leave for heart surgery and participat-
8 ed in the investigation of a sexual harassment lawsuit.

9 b. In March of 2015, Rudnicki took two weeks off work in order to have heart
10 surgery. He had two stents put in.

11 c. During his last year of employment, Suzanne Elliot from human resources
12 often called Rudnicki "old fella."

13 d. In or around 2014, a few female attorneys from Farmers' in-house legal
14 department brought a class action against Farmers. The women alleged that they were
15 underpaid compared to the men in the same departments. This simply was not true.

16 [REDACTED]

17 [REDACTED]

18 e. Farmers retained the law firm of Paul Hastings, LLP ("Paul Hastings"), to
19 represent the entity in its defense against the women. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 f. [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 [REDACTED]

28 [REDACTED]

[REDACTED]

g. [REDACTED]

h. [REDACTED]

i. [REDACTED]

j. [REDACTED]

12. *Defendants' termination of plaintiff's employment:*

a. *Coates v. Farmers*, the wage and hour class action, settled in 2016. Right after the settlement, Rudnicki was fired. [REDACTED]

[REDACTED]

[REDACTED] Farmers' stated reasons for his termination were pretextual.

b. Notably, not only was Rudnicki not discriminating against women, but, in fact, he spent the majority of his career promoting women into higher level and supervisory positions. When he became vice president, there were only six female attorneys

1 in management in the department. By 2016, that number had increased to approximately
2 26 female attorneys in management.

3 c. Furthermore, Rudnicki did not have the sole oversight of employee salaries.
4 First of all, the human resources department set the parameters for employees' wages.
5 Second, each salary was determined by an applicant's own requests and negotiation with
6 her direct supervisor. Third, while Rudnicki and human resources business partner vice
7 president Elliott were both responsible for ensuring that there was no discrimination in
8 wages, both Elliot and Daly had authority to overrule Rudnicki's decisions and had
9 ultimate authority to determine salary. Neither Elliott nor Daly was terminated.

10 13. *Economic damages:* As a consequence of defendants' conduct, plaintiff has
11 suffered and will suffer harm, including lost past and future income and employment
12 benefits, damage to his career, and lost wages, overtime, unpaid expenses, and penalties,
13 as well as interest on unpaid wages at the legal rate from and after each payday on which
14 those wages should have been paid, in a sum to be proven at trial.

15 14. *Non-economic damages:* As a consequence of defendants' conduct, plaintiff
16 has suffered and will suffer psychological and emotional distress, humiliation, and men-
17 tal and physical pain and anguish, in a sum to be proven at trial.

18 15. *Punitive damages:* Defendants' conduct constitutes oppression, fraud, and/or
19 malice under California Civil Code section 3294 and, thus, entitles plaintiff to an award
20 of exemplary and/or punitive damages.

21 a. *Malice:* Defendants' conduct was committed with malice within the mean-
22 ing of California Civil Code section 3294, including that (a) defendants acted with intent
23 to cause injury to plaintiff and/or acted with reckless disregard for plaintiff's injury, in-
24 cluding by terminating plaintiff and/or taking other adverse job actions against plaintiff
25 because of his age, disability, medical leave, and/or good faith complaints, and/or
26 (b) defendants' conduct was despicable and committed in willful and conscious disregard
27 of plaintiff's rights, health, and safety, including plaintiff's right to be free of
28 discrimination, harassment, retaliation, abuse of the requirements of accommodation and

1 engaging in the interactive process, and wrongful termination.

2 b. *Oppression*: In addition, and/or alternatively, defendants' conduct was
3 committed with oppression within the meaning of California Civil Code section 3294,
4 including that defendants' actions against plaintiff because of his age, disability, medical
5 leave, and/or good faith complaints were "despicable" and subjected plaintiff to cruel
6 and unjust hardship, in knowing disregard of plaintiff's rights to a work place free of
7 discrimination, harassment, retaliation, abuse of the requirements of accommodation and
8 engaging in the interactive process, and wrongful termination.

9 c. *Fraud*: In addition, and/or alternatively, defendants' conduct, as alleged,
10 was fraudulent within the meaning of California Civil Code section 3294, including that
11 defendants asserted false (pretextual) grounds for terminating plaintiff and/or other
12 adverse job actions, thereby to cause plaintiff hardship and deprive him of legal rights.

13 16. *Attorneys' fees*: Plaintiff has incurred and continues to incur legal expenses and
14 attorneys' fees as seeks attorney's fees under Government Code section 12965(b) and
15 other applicable statutes.

17 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

18 17. *Exhaustion of administrative remedies*: Prior to filing this action, plaintiff ex-
19 hausted his administrative remedies by filing timely administrative complaints with the
20 Department of Fair Employment and Housing ("DFEH") and receiving DFEH right-to-
21 sue letters. Attached hereto as Exhibit 1 and incorporated herein by reference are the
22 DFEH administrative complaints and DFEH right-to-sue notices respectively filed with
23 and issued by the DFEH. All allegations in the instant civil Complaint are either like or
24 reasonably related to the charges raised in the DFEH charges filed by plaintiff.

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1 **FIRST CAUSE OF ACTION**

2 **(Retaliation in Violation of Government Code**

3 **§ 12940(h)—Against Defendants Farmers Exchange,**

4 **Farmers Group, Zurich Insurance, Zurich, Zurich N.A.,**

5 **Farmers, Inc., Zurich Company, Truck Exchange, Fire**

6 **Exchange, and Does 1 to 100, Inclusive)**

7 18. The allegations set forth in paragraphs 1 through 17 are re-alleged and incorpo-
8 rated herein by reference.

9 19. At all times herein mentioned, FEHA, Government Code section 12940(h), was
10 in full force and effect and was binding on defendants. This statute states that it is an
11 unlawful employment practice in California for an employer to:

12 Discharge, expel, or otherwise discriminate against any person
13 because the person has opposed any practices forbidden under this
14 part or because the person has filed a complaint, testified, or assisted
in any proceeding under this part.

15 20. At all times herein mentioned, 2 California Code of Regulations section 11021
16 has provided as follows:

17 (a) Retaliation Generally. It is unlawful for an employer or
18 other covered entity to demote, suspend, reduce, fail to hire or con-
19 sider for hire, fail to give equal consideration in making employment
20 decisions, fail to treat impartially in the context of any recommenda-
21 tions for subsequent employment that the employer or other covered
22 entity may make, adversely affect working conditions or otherwise
deny any employment benefit to an individual because that indi-
vidual has opposed practices prohibited by the Act or has filed a
complaint, testified, assisted or participated in any manner in an
investigation, proceeding, or hearing conducted by the Council or
Department or its staff.

23 (1) Opposition to practices prohibited by the Act includes,
24 but is not limited to:

25 (A) Seeking the advice of the Department or Council,
whether or not a complaint is filed, and if a complaint is filed,
26 whether or not the complaint is ultimately sustained;

27 (B) Assisting or advising any person in seeking the ad-
vice of the Department or Council, whether or not a complaint is
28 filed, and if a complaint is filed, whether or not the complaint is ulti-
mately sustained;

1 (C) Opposing employment practices that an individual
2 reasonably believes to exist and believes to be a violation of the Act;

3 (D) Participating in an activity that is perceived by the
4 employer or other covered entity as opposition to discrimination,
whether or not so intended by the individual expressing the opposi-
tion; or

5 (E) Contacting, communicating with or participating in
6 the proceeding of a local human rights or civil rights agency regard-
ing employment discrimination on a basis enumerated in the Act.

7 (2) Assistance with or participation in the proceedings of the
8 Council or Department includes, but is not limited to:

9 (A) Contacting, communicating with or participating in
10 the proceedings of the Department or Council due to a good faith
belief that the Act has been violated;

11 or

12 (B) Involvement as a potential witness, which an em-
13 ployer or other covered entity perceives as participation in an activity
of the Department or the Council.

14 . . .

15 (b) Exception for Reasonable Discipline. Nothing in these regu-
16 lations shall be construed to prevent an employer or other covered
17 entity from enforcing reasonable disciplinary policies and practices,
nor from demonstrating that the actions of an applicant or employee
were either disruptive or otherwise detrimental to legitimate business
interests so as to justify the denial of an employment benefit.

18 21. Defendants' conduct, as alleged, violated FEHA, Government Code section
19 12940(h), and defendants committed unlawful employment practices, including violating
20 the above statute and regulations by retaliating against plaintiff for seeking to exercise
21 rights guaranteed under FEHA and/or assisting and/or participating in an investigation,
22 opposing defendants' failure to provide rights, including rights to complain and to assist
23 in a lawsuit, and/or the right to be free of retaliation, in violation of Government Code
24 section 12940(h).

25 22. As a proximate result of defendants' willful, knowing, and intentional retalia-
26 tion against plaintiff, plaintiff has sustained and continues to sustain substantial losses of
27 earnings and other employment benefits.

28 23. As a proximate result of defendants' willful, knowing, and intentional retalia-

1 tion against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional
2 distress, and physical and mental pain and anguish, all to his damage in a sum according
3 to proof.

4 24. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
5 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reason-
6 able attorneys' fees and costs (including expert costs) in an amount according to proof.

7 25. Defendants' misconduct was committed, ratified, and authorized intentionally,
8 in a malicious, despicable, oppressive, and fraudulent manner, by defendants' officers,
9 directors, and managing agents, entitling plaintiff to punitive damages against all
10 defendants.

11 12 **SECOND CAUSE OF ACTION**

13 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

14 **(Age Discrimination)—Against Defendants Farmers**

15 **Exchange, Farmers Group, Zurich Insurance, Zurich,**

16 **Zurich N.A., Farmers, Inc., Zurich Company, Truck**

17 **Exchange, Fire Exchange, and Does 1 to 100, Inclusive)**

18 26. The allegations set forth in paragraphs 1 through 25 are re-alleged and incorpo-
19 rated herein by reference.

20 27. At all times herein mentioned, FEHA, Government Code section 12940(a),
21 *et seq.*, was in full force and effect and was binding on defendants. This statute requires
22 defendants to refrain from discriminating against any employee because he or she is more
23 than 40 years old, as follows:

24 It is an unlawful employment practice, unless based upon a bona
25 fide occupational qualification, or, except where based upon appli-
26 cable security regulations established by the United States or the
State of California:

27 **(a)** For an employer, because of the race, religious creed, color,
28 national origin, ancestry, physical disability, mental disability, medi-
cal condition, genetic information, marital status, sex, gender, gender
identity, gender expression, age, sexual orientation, or military and
veteran status of any person, to refuse to hire or employ the person or

1 to refuse to select the person for a training program leading to em-
2 ployment, or to bar or to discharge the person from employment or
3 from a training program leading to employment, or to discriminate
against the person in compensation or in terms, conditions, or privi-
leges of employment.

4 28. Within the time provided by law, plaintiff filed complaints with the DFEH, in
5 full compliance with administrative requirements, and received right-to-sue letters.

6 29. During plaintiff's employment with defendants, defendants engaged in actions
7 that had a negative impact on the treatment of employees who were more than 40 years
8 old. Specifically, defendants discharged older employees with greater frequency than
9 younger employees, hired fewer employees who were older than 40, and gave better jobs
10 and benefits to younger employees.

11 30. During plaintiff's employment with defendants, defendants intentionally en-
12 gaged in age discrimination by discharging employees over the age of 40 with greater
13 frequency than other employees. During plaintiff's employment with defendants, defen-
14 dants had a pattern and practice of discriminating against employees who were more
15 than 40 years old.

16 31. Plaintiff was a qualified employee at the time of his termination, he was more
17 than 40 years old, and he was replaced by an employee substantially younger than he is,
18 raising an inference of discrimination on such application, among other forms of
19 evidence.

20 32. Defendants made a number of comments to and about plaintiff that exhibited
21 ageist motivations, intentions, and consciousness. Plaintiff believes and on that basis
22 alleges that defendants' real motivation was to discharge him because of his age.

23 33. Defendants' conduct, as alleged, violated FEHA, and defendants committed
24 unlawful employment practices.

25 34. On the basis of the above, plaintiff believes and alleges that his age was a sub-
26 stantial motivating factor in defendants' termination of his employment.

27 35. As a proximate result of defendants' willful, knowing, and intentional discrimi-
28 nation against plaintiff, plaintiff has sustained and continues to sustain substantial losses

1 of earnings and other employment benefits.

2 36. As a proximate result of defendants' willful, knowing, and intentional discrimi-
3 nation against plaintiff, plaintiff has suffered and continues to suffer humiliation, emo-
4 tional distress, and mental and physical pain and anguish, all to his damage in a sum
5 according to proof.

6 37. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
7 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reason-
8 able attorneys' fees and costs (including expert costs) in an amount according to proof.

9 38. Defendants' misconduct was committed, ratified, and authorized intentionally,
10 in a malicious, despicable, oppressive, and fraudulent manner, by defendants' officers,
11 directors, and managing agents, entitling plaintiff to punitive damages against all
12 defendants.

13
14 **THIRD CAUSE OF ACTION**

15 **(Violation of FEHA (Government § 12900, *et seq.*) (Gender**
16 **Discrimination)—Against Defendants Farmers Exchange,**
17 **Farmers Group, Zurich Insurance, Zurich, Zurich N.A.,**
18 **Farmers, Inc., Zurich Company, Truck Exchange, Fire**
19 **Exchange, and Does 1 to 100, Inclusive)**

20 39. The allegations set forth in paragraphs 1 through 38 are re-alleged and incorpo-
21 rated herein by reference.

22 40. Plaintiff's gender and/or other characteristics protected by FEHA, Government
23 Code section 12900, *et seq.*, were motivating factors in defendants' decision not to
24 retain, hire, or otherwise employ plaintiff in any position and/or to take other adverse
25 employment actions, including termination, against plaintiff.

26 41. Defendants' conduct, as alleged, violated FEHA, Government Code section
27 12900, *et seq.*, and defendants committed unlawful employment practices, including by
28 the following, separate bases for liability:

1 a. Barring, discharging, refusing to transfer, retain, hire, select, and/or employ,
2 and/or otherwise discriminating against plaintiff, in whole or in part on the basis of
3 plaintiff's gender and/or other protected characteristics, in violation of Government Code
4 section 12940(a);

5 b. Failing to take all reasonable steps to prevent discrimination, harassment,
6 and retaliation based on gender in violation of Government Code section 12940(k).

7 42. As a proximate result of defendants' willful, knowing, and intentional discrimi-
8 nation against plaintiff, plaintiff has sustained and continues to sustain substantial losses
9 of earnings and other employment benefits.

10 43. As a proximate result of defendants' willful, knowing, and intentional discrimi-
11 nation against plaintiff, plaintiff has suffered and continues to suffer humiliation, emo-
12 tional distress, and physical and mental pain and anguish, all to his damage in a sum
13 according to proof.

14 44. Defendants' misconduct was committed intentionally, in a malicious, fraudu-
15 lent, and oppressive manner, entitling plaintiff to punitive damages against defendants.

16 45. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
17 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reason-
18 able attorneys' fees and costs (including expert costs) in an amount according to proof.

19
20 **FOURTH CAUSE OF ACTION**

21 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

22 **(Disability Discrimination)—Against Defendants Farmers**

23 **Exchange, Farmers Group, Zurich Insurance, Zurich,**

24 **Zurich N.A., Farmers, Inc., Zurich Company, Truck**

25 **Exchange, Fire Exchange, and Does 1 to 100, Inclusive)**

26 46. The allegations set forth in paragraphs 1 through 45 are re-alleged and incorpo-
27 rated herein by reference.

28 47. Plaintiff's actual, perceived, and/or history of disability and/or other character-

istics protected by FEHA, Government Code section 12900, *et seq.*, were substantial motivating factors in defendants' decision to terminate plaintiff, not to retain, hire, or otherwise employ plaintiff in any position, to refuse to accommodate plaintiff, to refuse to engage in the interactive process, and/or to take other adverse job actions against plaintiff.

48. Government Code section 12926(m) provides:

(m) "Physical disability" includes, but is not limited to, all of the following:

(1) Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:

(A) Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.

(B) Limits a major life activity. For purposes of this section:

(i) "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.

(ii) A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.

(iii) "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.

(2) Any other health impairment not described in paragraph (1) that requires special education or related services.

(3) Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the employer or other entity covered by this part.

(4) Being regarded or treated by the employer or other entity covered by this part as having, or having had, any physical condition that makes achievement of a major life activity difficult.

(5) Being regarded or treated by the employer or other entity covered by this part as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph (1) or (2).

1 49. Defendants' conduct, as alleged, violated FEHA, Government Code section
2 12900, *et seq.*, and defendants committed unlawful employment practices, including by
3 the following, separate bases for liability:

4 a. Discharging, barring, refusing to transfer, retain, hire, select, and/or employ,
5 and/or otherwise discriminating against plaintiff, in whole or in part on the basis of
6 plaintiff's actual, perceived, and/or history of physical disability and/or other protected
7 characteristics, in violation of Government Code section 12940(a);

8 b. Failing to accommodate plaintiff's actual, perceived, and/or history of phys-
9 ical disability, in violation of Government Code section 12940(m);

10 c. Failing to engage in a timely, good faith interactive process to determine
11 reasonable accommodation, in violation of Government Code section 12940(n);

12 d. Failing to take all reasonable steps to prevent discrimination, harassment,
13 and retaliation based on actual, perceived, and/or history of physical disability, in viola-
14 tion of Government Code section 12940(k);

15 e. Retaliating against plaintiff for seeking to exercise rights guaranteed under
16 FEHA and/or opposing defendants' failure to provide such rights, including rights of rea-
17 sonable accommodation, rights of interactive process, leave rights, and/or the right to be
18 free of discrimination, in violation of Government Code section 12940(h);

19 f. Failing to provide plaintiff with requisite statutory leave, violating notice
20 and/or other procedural requisites of leave, and/or retaliating against plaintiff for taking
21 leave, in violation of Government Code section 12945.2.

22 50. As a proximate result of defendants' willful, knowing, and intentional discrimi-
23 nation against plaintiff, plaintiff has sustained and continues to sustain substantial losses
24 of earnings and other employment benefits.

25 51. As a proximate result of defendants' willful, knowing, and intentional discrimi-
26 nation against plaintiff, plaintiff has suffered and continues to suffer humiliation, emo-
27 tional distress, and physical and mental pain and anguish, all to his damage in a sum
28 according to proof.

1 52. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
2 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reason-
3 able attorneys' fees and costs (including expert costs) in an amount according to proof.

4 53. Defendants' misconduct was committed, ratified, and authorized intentionally,
5 in a malicious, despicable, oppressive, and fraudulent manner, by defendants' officers,
6 directors, and managing agents, entitling plaintiff to punitive damages against all
7 defendants.

8
9 **FIFTH CAUSE OF ACTION**

10 **(Breach of Express Oral Contract Not to Terminate**
11 **Without Good Cause)—Against Defendants Farmers**
12 **Exchange, Farmers Group, Zurich Insurance, Zurich,**
13 **Zurich N.A., Farmers, Inc., Zurich Company, Truck**
14 **Exchange, Fire Exchange, and Does 1 to 100, Inclusive)**

15 54. The allegations set forth in paragraphs 1 through 53 are re-alleged and incorpo-
16 rated herein by reference.

17 55. Defendants, through their agents, entered an oral agreement not to terminate
18 plaintiff except for good cause. Plaintiff and defendants, through their supervisors, made
19 mutual promises of consideration pursuant to this oral agreement. Plaintiff performed all
20 duties required of him under the agreement by performing his job in an exemplary
21 manner.

22 56. Defendants and their managers and supervisors terminated plaintiff without
23 good cause, violating the express oral contract they had with him.

24 57. As a proximate result of defendants' willful breach of the express oral contract
25 not to terminate without good cause, plaintiff has suffered and continues to suffer
26 damages, including losses of earnings and benefits, in a sum according to proof.

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SIXTH CAUSE OF ACTION

**(Breach of Implied-in-Fact Contract Not to Terminate
Without Good Cause—Against Defendants Farmers
Exchange, Farmers Group, Zurich Insurance, Zurich,
Zurich N.A., Farmers, Inc., Zurich Company, Truck
Exchange, Fire Exchange, and Does 1 to 100, Inclusive)**

58. The allegations set forth in paragraphs 1 through 57 are re-alleged and incorporated herein by reference.

59. On the basis of oral assurances of continued employment given to plaintiff by defendants' supervisors at the commencement of his employment, the length of plaintiff's employment with defendants (37 years), defendants' actual practice of terminating employment for cause, and the industry standard for the business defendants engaged in of terminating employment only for cause, plaintiff and defendants shared the actual understanding that plaintiff could and would be terminated only for cause. This shared understanding resulted in an implied contract requiring that defendants have good cause to terminate plaintiff.

60. The assurances given to plaintiff in the form of accolades from his supervisors include the following:

a. Mid-year review, 2007, by Jason Katz: "Andrew continues to perform at a high level. His department results are excellent and he continues to be innovative in his approaches seeking regular improvement . . . proving himself to be an excellent manager of the Claims Litigation Department."

b. Year-end review, 2007, by Jason Katz: "Andrew has had an excellent year. His department has exceeded its goals in virtually every category and he has stepped up his leadership training throughout the department . . . it has been an excellent year for him and it has been a pleasure to have him as a member of my staff."

c. Mid-year review, 2008, by Jason Katz: "The department's results are excellent for the first half . . . Andrew looks on track for another excellent year."

1 d. Year-end review, 2008, by Frank Ceglar, Jr.: “Andy runs one of the best
2 run and most cost effective and efficient operations at Farmers while handling his ethical
3 and moral responsibilities to his clients, the Farmers Customers, and his client, Farmers
4 Claims.”

5 e. Mid-year review, 2009, by Bryan Murphy: “I am look [sic] for continued
6 progress as we move forward.”

7 f. Year-end review, 2009, by Bryan Murphy: “As Andy points out, he and his
8 team have done a lot in 09 and they have done it well. He is on the right path and I am
9 both pleased with where we are and also what will be accomplished . . .”

10 g. Mid-year review, 2010, by Bryan Murphy: No negative comments.

11 h. Year-end review, 2010, by Bryan Murphy: “Andy had a great year. More
12 jury trials to verdict in the history of Farmers and at a very competitive price . . . it is
13 apparent that Andy is visibly driving for that High Performance Culture.”

14 i. Mid-year review, 2011, by Bryan Murphy: “You show up and participate
15 in all the classes, our non-profit activities as well as the social aspects around our
16 leadership programs. That is invaluable and not lost on me. You do that better than
17 anyone else on the team. Thank you for that too.”

18 j. Year-end review, 2011, by Bryan Murphy: “I am happy in terms of where
19 we are with litigation and particularly the changes Andy has made at the end of the year
20 around his leadership team . . . his enthusiasm for reaching new heights is palpable . . .
21 Andy continues to evolve . . .”

22 k. Mid-year review, 2012, by Bryan Murphy: Murphy indicates that he agrees
23 with Rudnicki’s positive self-assessment.

24 l. Year-end review, 2012, by Bryan Murphy: “I believe you had a very strong
25 year within Litigation and all things legal. You have raised the bar and moved people
26 who were unable to get to the next level.”

27 m. Mid-year review, 2013, by Bryan Murphy: “Andy has his area performing
28 up to expectations and his leadership style continues to expand his circle of influence

1 within the overall claims department. I am pleased with his performance.”

2 n. Year-end review, 2013, by Bryan Murphy: “Andy continues to do a good
3 job and is now pushing on leadership data analysis and technology, and is making good
4 progress.”

5 o. Mid-year review, 2014, by Keith Daly: “At the mid-year Andy continues to
6 perform as expected and plays a key role on the Sr. Team.”

7 p. Year-end review, 2014, by Keith Daly: “Andy continues to be a valued
8 member of the Claims team, he brings a style and grace that makes our team better. His
9 department is efficient and is operating as desired . . . overall year end rating is fully
10 meeting expectations.”

11 q. Mid-year review, 2015, by Keith Daly: “At the mid-year you are success-
12 ful.”

13 r. Year-end review, 2015, by Keith Daly: Rudnicki meets all expectations.

14 s. University of Farmers list of training completed by Rudnicki: A long list of
15 mostly online training courses indicates that Rudnicki completed all of them from 2009
16 to 2016.

17 t. June 23, 2005 letter from Jason Katz to Rudnicki: The letter congratulates
18 Rudnicki on becoming vice president of claims litigation.

19 u. Performance review, 2002: Rudnicki was rated “satisfactory” or “outstand-
20 ing” in almost all categories.

21 v. March 2, 2005 letter from Martin Feinstein to Rudnicki re “2004 Discre-
22 tionary Management Incentive Program”: The letter thanks Rudnicki for his personal
23 contributions and states that he is to receive an award of \$35,000.00 under the DMIP
24 program.

25 w. April 2, 2002 letter from Martin Feinstein to Rudnicki re “2001 Discretion-
26 ary Management Incentive Program”: The letter thanks Rudnicki for his efforts and
27 work and states that he is to receive an award of \$20,000.00 under the DMIP program.

28 x. June 29, 2001 letter from Marcus Baukol to Jason Katz and general counsel

1 re “Andrew M.P. Rudnicki—Promotion”: The letter recommends that Rudnicki be
2 promoted to managing attorney for the Los Angeles legal office.

3 y. Performance review, 1999: Rudnicki met or exceeded expectations in all
4 categories. The review includes extensive positive comments.

5 z. Performance review, 1998: Rudnicki met or exceeded almost all expecta-
6 tions.

7 aa. June 20, 1997 inter-office correspondence from Stephen Price to Jason Katz
8 re “Ventura Blo—Managing Attorney (Rudnicki)”: Price recommends Rudnicki for pro-
9 motion to managing attorney of the Ventura branch legal office, which was opening
10 soon, and discusses the “outstanding” job he did for six weeks as temporary manager of
11 the problematic Sacramento office.

12 bb. July 15, 1997 inter-office correspondence from HR to Rudnicki re “Work-
13 shop—HR in Session”: The letter congratulates Rudnicki on completing the workshop.

14 cc. Performance review, 1997: Rudnicki met or exceeded all expectations.

15 dd. Undated performance review: Rudnicki met or exceeded all expectations.

16 ee. Performance résumé for Rudnicki: This letter from Marcus Baukol com-
17 mends Rudnicki for his strong performance and reflects on his accomplishments.

18 ff. Performance review, 1996: Rudnicki met or exceeded all expectations.
19 The review includes strong positive comments.

20 gg. August 19, 1996 letter from Marcus Baukol to Rudnicki: Baukol congratu-
21 lates Rudnicki on earning a spot bonus of \$2,500.00 and commends him for his dedica-
22 tion and hard work while covering for a co-worker who was on extended leave.

23 hh. February 12, 1996 letter from Marcus Baukol to Stephen Price re “Salary
24 Consideration for Attorney Andrew Rudnicki”: The letter cites a performance review
25 and recommends a salary raise for Rudnicki.

26 ii. Performance review, 1995: Rudnicki met or exceeded almost all expecta-
27 tions.

28 jj. February 15, 1995 letter from Stephen Price to Edward Morris re “Salary

1 Consideration for Attorney Andrew Rudnicki”: The letter cites a performance review
2 and recommends a salary raise for Rudnicki. It talks in some detail about Rudnicki’s
3 positive traits, positive performance, and an excellent past year from a litigation stand-
4 point.

5 kk. Performance review, 1994: A generally positive review.

6 ll. February 11, 1994 letter from Stephen Price to Edward Morris re “Perform-
7 ance/Salary Review—Andrew Rudnicki”: The letter cites a performance review and
8 recommends a salary raise for Rudnicki.

9 mm. Performance review, 1993: Rudnicki met most of his expectations.

10 nn. June 28, 1993 letter from HR to Rudnicki re “Management Development—
11 Partners in Progress”: The letter congratulates Rudnicki on completing a “Partners in
12 Progress” workshop.

13 oo. Performance review, 1992: This review includes a letter from the manager
14 that is largely positive about Rudnicki’s performance and lists his accomplishments for
15 the year.

16 pp. December 12, 1991 letter from HR Operations to Rudnicki re “Management
17 Development—Employee Relations Workshop”: The letter congratulates Rudnicki on
18 completing an “Employee Relations Workshop.”

19 qq. September 6, 1991 letter from HR Operations to Rudnicki re “Maintaining
20 Effective Discipline Workshop”: The letter congratulates Rudnicki on completing a
21 “Maintaining Effective Discipline Workshop.”

22 rr. June 21, 1991 letter from HR Operations to Rudnicki re “Management
23 Development—Financial Management at Farmers”: The letter congratulates Rudnicki
24 on completing a “Financial Management at Farmers” workshop.

25 ss. March 2, 1990 letter from HR Operations to Rudnicki re “Behavioral Lab-
26 oratory Workshop”: The letter congratulates Rudnicki on completing the first of a series
27 of “Management Development Workshops.”

28 tt. Performance review, 1989: This review includes a letter from the manager

1 that is very positive about Rudnicki's performance and lists his accomplishments during
2 the year.

3 uu. February 8, 1990 letter from Stephen Price re "Rudnicki, Andrew":
4 February 8, 1990 letter from Stephen Price re "Rudnicki, Andrew": The letter, written in
5 support of a salary raise recommendation for Rudnicki, talks about his positive perform-
6 ance, knowledge, and work ethic, among other things.

7 vv. January 2, 1990 inter-office correspondence from HR Operations to
8 Rudnicki re "Management Development—Interviewing and Selection Workshop": The
9 letter congratulates Rudnicki on completing an "Interviewing and Selection Workshop."

10 ww. August 4, 1989 letter from Stephen Price re "Rudnicki, Andrew": The let-
11 ter, in support of a pay raise recommendation for Rudnicki, documents that he will take
12 on demanding administrative and training functions, as well as maintaining his healthy
13 medical malpractice case load.

14 xx. May 12, 1989 letter from Richard Rossnagel re "Salary Recommendation":
15 The letter discusses Rudnicki as a ten-year veteran of the law firm and states that he is
16 capable of handling a broad spectrum of complicated cases and able to take cases to trial
17 on short notice and still get defense verdicts: "I fully expect that with the proper motiva-
18 tion, Mr. Rudnicki will be a positive influence and leader in the evolution of this firm."

19 yy. June, 1988 letter from John Peterson re "Andrew Rudnicki": Another letter
20 in support of a salary increase recommendation discusses Rudnicki's performance,
21 including his specific trial victories.

22 zz. May 25, 1988 letter from C.E. Nutt re "Andrew Rudnicki": The letter sup-
23 ports a salary increase recommendation for Rudnicki.

24 aaa. Performance review, 1987: This strong performance review that includes a
25 detailed letter about Rudnicki's performance, including discussion of his trial victories.

26 bbb. Performance review, 1986: A strong performance review includes a de-
27 tailed letter regarding Rudnicki's performance, including discussion of his trial victories.

28 ccc. July 29, 1986 letter from C.E. Nutt to Jason Katz re "Andrew Rudnicki":

1 This letter in support of a pay increase for Rudnicki includes a specific mention that his
2 salary is low and that attorneys with less experience are making more than he is.

3 ddd. July 22, 1986 letter from John Peterson to Charles Nutt re "Andrew
4 Rudnicki": The letter discusses Rudnicki's salary in comparison to those of other attor-
5 neys and recommends raising his salary by 13.5%.

6 eee. Performance review, 1985: This strong performance review includes a de-
7 tailed letter regarding Rudnicki's taking on trials, arbitration, many depositions, settle-
8 ment conferences, etc.

9 fff. August, 1985 letter from Charles Nutt re "Andrew Rudnicki": A letter in
10 support of a pay raise includes specific details of Rudnicki's past trials and states that
11 "he is becoming a very competent defense trial lawyer specializing in malpractice
12 cases."

13 ggg. Performance review, 1984: A strong performance review includes a de-
14 tailed letter about Rudnicki's performance and his desire to take on trial cases.

15 hhh. August, 1984 letter from J. Leavey re "Rudnicki, Andrew": The letter
16 documents approval of a 13.5% pay raise for Rudnicki.

17 iii. Performance review, 1984: A strong performance review states that
18 Rudnicki has handled six malpractice cases, is getting experience with arbitration, and
19 has tried one jury case with satisfactory verdict. "[H]e should become a very fine
20 defense lawyer specializing in the trial of malpractice areas."

21 jjj. February, 1983 letter from C.E. Nutt re "Andrew Rudnicki": This letter in
22 support of a pay raise for Rudnicki includes positive comments on his performance.

23 kkk. Performance review, 1982: A strong performance review includes a letter
24 discussing Rudnicki's solid work in arbitration matters and his eagerness for jury trial
25 experience.

26 ll. Performance review, 1981: A strong performance review states that
27 Rudnicki has made considerable progress and is gaining confidence in his ability to
28 obtain jury trial experience.

1 mmm. July, 1981 letter from Charles Nutt re “Andrew Rudnicki”: The letter com-
2 ments on Rudnicki’s strong skills and performance.

3 nnn. January, 1980 letter from Charles Nutt re “Andrew Rudnicki”: The letter
4 provides background on Rudnicki and states that he is anxious to start handling cases
5 before juries. It also states that he has the potential to develop into a good trial lawyer.

6 61. Defendants and their managers and supervisors terminated plaintiff without
7 good cause, violating the implied-in-fact contract they had with him.

8 62. As a proximate result of defendants’ willful breach of the implied-in-fact con-
9 tract not to terminate without good cause, plaintiff has suffered and continues to suffer
10 damages, including losses of earnings and benefits, in a sum according to proof.

11
12 **SEVENTH CAUSE OF ACTION**

13 **(Coerced Self-Defamation (Civil Code §§ 45, 46)—**

14 **Against Defendants Farmers Exchange, Farmers**

15 **Group, Zurich Insurance, Zurich, Zurich N.A.,**

16 **Farmers, Inc., Zurich Company, Truck Exchange,**

17 **Fire Exchange, and Does 1 to 100, Inclusive)**

18 63. The allegations set forth in paragraphs 1 through 62 are re-alleged and incor-
19 porated herein by reference.

20 64. Defendants falsely informed individuals other than plaintiff that plaintiff had
21 discriminated against women, sexually harassed a woman, and made an offensive joke
22 about lesbians. These representations constituted defamation *per se*, imputing to plain-
23 tiff a crime and/or loathsome action involving his profession.

24 65. When defendants terminated plaintiff because of the acts they alleged he com-
25 mitted or was suspected of, they knew that plaintiff would be under a strong compulsion
26 to repeat these comments to prospective employers. Plaintiff was and is under a compul-
27 sion to repeat defendants’ defamatory statements and has told others about these false
28 statements.

1 66. As a result, plaintiff has been injured in his profession and continues to be in-
2 jured in his profession. Plaintiff has sustained and continues to sustain losses of earnings
3 and other employment benefits.

4 67. As a proximate result of defendants' willful, knowing, and intentional false rep-
5 resentations about plaintiff, plaintiff has suffered and continues to suffer humiliation and
6 mental pain and anguish and other non-economic damages, all to his damage in a sum
7 according to proof.

8 68. Defendants' misconduct was committed intentionally, in a malicious, despica-
9 ble, oppressive, and fraudulent manner, entitling plaintiff to punitive damages against
10 defendants.

11
12 **EIGHTH CAUSE OF ACTION**
13 **(Wrongful Termination in Violation of Public Policy—**
14 **Against Defendants Farmers Exchange, Farmers**
15 **Group, Zurich Insurance, Zurich, Zurich N.A.,**
16 **Farmers, Inc., Zurich Company, Truck Exchange,**
17 **Fire Exchange, and Does 1 to 100, Inclusive)**

18 69. The allegations set forth in paragraphs 1 through 68 are re-alleged and incorpo-
19 rated herein by reference.

20 70. Defendants terminated plaintiff in violation of various fundamental public poli-
21 cies underlying both state and federal laws. Specifically, plaintiff was terminated in part
22 because of his protected status (*i.e.*, age, disability, gender, participating in a protected

23 [REDACTED]
24 [REDACTED]
25 [REDACTED] This action was in violation of FEHA, the California Constitution, and
26 California Labor Code section 1102.5, among other laws, and the public policies behind
27 such laws.

28 71. As a proximate result of defendants' wrongful termination of plaintiff' in viola-

1 tion of fundamental public policies, plaintiff has suffered and continues to suffer humili-
2 ation, emotional distress, and mental and physical pain and anguish, all to his damage in
3 a sum according to proof.

4 72. As a result of defendants' wrongful termination of him, plaintiff has suffered
5 general and special damages in sums according to proof.

6 73. Defendants' wrongful termination of plaintiff was done intentionally, in a mali-
7 cious, fraudulent, oppressive manner, entitling plaintiff to punitive damages.

8 74. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
9 Pursuant to Code of Civil Procedure sections 1021.5 and 1032, *et seq.*, plaintiff is enti-
10 tled to recover reasonable attorneys' fees and costs in an amount according to proof.

11
12 **NINTH CAUSE OF ACTION**

13 **(Violations of Labor Code § 1102.5, *et seq.*—Against**

14 **Defendants Farmers Exchange, Farmers Group,**

15 **Zurich Insurance, Zurich, Zurich N.A., Farmers,**

16 **Inc., Zurich Company, Truck Exchange, Fire**

17 **Exchange, and Does 1 to 100, Inclusive)**

18 75. The allegations set forth in paragraphs 1 through 74 are re-alleged and incorpo-
19 rated herein by reference.

20 76. At all relevant times, Labor Code section 1102.5 was in effect and was binding
21 on defendants. This statute prohibits defendants from retaliating against any employee,
22 including plaintiff, for raising complaints of illegality.

23 77. Plaintiff raised complaints of illegality while he worked for defendants, and de-
24 fendants retaliated against him by discriminating against him, harassing him, and taking
25 adverse employment actions, including termination, against him.

26 78. As a proximate result of defendants' willful, knowing, and intentional viola-
27 tions of Labor Code section 1102.5, plaintiff has suffered and continues to suffer humili-
28 ation, emotional distress, and mental and physical pain and anguish, all to his damage in

1 a sum according to proof.

2 79. As a result of defendants' adverse employment actions against plaintiff, plain-
3 tiff has suffered general and special damages in sums according to proof.

4 80. Defendants' misconduct was committed intentionally, in a malicious, oppres-
5 sive and fraudulent manner, entitling plaintiff to punitive damages against defendants.

6
7 **PRAYER**

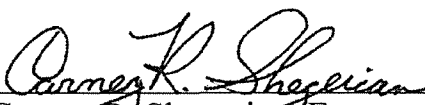
8 WHEREFORE, plaintiff, Andrew Rudnicki, prays for judgment against defendants
9 as follows:

- 10 1. For general and special damages according to proof;
11 2. For exemplary damages, according to proof;
12 3. For pre-judgment and post-judgment interest on all damages awarded;
13 4. For reasonable attorneys' fees;
14 5. For costs of suit incurred;
15 6. For such other and further relief as the Court may deem just and proper.

16
17 ADDITIONALLY, plaintiff, Andrew Rudnicki, demands trial of this matter by
18 jury. The amount demanded by plaintiff exceeds \$25,000.00 (Government Code
19 § 72055).

20
21 Dated: August 29, 2017

SHEGERIAN & ASSOCIATES, INC.

22
23 By: 
24 Carney R. Shegerian, Esq.

25 Attorneys for Plaintiff,
26 ANDREW RUDNICKI
27
28

2 **PROOF OF SERVICE**3 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

4 I am an employee in the County of Los Angeles, State of California. I am over the
5 age of 18 and not a party to the within action; my business address is 225 Santa Monica
6 Boulevard, Suite 700, Santa Monica, California 90401.

7 On August 29, 2017, I served the foregoing document, described as "**PLAINTIFF**
8 **ANDREW RUDNICKI'S FIRST AMENDED COMPLAINT FOR DAMAGES**" on
all interested parties in this action by placing a true copy thereof in a sealed envelope,
addressed as follows:

9 **Lynne C. Hermle, Esq.**
10 **Shannon B. Seekao, Esq.**
11 **ORRICK, HERRINGTON & SUTCLIFFE LLP**
12 **1000 Marsh Road**
13 **Menlo Park, California 94025-1015**

14 ☒ **(BY MAIL)** As follows:

15 ☒ I placed such envelope, with postage thereon prepaid, in the United States mail at
16 Santa Monica, California.

17 ☐ **(BY FED EX)** I placed such envelope in a designated Federal Express pick-up
18 box at Santa Monica, California.

19 ☒ I am "readily familiar" with the firm's practice of collecting and processing corre-
20 spondence for mailing. Under that practice, it would be deposited with the U.S.
21 Postal Service on that same day, with postage thereon fully prepaid, at Santa
22 Monica, California, in the ordinary course of business. I am aware that, on motion
23 of the party served, service is presumed invalid if the postal cancellation or postage
meter date is more than one day after the date of deposit for mailing in this affidavit.

24 ☐ **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to
25 the attorney at the offices of the addressee.

26 ☐ **(BY ELECTRONIC MAIL)** I sent such document via facsimile mail to the
27 number(s) noted above.

28 ☒ **(STATE)** I declare, under penalty of perjury under the laws of the State of
California, that the above is true and correct.

Executed on August 29, 2017, at Santa Monica, California.


Jose Castro