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Wendy E. Musell (State Bar No. 203507)  
Law Offices of Wendy E. Musell  
155 Montgomery Street, 9<sup>th</sup> Floor  
San Francisco, CA 94104  
Telephone: (415) 445-0146  
Facsimile: (415) 520-0920

Elisa J. Stewart (State Bar No. 219557)  
Law Offices of Elisa J. Stewart  
861 Bryant Street  
San Francisco, CA  
Telephone: (415) 552-9900  
Facsimile: (415) 552-9901

Attorneys for Plaintiff  
NOELLE HANRAHAN

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
UNLIMITED JURISDICTION  
IN AND FOR THE COUNTY OF ALAMEDA**

NOELLE HANRAHAN,  
  
Plaintiff,  
  
v.  
  
THE PACIFICA FOUNDATION; KPFA; JIM  
BENNETT, DENNIS BERNSTEIN and DOES  
1-20, inclusive.  
  
Defendants

Case No. **RG05205198**  
  
**PLAINTIFFS' FIRST AMENDED  
COMPLAINT AND DEMAND FOR  
JURY TRIAL**  
  
Sexual Harassment;  
Failure To Prevent Sexual Harassment;  
Employment Discrimination: Sex;  
Employment Discrimination: Retaliation;  
Encouraging Violation of the FEHA;  
Negligent Hiring, Retention, and  
Supervision;  
Wrongful Termination In Violation of  
Public Policy;  
Bus. & Prof. Code Sec. 17200;  
Negligent Infliction of Emotional Distress;  
Intentional Infliction of Emotional Distress

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**COMPLAINT**

Now comes PLAINTIFF in the above styled action, and files this First Amended Complaint and further shows the Court as follows:

**PARTIES**

1. PLAINTIFF, NOELLE HANRAHAN, is an adult female and resident of San Francisco, California, working for Defendants in the Alameda County, California.

2. Plaintiff is informed and believes and thereon alleges that defendant THE PACIFICA FOUNDATION d/b/a/ KPFA (Hereinafter, "PACIFICA FOUNDATION") is a non-profit foundation and media company organized and authorized to do business in the State of California, with principal places of business in Alameda County. Defendant PACIFICA FOUNDATION employs more than five employees in this State, within the meaning of the Fair Employment and Housing Act ("FEHA"), California Government Code section 12926.

3. Plaintiff is informed and believes that KPFA RADIO is a wholly owned and operated subsidiary of the PACIFICA FOUNDATION, whose principal place of business is Alameda County. KPFA and PACIFICA FOUNDATION employ more than five employees in this State and are engaged in interstate commerce within the meaning of California Government Code section 12926.

4. DENNIS BERNSTEIN ("BERNSTEIN") is an employee of KPFA and PACIFICA FOUNDATION. He resides in Alameda County, California. At all relevant times, BERNSTEIN was a supervisor, as that term is defined under the FEHA, at KPFA and PACIFICA FOUNDATION where Plaintiff worked. Defendants KPFA and PACIFICA FOUNDATION are therefore strictly liable for the actions of BERNSTEIN.

5. Plaintiff is informed and believes that JIM BENNETT ("BENNETT") is an



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3 the minimum required by this Court. Accordingly, this Court has jurisdiction over the claims in this  
4 matter.

5 9. Given that the various events underlying this lawsuit occurred in the County of  
6 Alameda and Defendants principal place of business is in Alameda County, venue is proper in this  
7 Court.

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10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 10. In accordance with the appropriate regulations, codes, and statutes, including but not  
12 limited to the Government Code, the plaintiff has exhausted her administrative remedies by filing  
13 timely complaints with the California Department of Fair Employment and Housing (“DFEH”).  
14 Plaintiff received the “right to sue” letters as to each of the Defendants identified herein from the  
15 DFEH dated March 29, 2004.

16 11. All of the acts alleged herein were in the nature of a continuing violation and/or  
17 continuing torts. All of the misconduct alleged herein was part of the same continuous pattern of  
18 discrimination and harassing practices, and at least some of the misconduct occurred within one  
19 year of the date plaintiff filed her claims with the DFEH.

20 **GENERAL ALLEGATIONS**

21 12. Prior to and during the Plaintiff’s term of employment at KPFA and PACIFICA  
22 FOUNDATION, Defendants had an entirely ineffective policy against discrimination based on sex,  
23 discrimination based on gender, sexual harassment, and workplace violence. Part of its  
24 ineffectiveness stemmed from the fact that the policy, if it existed at all, was not disseminated  
25 properly, even-handedly or efficiently to company employees. There was, and remains, no realistic,  
26 effective mechanism for training employees, including management, in the recognition, prevention,

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3 or reporting of unlawful discrimination and/or harassment. There was, and remains, no effective  
4 procedure for reporting, investigating, or addressing complaints of discrimination and/or harassment  
5 and workplace violence. To the extent that procedures do exist, they are not followed.

6 13. Plaintiff is a woman, a protected class under the Fair Employment and Housing Act  
7 “FEHA,” Cal. Govt. Code § 12940, *et. seq.*

8 14. Plaintiff has received numerous awards for her excellence in radio and television  
9 journalism, including receiving three “Golden Reel” awards, from the National Federation of  
10 Community Broadcasters.

11 15. On or about July 1997, Plaintiff was hired as co-host of Flashpoints, a radio program  
12 broadcast by KPFA Radio. During a live on the air interview where Plaintiff was interviewing an  
13 individual with Gulf War syndrome, DENNIS BERNSTEIN pressed the cough button, which mutes  
14 the radio announcers from being heard on the air, and in an effort to intimidate Plaintiff based on  
15 her sex, screamed at Plaintiff, “don’t you dare ask another fucking question.” Even though  
16 BERNSTEIN was made aware that a family member of Plaintiff suffers from symptoms of Gulf  
17 War syndrome, and she had significant personal and professional information on the subject,  
18 BERNSTEIN prohibited Plaintiff from performing her job or asking further questions of the  
19 interviewee. As a result of BERNSTEIN’s abusive and discriminatory behavior, Plaintiff stepped  
20 down as a co-host of Flashpoints.

21 16. On or about 1999, Plaintiff was a member of the KPFA/PACIFICA FOUNDATION  
22 Program Council as a community representative for nine months.

23 17. On or about July 2000, Plaintiff was hired as a temporary Reporter/Producer for  
24 approximately twenty (20) hours per week for the radio program on Flashpoints broadcast on  
25 KPFA, PACIFICA FOUNDATION. BERNSTEIN was the co-host of Flashpoints. The Flashpoints  
26 program broadcasts in the Bay Area, a major urban center, in a prime “drive-time” time slot, (daily  
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3 from 5:00 p.m. to 6:00 p.m.). Plaintiff was informed and believes and thereupon alleges that prior  
4 to Plaintiff being hired as the co-host of Flashpoints, BERNSTEIN sexually harassed,  
5 discriminated, and perpetrated other acts of workplace violence against female employees of KPFA  
6 and PACIFICA FOUNDATION based on their sex, causing the female employees to resign or be  
7 otherwise forced out of their positions. Plaintiff is also informed and believes and thereupon alleges  
8 that KPFA and PACIFICA FOUNDATION was informed or had reason to know of these prior  
9 incidents of sexual harassment, discrimination and workplace violence and refused to take any  
10 remedial measures or to effectively discipline BERNSTEIN for his behavior. Plaintiff is also  
11 informed and believes and thereupon alleges that BERNSTEIN has committed assault and battery  
12 on female and male employees of KPFA and PACIFICA FOUNDATION and was not effectively  
13 disciplined as a result of these actions.

14 18. On or about July 2000, prior to Plaintiff taking the permanent position of Associate  
15 Producer to the Flashpoints radio program, Plaintiff was informed by two donors of KPFA and  
16 PACIFICA FOUNDATION that BERNSTEIN had been informed repeatedly that he cannot  
17 continue to harass and abuse female KPFA and PACIFICA FOUNDATION employees. Plaintiff  
18 also received these same assurances from Acting Manager JIM BENNETT. On or about December  
19 2000, Plaintiff was hired as an Associate Producer of Flashpoints. Plaintiff felt that she was more  
20 than qualified for the position and that the radio network fit her documentary investigative reporting  
21 perfectly and, given the “drive time” broadcasting time spot in a major urban center, her career  
22 opportunities would be greatly enhanced by taking the position.

23 19. On or about January 2001, Aaron Glance and BERNSTEIN got into a fist fight in the  
24 KPFA station. BERNSTEIN was not effectively disciplined for the violence in the workplace and  
25 continued to produce the Flashpoints radio program without interruption.

26 20. On or about the Summer 2001, BERNSTEIN warned Plaintiff that he has “beaten”  
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3 sexual harassment claims before by a prior female employee of KPFA and PACIFICA  
4 FOUNDATION and that counsel provided to him in relation to his employment with KPFA and  
5 PACIFICA FOUNDATION, has coached him regarding how to beat any sexual harassment  
6 complaint.

7         21.     On or about August 2001, Plaintiff was transferred to the position of co-host of the  
8 Flashpoints radio program.

9         22.     On or about October 23, 2001, BERNSTEIN informed Plaintiff, “I’m going to  
10 torture you until you quit or I force you to leave.” He also informed Plaintiff that she “would not be  
11 given any airtime on the Flashpoints program” and that “you will do as you are told. You have no  
12 right to have anything on the air. You will take what I will give you.” Plaintiff is informed and  
13 believes, and thereupon alleges that BERNSTEIN took these actions against Plaintiff based on her  
14 sex.

15         23.     Plaintiff immediately informed General Manager of KPFA, PACIFICA  
16 FOUNDATION, JIM BENNETT of BERNSTEIN’s actions and that she believed the actions were  
17 the result of sexual harassment and sex discrimination. Rather than investigate, or take any  
18 remedial actions, BENNETT, KPFA and PACIFICA FOUNDATION refused to take any actions to  
19 address BERNSTEIN’s abusive behavior. Instead, BENNETT discouraged Plaintiff from pursuing  
20 any redress stating, “if you file a grievance it will only get a lot worse.” BENNETT also stated to  
21 Plaintiff in response to her complaints, “you will be like a cockroach, you will survive this.”

22         24.     On or about October- November 2001, Plaintiff again requested that KPFA and  
23 PACIFIC FOUNDATION address her complaints regarding sex discrimination and sexual  
24 harassment. There was no response by KPFA and PACIFIC FOUNDATION to her complaints.

25         25.     On or about October 2001, after Plaintiff repeatedly complained of sexual  
26 harassment and sex discrimination, KPFA and PACIFIC FOUNDATION hired Leslie Kean to serve  
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3 as a “buffer” between Plaintiff and BERNSTEIN, and KPFA and PACIFICA FOUNDATION  
4 management. Plaintiff was never informed that Ms. Kean was hired by KPFA and PACIFICA  
5 FOUNDATION, and was not informed of her role as a “buffer” for BERNSTEIN at KPFA and  
6 PACIFICA FOUNDATION.

7         26. After Plaintiff made her complaint of sexual harassment and sex discrimination,  
8 BERNSTEIN refused to speak to Plaintiff regarding important work related issues the Flashpoints  
9 radio program that she co-hosted, including but not limited to which guests and topics were being  
10 scheduled on a daily basis for the Flashpoints program. When Plaintiff informed BERNSTEIN of  
11 the stories and guests she was working on, BERNSTEIN would regularly undermine her work by  
12 scheduling the same guests and same story on the same day as Plaintiff. BENNETT, KPFA and  
13 PACIFICA FOUNDATION management acknowledged that BERNSTEIN was refusing to inform  
14 Plaintiff of information that was necessary in order for her to perform her job. However,  
15 BENNETT, KPFA and PACIFICA FOUNDATION failed to take adequate remedial measures to  
16 address the problem. Plaintiff is informed and believes and thereupon alleges that BERNSTEIN’s  
17 behavior was a part of a consistent plan to force Plaintiff to resign from her position based on her  
18 sex.

19         27. On or about October 2001, Plaintiff discovered that a master interview tape of an  
20 hour long interview regarding the domestic violence homicide of Clare Joyce Tempongko was  
21 erased. Plaintiff immediately complained to JIM BENNETT, as he served as the senior engineer as  
22 well as the Acting Manager of KPFA and PACIFICA FOUNDATION. As a result, the work was  
23 completely lost and Plaintiff was required to redo the interview again. BENNETT stated that the  
24 distinctive sound on the tape is from a degaussing machine that is a bulk eraser machine, meaning  
25 that the tape was intentionally erased. The tape was locked in an office that Plaintiff shared with  
26 BERNSTEIN and only Plaintiff, BERNSTEIN, BENNETT, and a producer of Flashpoints had the  
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3 key to the office. Plaintiff requested that BENNETT, KPFA, and PACIFICA FOUNDATION take  
4 steps to identify who erased the tape, and to take remedial measures to ensure her work was not  
5 destroyed again. BENNETT, KPFA, and PACIFICA FOUNDATION failed to take any actions to  
6 address the destruction of Plaintiff's work. Plaintiff is informed and believes that the taped  
7 interview was erased in an attempt to sabotage her work and force her to resign from her  
8 employment, based on her sex.

9         28. On or about October 2001, Plaintiff again complained to JIM BENNETT, asking  
10 him to intervene and address her complaints of sexual harassment and sex discrimination. She also  
11 stated that she felt that BERNSTEIN was sabotaging her work in an effort to make good on his  
12 threat to "torture her until she quits or resigns," based on her sex. BENNETT, KPFA and  
13 PACIFICA FOUNDATION refused to take any action in response to Plaintiff's complaints.

14         29. In response to plaintiff's complaints, on or about November 2001, Tomas Moran, a  
15 member of the PACIFICA FOUNDATION National Board split the Flashpoints radio program in  
16 two pieces, with DENNIS BERNSTEIN allotted 60% of the airtime and Plaintiff demoted to only  
17 40% of the Flashpoints program. Moran's actions were ratified by BENNETT, KPFA and  
18 PACIFIC FOUNDATION. Mr. Moran informed Plaintiff that he has tried on two separate  
19 occasions to get KPFA and PACIFICA FOUNDATION management to require that BERNSTEIN  
20 receive psychological counseling in order to address BERNSTEIN's abusive behavior in the  
21 workplace.

22         30. On or about November 14, 2001, Plaintiff again made a request to JIM BENNETT,  
23 KPFA and PACIFICA FOUNDATION management that they investigate her complaints of sexual  
24 harassment and sex discrimination. JIM BENNETT responded, on behalf of KPFA and PACIFICA  
25 FOUNDATION management that she should speak with Thomas Moran as "a mediator" of the  
26 situation. Plaintiff responded that speaking to Mr. Moran is not a substitute for management  
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3 investigation and action in response to her complaints of sexual harassment and sex discrimination.

4 31. On or about November 20, 2001, DENNIS BERNSTEIN interrupted regularly  
5 scheduled Flashpoints programming and attacked Plaintiff, informing radio listeners that she had  
6 made false allegations against him and was trying to take over the radio program. BERNSTEIN  
7 asked that listeners call into the show and inform KPFA and PACIFICA FOUNDATION to remove  
8 Plaintiff as a co-host of Flashpoints, and to call KPFA and PACIFICA FOUNDATION  
9 management in support of BERNSTEIN.

10 32. As a result of BERNSTEIN's actions, he was suspended for a period of ten (10)  
11 days. However, BENNETT, KPFA and PACIFICA RADIO, without explanation, allowed  
12 BERNSTEIN to return to his position within six (6) days without finishing his suspension. After  
13 BERNSTEIN returned to work, he continued to harass Plaintiff based on her sex.

14 33. From October 2001, until Plaintiff was removed from the Flashpoints radio program  
15 as a co-host, BERNSTEIN attempted to undermine her work, and to force Plaintiff to resign based  
16 on her sex.

17 34. On or about December 4, 2001, Ms. Hanrahan informed KPFA and PACIFICA  
18 FOUNDATION that they have an obligation to investigate her complaints of sexual harassment and  
19 discrimination and take immediate and appropriate action to address BERNSTEIN's discriminatory  
20 conduct. KPFA and PACIFICA FOUNDATION management failed to take any steps to investigate  
21 Plaintiff's complaints and instead informed her that they do not have a human resources specialist  
22 on staff or the staff time to address her complaints.

23 35. On or about January 2, 2002, KPFA and PACIFICA FOUNDATION management  
24 without Plaintiff's consent met with a third party, Barbara Lubin, who provides substantial  
25 donations to BERNSTEIN, to discuss Plaintiff's employment. Ms. Lubin is not employed by KPFA  
26 or PACIFICA FOUNDATION and was not authorized by Plaintiff to have access to information in  
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3 Plaintiff's personnel file, which is protected by Plaintiff's right to privacy, as guaranteed by the  
4 California Constitution, Art. I., Sec. I. Despite Ms. Lubin's affiliation with BERNSTEIN and  
5 obvious conflict of interest, KPFA and PACIFICA FOUNDATION allowed Ms. Lubin to hire a  
6 moderator to address Plaintiff's continued employment at KPFA and PACIFICA FOUNDATION.  
7 Plaintiff was subsequently informed by the moderator, KPFA and PACIFICA FOUNDATION  
8 management that she was barred from discussing her complaints of sexual harassment and  
9 discrimination at the moderated discussions regarding her continued employment at KPFA and  
10 PACIFICA FOUNDATION.

11 36. On or about January 2002, Plaintiff discussed her complaints of sexual harassment  
12 and discrimination with local and national KPFA and PACIFICA FOUNDATION board member  
13 Carol Spooner. Plaintiff was informed by Ms. Spooner that "it does not matter if you are right or  
14 wrong, you are going to lose." She was also informed by Ms. Spooner to retain an attorney in order  
15 to address her complaints.

16 37. On or about February 4, 2002, when Plaintiff again complained that the moderated  
17 discussions about her employment did not address her complaints of sexual harassment and  
18 discrimination, as well as violence in the workplace, she was threatened by KPFA and PACIFICA  
19 FOUNDATION management with discipline up to and including termination. The moderator  
20 refused to discuss Plaintiff's complaints of sexual harassment and discrimination, refused to inform  
21 Plaintiff who will be at the meetings, refused to disclose which members of management she had  
22 spoken to, and refused to allow Plaintiff to bring an observer or union representative to the  
23 moderated meetings.

24 38. On or about January 2002, Plaintiff was crying in the lunch room regarding the  
25 discriminatory treatment by BERNSTEIN and the failure of KPFA and PACIFICA FOUNDATION  
26 to address her complaints. Plaintiff discussed her complaints with co-workers, and the prior  
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3 complaints of female employees of KPFA and PACIFICA FOUNDATION of sex discrimination  
4 and sexual harassment made against DENNIS BERNSTEIN, and asked why KPFA and PACIFICA  
5 FOUNDATION continued to refuse to take any action to ensure female employees in the future are  
6 not similarly discriminated against.

7 39. On or about February 6 through February 9, 2002, Plaintiff repeatedly requested to  
8 meet with KPFA and PACIFICA FOUNDATION management to address her complaints of sexual  
9 harassment and discrimination. JIM BENNETT responded that “we are too busy” to address  
10 Plaintiff’s complaints.

11 40. On or about February 9, 2002, without Plaintiff’s knowledge or consent, BENNETT,  
12 Assistant Manager Phil Osegueda, and third party donors of KPFA and PACIFICA  
13 FOUNDATION discussed whether Plaintiff should continue to be employed with KPFA and  
14 PACIFICA FOUNDATION, given her complaints. On or about February 11, 2002, KPFA and  
15 PACIFICA FOUNDATION then stated to Plaintiff as a resolution of her complaints of sexual  
16 harassment, sex discrimination, workplace violence, and retaliation, Plaintiff would be terminated  
17 from the position of co-host of Flashpoints. In exchange for dropping all of her complaints of  
18 sexual harassment, sex discrimination, workplace violence, and retaliation, she would then be  
19 placed in a less desirable position as producer of a radio program in an undisclosed and less  
20 desirable time slot, for which KPFA and PACIFICA FOUNDATION admitted that it had not  
21 approved the proposed program. Plaintiff requested that KPFA and PACIFICA FOUNDATION  
22 place the “offer” in writing. KPFA and PACIFICA FOUNDATION refused to place the offer in  
23 writing, refused to definitively state what time the program would be scheduled, what the content of  
24 the program would be, where the program would be produced, or any other substantive details  
25 regarding the “offer.” However, according to the terms of the offer presented to Plaintiff,  
26 BERNSTEIN would remain as co-host of Flashpoints. KPFA and PACIFICA FOUNDATION did

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3 not take any other remedial measures to address Plaintiff's complaints.

4 41. On or about February 11, 2002, Plaintiff was prohibited by BERNSTEIN, KPFA and  
5 PACIFICA FOUNDATION management from attending an editorial meeting to discuss the content  
6 of the Flashpoints radio program, for which Plaintiff was a co-host.

7 42. On or about February 11, 2002, at 2:00 p.m., BENNETT informed Plaintiff that  
8 "there are no disciplinary complaints against you, but if you persist in your grievances, there will  
9 be." BENNETT again informed Plaintiff that KPFA and PACIFICA FOUNDATION does not have  
10 the resources or staff to investigate her complaints. At 3:50 p.m. that day, Plaintiff was placed on  
11 an involuntary four (4) day administrative leave when she asked JIM BENNETT why she was not  
12 allowed to participate in show preparation including the editorial meeting for that day's Flashpoints  
13 show, which began at 5 p.m. Plaintiff pointed out to BENNETT that her job responsibilities include  
14 hosting the show on air and creating content for the show, necessitating that she be allowed to  
15 attend the editorial meeting about the show's content and be allowed to prepare for the show.  
16 Further, after Plaintiff's complaints, BENNETT, KPFA and PACIFICA FOUNDATION solicited  
17 negative information about Plaintiff from her co-workers in an attempt to justify their disciplinary  
18 actions against Plaintiff.

19 43. On or about February 15, 2002, Plaintiff received a "warning letter" for her  
20 complaints to other employees that she is being discriminated against, including crying in the lunch  
21 room about the discriminatory behavior of BERNSTEIN against herself and other female employees  
22 of KPFA and PACIFICA FOUNDATION. This was the first time in Plaintiff's employment that  
23 Plaintiff was made aware that there was any form of discipline or complaints against her.

24 44. On or about February through March 2002, KPFA and PACIFICA FOUNDATION  
25 management changed the locks on the doors so that Plaintiff could not come to work, or get her  
26 belongings. Plaintiff was informed and believes and thereupon alleges that KPFA and PACIFICA  
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3 FOUNDATION management informed third parties and donors of KPFA and PACIFICA  
4 FOUNDATION that she stole something from KPFA and that she attacked a co-worker as the  
5 reasons why she was banned from the KPFA station. Neither of these statements was true.

6 45. On or about February 11, 2002 until September 15, 2002, Plaintiff was placed on  
7 involuntary leave and prohibited from performing her job. She was also banned from the KPFA  
8 building. No actions were taken by KPFA and PACIFICA to take any remedial measures to address  
9 Plaintiff's complaints of sexual harassment, sex discrimination or workplace violence.

10 46. On or about March 2002, Plaintiff met with BENNETT and a union representative.  
11 BENNETT inform Plaintiff that she must "apologize" for making complaints of sexual harassment,  
12 sex discrimination, and work place violence, as well as violations of her rights under the California  
13 Labor Code. In response, Plaintiff again requested that BENNETT, KPFA and PACIFICA  
14 FOUNDATION investigate her complaints and take all necessary remedial measures. She also  
15 requested that she be allowed to return to work, pointing out that KPFA and PACIFICA  
16 FOUNDATION's actions were retaliatory in nature.

17 47. On or about March 7, 2002, Plaintiff sent a memo to the PACIFICA FOUNDATION  
18 National Board of Directors asking the Board of Directors address her complaints of sexual  
19 harassment and discrimination and stated that it was retaliatory to ban her from the workplace for  
20 making these complaints.

21 48. On or about April 2002, Plaintiff met with management from the PACIFICA  
22 FOUNDATION national office. She was informed that PACIFICA FOUNDATION was  
23 "investigating" her complaints. Plaintiff was never informed of the results of the "investigation," if  
24 one was conducted. No actions are taken to return her to work. No disciplinary actions were taken  
25 against BERNSTEIN.

26 49. On or about May 2002, KPFA and PACIFICA FOUNDATION hired Barbara Bryant  
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3 to “investigate” her complaints of sexual harassment and sex discrimination. KPFA and PACIFICA  
4 FOUNDATION refused to inform Plaintiff the scope of the investigation, the findings of the  
5 investigation, if any, or provide her with a copy or a summary of the investigative report.

6 50. On or about May 2002, Plaintiff met with Leslie Cagan, national board chair of  
7 PACIFICA FOUNDATION and requested that her complaints of sexual harassment, sex  
8 discrimination and workplace violence be addressed and that she be returned to work.

9 51. On or about May 2002, Plaintiff received a “Golden Reel” national award for  
10 excellence in journalism. After accepting the award, Plaintiff met with management of PACIFICA  
11 FOUNDATION in Washington D.C. to discuss her complaints of sexual harassment and sex  
12 discrimination and complaints about violence in the workplace. During that meeting, Plaintiff was  
13 informed by Associate Director of PACIFICA FOUNDATION that BERNSTEIN demanded that  
14 she be banned from the KPFA building, or he would sue KPFA and PACIFICA FOUNDATION.

15 52. On or about August 30, 2002, KPFA and PACIFICA FOUNDATION sent Plaintiff a  
16 letter stating that she will receive “no new assignment” and that her involuntary leave would end.

17 53. On or about September 15, 2002, Plaintiff’s pay was ceased.

18 54. On or about April 2003, BENNETT falsely informed the co-host for “Democracy  
19 Now” radio show that Plaintiff is “violent” and that is why she was banned from KPFA.

20 55. On or about May 2005, KPFA and PACIFICA FOUNDATION ended Plaintiff’s  
21 health care benefits.

22 56. Plaintiff was informed and believes that other female employees, as well as  
23 employees of member stations of PACIFICA FOUNDATION and KPFA complained that  
24 BERNSTEIN was violent in the workplace, discriminated against women, and perpetuated sexual  
25 harassment. Plaintiff was also informed and believes that other male employees of PACIFICA  
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3 FOUNDATION and KPFA perpetuated acts of violence at KPFA, and that female employees of  
4 KPFA complained of such acts of violence, demanding that KPFA and PACIFICA FOUNDATION  
5 take remedial measures to ensure that their workplace was free of violence, and discrimination. No  
6 effective remedial measures were taken by PACIFICA FOUNDATION and KPFA to address these  
7 complaints.

8 57. Plaintiff is informed and believes and thereupon alleges that male employees of  
9 PACIFICA FOUNDATION and KPFA have engaged in workplace violence, including but not  
10 limited to punching other employees, throwing furniture, and threatening violence but no remedial  
11 measures are taken against the male employees to address the violence, even though PACIFICA  
12 FOUNDATION and KPFA profess to have a “zero policy” against workplace violence.

13 58. Plaintiff is informed and believes and thereupon alleges that on or about May 2005,  
14 that due to the complaints against BERNSTEIN for discrimination and harassment, he will be  
15 allowed to continue working from a private studio that is being created for BERNSTEIN’s usage.  
16 No other remedial measures were taken to address the complaints of violence and sexual harassment  
17 and sex discrimination by BERNSTEIN.

18 59. Plaintiff is informed and believes and thereupon alleges that at least four female  
19 employees have complained of sexual harassment and sex discrimination at KPFA and PACIFICA  
20 FOUNDATION by management of KPFA and PACIFICA FOUNDATION. However, to date,  
21 KPFA and PACIFICA FOUNDATION has refused to adequately investigate and address the  
22 complaints of sexual harassment and sex discrimination.

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24 **FIRST CLAIM FOR RELIEF- SEXUAL HARASSMENT**  
25 **(CAL. GOV. CODE §§ 12940, ET SEQ., SEXUAL HARASSMENT)**  
26 **(AGAINST DEFENDANTS PACIFICA FOUNDATION, KPFA, JIM BENNETT, DENNIS**  
27 **BERNSTEIN and DOES 1-20)**

28 60. Plaintiff hereby incorporates paragraph 1 through 59 as though fully set forth herein.

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Plaintiff also incorporates by reference each and every other paragraph of this Complaint except those that are inconsistent with a cause of action for sexual harassment in violation of the FEHA.

61. At all times herein mentioned, Government Code § 12940 *et seq.* was in full force and effect and was binding upon Defendants. Said sections require DEFENDANTS to refrain from discriminating against and harassing an employee on the basis of her sex or gender. At all times herein mentioned, Plaintiff was an employee within the meaning and scope of the FEHA, Cal. Govt. Code § 12926(c), and as such, Plaintiff had the right to maintain her employment without experiencing discrimination on the basis of her sex or gender. Within the time provided by law, PLAINTIFF made complaints to the California Department of Fair Employment and Housing (DFEH) and received a “right to sue” notice.

62. The aforementioned harassment was and remained sufficiently severe and/or pervasive to alter the conditions of Plaintiff’s employment and created a hostile work environment. The unwelcome sexual harassment by Defendants created an oppressive, hostile, intimidating and/or offensive work environment for the Plaintiff and interfered with the emotional well being of Plaintiff and her ability to perform her job duties.

63. The misconduct of Defendants, and each of them, which constitutes sexual harassment of females in general, and in particular Plaintiff, includes but is not limited to the facts alleged in each paragraph of this Complaint.

64. BERNSTEIN’S unlawful conduct at work was open and notorious. BERNSTEIN’s prior harassing discriminatory conduct towards women was so egregious that before Plaintiff was hired she was promised that BERNSTEIN would not continue to be abusive to women. Prior to Plaintiff, several complaints by female employees of KPFA and PACIFICA FOUNDATION were made regarding BERNSTEIN’s sexual harassment of female employees, discrimination based on sex and acts of workplace violence. KPFA and PACIFICA FOUNDATION management failed to

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3 take adequate remedial steps to ensure that female employees, including Plaintiff, would not be  
4 subjected to continued sexual harassment and sex discrimination by BERNSTEIN.

5         65. Plaintiff is informed, believes and thereon alleges that KPFA and PACIFICA  
6 FOUNDATION failed to comply with their statutory duty under the FEHA to take all reasonable  
7 and necessary steps to prevent sexual harassment from occurring and to eliminate sexual harassment  
8 from the workplace, including but not limited to (a) failing to have an ineffective policy regarding  
9 workplace harassment; (b) failing to have an effective procedure for addressing or investigating  
10 complaints of harassment; (c) failing to effectively implement any procedure it may have had for  
11 investigating complaints of harassment; (d) failing to adequately investigate Plaintiff's complaints,  
12 despite her numerous complaints to KPFA management, BENNETT, PACIFICA FOUNDATION  
13 management and Board members; and (e) failing to appropriately train its employees. KPFA and  
14 PACIFICA FOUNDATION knew or should have known about the unwelcome and harassing  
15 conduct toward Plaintiff and were remiss in failing to take immediate and appropriate corrective  
16 action. KPFA and PACIFICA FOUNDATION are also strictly liable for the unlawful conduct of its  
17 supervisors.

18         66. The aforementioned conduct of DEFENDANTS constitutes a continuing violation of  
19 Plaintiff's rights from the first act to the latest action.

20         67. The aforementioned harassment and discrimination against Plaintiff in the terms,  
21 conditions and /or privileges of employment on the basis of her sex and gender constitutes an  
22 unlawful employment practice and is strictly prohibited under the FEHA, Cal. Govt. Code §  
23 12940(j). The Defendants, and each of them, by refusing to take action to abate the offensive and  
24 continuing discriminatory and/or harassing conduct of each of the other Defendants, acted and/or  
25 failed to act and /or attempted to act in such a way as to aid, abet, incite, compel or coerce each of  
26 the other Defendants in doing acts prohibited by the FEHA, as alleged above.

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68. As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this court, the precise amount to be proven at trial.

69. As a direct and proximate result of the harassment of Plaintiff and hostile and offensive work environment, as described above, the Plaintiff has incurred, and will continue to incur medical expenses, loss of deferred compensation, benefits, earning capacity, wages, opportunities for employment and advancement, loss of professional reputation, and work experience, all to her damage in an amount according to proof.

70. As a further direct and proximate result of Defendants' violation of the FEHA, Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and conditions of her employment relationship with Defendants, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided by the FEHA, Cal. Govt. Code § 12965(b).

71. Plaintiff is informed and believes and thereon alleges that the conduct of DEFENDANTS was grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or unmindful of obligations to PLAINTIFF and/or exhibits that entire want of care which would rise to the presumption of conscious indifference to the consequences so as to warrant the imposition of punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which Defendants are all liable to Plaintiff. Defendants, and each of them either intentionally personally engaged in such outrageous misconduct, as alleged herein, or had advance knowledge of the harassing, discriminatory conduct of the other Defendants and nevertheless failed to take action to abate the wrongful conduct and continue to employ the offenders with conscious disregard of the

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3 rights and safety of the Plaintiff and other employees, or otherwise authorized or ratified the  
4 wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or otherwise incited  
5 each of the other Defendants into doing acts forbidden by the FEHA, as alleged herein. As a result,  
6 the Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

7 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth below.

8 **SECOND CLAIM FOR RELIEF**  
9 **FAILURE TO PREVENT SEXUAL HARASSMENT**  
10 **(CAL. GOV. CODE § 12940(i), (j)(1))**  
11 **(AGAINST DEFENDANTS KPFA, PACIFICA FOUNDATION, and DOES 1-20)**

12 72. Plaintiff incorporates paragraph 1 through 71 as though fully set forth herein.

13 Plaintiff also incorporates by reference each and every other paragraph of this Complaint except  
14 those that are inconsistent with a cause of action for failure to prevent sexual harassment in  
15 violation of the FEHA.

16 73. Defendants' conduct as alleged in this Complaint violates the California Fair  
17 Employment and Housing Act, Government Code § 12940, *et seq.*, prohibiting workplace  
18 harassment based on sex and/ or gender.

19 74. California Government Code § 12940(i) requires an employer to take all reasonable  
20 steps necessary to prevent harassment from occurring.

21 75. Plaintiff is informed, believes and thereon alleges that KPFA and PACIFICA  
22 FOUNDATION (a) had an ineffective policy regarding workplace harassment; (b) had no effective  
23 procedure for addressing or investigating complaints of harassment; (c) failed to effectively  
24 implement any procedure it may have had for investigating complaints of harassment; (d) did not  
25 adequately investigate Plaintiff's complaints; and (e) failed to appropriately train its employees.

26 KPFA and PACIFICA FOUNDATION knew or should have known about the unwelcome and  
27 harassing conduct toward Plaintiff and were remiss in failing to take immediate and appropriate  
28 corrective action. KPFA and PACIFICA FOUNDATION are also strictly liable for the unlawful

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3 conduct of its supervisors.

4 76. Plaintiff repeatedly made KPFA and PACIFICA FOUNDATION aware about the  
5 misconduct described in this complaint. KPFA and PACIFICA FOUNDATION did not take  
6 seriously, or ignored, Plaintiff's statements which made them aware of BERNSTEIN's unlawful  
7 conduct. KPFA and PACIFICA FOUNDATION failed to take immediate and effective steps to  
8 conduct a fair, impartial and comprehensive investigation of the incidents.

9 77. In doing the acts and omissions set forth above, Defendants directly harassed  
10 Plaintiff, failed to take immediate and appropriate corrective action to stop the harassment reported  
11 by Plaintiff, and failed to prevent the harassment from occurring, thereby violating Government  
12 Code § 12940(i).

13 78. As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has  
14 suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and  
15 discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this  
16 court, the precise amount to be proven at trial.

17 79. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants  
18 were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or  
19 unmindful of obligations to Plaintiff and/or exhibits that entire want of care which would rise to the  
20 presumption of conscious indifference to the consequences so as to warrant the imposition of  
21 punitive damages in an amount sufficient to punish, penalize or deter KPFA and PACIFICA  
22 FOUNDATION and the individuals, for which DEFENDANTS are all liable to PLAINTIFF.

23 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS as set forth below.

24 **THIRD CLAIM FOR RELIEF- EMPLOYMENT DISCRIMINATION: SEX**  
25 **(CAL. GOV. CODE §§ 12940, ET SEQ., DISPARATE TREATMENT)**  
26 **(AGAINST DEFENDANTS KPFA and PACIFICA FOUNDATION and DOES 1-20)**

27 80. Plaintiff incorporates by reference paragraphs 1 through 79 as though fully set forth

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3 herein. Plaintiff also incorporates by reference each and every other paragraph of this Complaint  
4 except those that are inconsistent with a cause of action for sex discrimination in violation of the  
5 FEHA.

6 81. At all times herein mentioned, California Government Code §12940, *et seq.*, was in  
7 full force and effect and was binding upon Defendants. Said sections require Defendants to refrain  
8 from discriminating against an employee because of gender or sex, among other things. Within the  
9 time provided by law, Plaintiff made a complaint to the California Department of Fair Employment  
10 and Housing ("DFEH").

11 82. At all times herein mentioned, Plaintiff was an employee within the meaning and  
12 scope of the FEHA, Cal. Govt. Code § 12926(c) and, as such, Plaintiff had the right to maintain her  
13 employment without experiencing discrimination on the basis of her sex or gender.

14 83. At all times herein mentioned, Defendants were employers, or agents of employers,  
15 within the meaning of the FEHA, Cal. Govt. Code § 12926(d) and, as such, are barred from  
16 discriminating in employment decisions on the basis of sex or gender.

17 84. From July 2000, and continuously thereafter until she was terminated from her  
18 employment, Defendants and each of them maintained and required Plaintiff to work in an  
19 environment which was, and continues to be discriminatory to females in general and in particular  
20 to Plaintiff. Plaintiff alleges that similarly situated male employees were not subjected to the same  
21 treatment.

22 85. Defendants violated California Government Code §12940(a) by discriminating  
23 against Plaintiff based on her gender. Specifically, Plaintiff was subjected to disparate treatment by  
24 Defendants in the terms and conditions of employment, including when Plaintiff was subjected to  
25 sexual harassment and sex discrimination, workplace violence, and Plaintiff and other women were  
26 treated in a disparate manner from similarly situated male employees in the application of work  
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rules and employee discipline. Plaintiff was also discriminated against on the basis of sex and gender on the basis Defendants failed to respond effectively to her complaints of harassment, discrimination and retaliation.

86. The misconduct of Defendants, and each of them, which constitutes a sexual harassment and sex discrimination of females in general, and in particular Plaintiff, includes but is not limited to the facts alleged in each paragraph of this Complaint.

87. Plaintiff repeatedly reported the misconduct of BERNSTEIN to BENNETT, KPFA and PACIFICA FOUNDATION management, and PACIFICA FOUNDATION Board of Directors. However, KPFA and PACIFICA FOUNDATION did not appropriately investigate the matter, nor did Defendants and each of them take appropriate action to cause BERNSTEIN's behavior to cease, or to prevent any similar misconduct from occurring in the future.

88. Defendants failed to properly, promptly and effectively acknowledge the existence of sex and gender discrimination which exists at KPFA and PACIFICA FOUNDATION. Defendants further failed to respond to Plaintiff's complaints, to develop a plan for dealing with the discrimination and harassment in the future, and to inform Plaintiff of such a plan or any actions that they were taking. Defendants' failure to follow up on these complaints and/or to take any action to eradicate the sexual harassing and/or discriminating practices at KPFA and PACIFICA FOUNDATION unfairly, negatively and disparately impacted Plaintiff in particular, and female employees in general.

89. Plaintiff is informed, believes and thereon alleges that KPFA and PACIFICA FOUNDATION failed to comply with their statutory duty under the FEHA to take all reasonable and necessary steps to prevent discrimination based on sex and gender from occurring and to eliminate such discrimination from the workplace, including but not limited to (a) failing to have an ineffective policy regarding workplace harassment and sex discrimination; (b) failing to have an

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3 effective procedure for addressing or investigating complaints of sexual harassment and sex  
4 discrimination ; (c) failing to effectively implement any procedure it may have had for investigating  
5 complaints of sexual harassment and sex discrimination; (d) failing to adequately investigate  
6 Plaintiff's complaints, despite her numerous complaints to KPFA management, BENNETT,  
7 PACIFICA FOUNDATION management and Board members; and (e) failing to appropriately train  
8 its employees.

9         90.     The aforementioned discrimination and harassment against Plaintiff in the terms,  
10 conditions, and/or privileges of employment on the basis of sex and gender constitutes an unlawful  
11 employment practice and is expressly prohibited under the FEHA. The Defendants and each of  
12 them, by refusing to take action to abate the offensive and continuing discriminatory and/or  
13 harassing conduct of each of the other Defendants, acted and/or failed to act and/or attempted to act  
14 in such a way as to aid, abet, incite, compel and/or coerce each of the other Defendants in doing  
15 such acts prohibited by the FEHA, as alleged above.

16         91.     The aforementioned conduct of Defendants constitutes a continuing violation of  
17 Plaintiff's rights from the first act to the latest action.

18         92.     As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has  
19 suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and  
20 discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this  
21 court, the precise amount to be proven at trial.

22         93.     As a direct and proximate result of the harassment of the Plaintiff and hostile and  
23 offensive work environment, as described above, the Plaintiff has incurred, and will continue to  
24 incur medical expenses, loss of deferred compensation, benefits, earning capacity, wages,  
25 opportunities for employment and advancement, loss of professional reputation, work experience,  
26 all to her damage in an amount according to proof.

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94. As a further direct and proximate result of Defendants' violation of the FEHA, Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and conditions of her employment relationship with Defendants, and has thereby incurred, and will continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided by the FEHA, Cal. Govt. Code § 12965(b).

95. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or unmindful of obligations to Plaintiff and/or exhibits that entire want of care which would rise to the presumption of conscious indifference to the consequences so as to warrant the imposition of punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which Defendants are all liable to Plaintiff. The Defendants, and each of them either intentionally personally engaged in such outrageous misconduct, as alleged herein, or had advance knowledge of the harassing, discriminatory conduct of the other Defendants and nevertheless failed to take action to abate the wrongful conduct and continue to employ the offenders with conscious disregard of the rights and safety of the Plaintiff and other employees, or otherwise authorized or ratified the wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or otherwise incited each of the other Defendants into doing acts forbidden by the FEHA, as alleged herein. As a result, the Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

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

**FOURTH CLAIM FOR RELIEF- RETALIATION**  
**(CAL. GOVT. CODE § 12940(F))**  
**(AGAINST ALL DEFENDANTS)**

96. By this reference, Plaintiff hereby incorporates paragraphs 1-95 of this document as if they were set forth within this cause of action. Plaintiff also incorporates into this cause of action

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3 each and every allegation set forth in every paragraph of this Complaint, except those that are  
4 inconsistent with a cause of action for retaliation in violation of the FEHA.

5 97. At all times herein mentioned, Government Code §12940, *et seq.*, was in full force  
6 and effect and was binding upon Defendants. Said sections require Defendants to refrain from  
7 retaliating against a person who opposes discrimination forbidden by the Fair Employment and  
8 Housing Act (“FEHA”), or who files a complaint, or who assists in any proceeding under the  
9 FEHA.

10 98. At all times during Plaintiff’s tenure with Defendants KPFA and PACIFICA  
11 FOUNDATION, Plaintiff performed her duties in an exemplary fashion. She continued her award  
12 winning journalism, receiving numerous awards for her excellence in radio and television  
13 journalism, including receiving three “Golden Reel” awards, from the National Federation of  
14 Community Broadcasters, as hereto set forth.

15 99. Defendants retaliated against Plaintiff by:

16 a. Failed to adequately investigate her repeated complaints of sexual harassment, sex  
17 discrimination and workplace violence;

18 b. Failed to take appropriate and sufficient correct action to stop the harassment and  
19 discrimination in employment or prevent any similar misconduct from occurring in the future;

20 c. Failed to keep Plaintiff about the progress of the “investigation,” of her complaints,  
21 if such investigation took place;

22 d. Solicited negative feedback regarding Plaintiff’s job performance after she made  
23 complaints of sexual harassment, discrimination and workplace violence.

24 e. Failed to effectively counsel BERNSTEIN and BENNETT that retaliatory conduct  
25 would not be tolerated;

26 f. Failed to assure Plaintiff in words and action that retaliation would not be tolerated;

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g. Failed to recognize retaliation by BERNSTEIN and BENNETT when it occurred;

h. Attacked Plaintiff on the air on the Flashpoints radio program, falsely informing listeners that Plaintiff was seeking to take over the program and asking them to make phone calls and write letters to have Plaintiff removed from her position;

i. Failed to address Plaintiff's complaints that her work had been intentionally erased; and that BERNSTEIN was undermining Plaintiff's work after she made complaints of violations of the FEHA;

j. Refused to address Plaintiff's complaints of sexual harassment, sex discrimination, retaliation and workplace violence, informing her there was no time, no staff and informed Plaintiff that she was "like a cockroach" and would survive the discrimination and harassment;

k. Discussed Plaintiff's confidential employment issues with third parties in violation of Plaintiff's right to privacy as guaranteed by the California Constitution Article I, Sec. I.;

l. Barred Plaintiff from discussing her complaints of sexual harassment, sex discrimination and workplace violence;

m. Issued a written warning to Plaintiff as a result of her informing other co-workers of her complaints of sexual harassment, sex discrimination and workplace violence;

n. Prohibited Plaintiff from attending mandatory work meetings to plan for the content of the Flashpoints radio program, for which Plaintiff was a co-host;

o. Demoted Plaintiff, allowing her only 40% of the air time on the Flashpoints program after she complained of sexual harassment, sex discrimination and workplace violence, rather than continuing in her position of co-host of Flashpoints;

p. Threatened Plaintiff with discipline if she continued to make complaints of sexual harassment, sex discrimination, and workplace violence;

q. Placed Plaintiff on an involuntary leave for 4 days when she refused to acquiesce to

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3 BENNETT, KPFA and PACIFICA FOUNDATION's demands that she be silent about her  
4 complaints of sexual harassment, sex discrimination and workplace violence;

5 r. Changed the locks on the doors of KPFA and Plaintiff's office so that she could not  
6 do her work or collect her personal property;

7 s. Falsely informed individuals that Plaintiff had stolen something from KPFA and was  
8 violent;

9 t. Placed Plaintiff on an involuntary administrative leave and barred Plaintiff from  
10 entering the KPFA building;

11 u. Demanded that Plaintiff apologize for making complaints of violations of the FEHA;

12 v. Informed Plaintiff whether she was right or wrong "she was going to lose" by  
13 making complaints of sexual harassment, sex discrimination and workplace violence; and

14 w. Terminated Plaintiff's employment.

15 100. Plaintiff is informed and believes that in addition to the practices enumerated in this  
16 Cause of Action, Defendants have engaged in other retaliatory practices which are not fully known  
17 by Plaintiff. The above enumerated acts of retaliation are not meant to be exhaustive, but merely  
18 exemplary of the kinds of acts of retaliation against Plaintiff.

19 101. The Defendants and each of them, by refusing to take action to abate the offensive  
20 and continuing discriminatory and/or harassing conduct of each of the other Defendants, acted  
21 and/or failed to act and/or attempted to act in such a way as to aid, abet, incite, compel and/or  
22 coerce each of the other Defendants in doing such acts prohibited by the FEHA, as alleged above.

23 102. The aforementioned conduct of Defendants constitutes a continuing violation of  
24 Plaintiff's rights from the first act to the latest action.

25 103. As a direct, foreseeable, and proximate result of Defendants' actions, Plaintiff has  
26 suffered and continues to suffer humiliation, embarrassment, mental and emotional distress and

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3 discomfort, all to Plaintiff's damage in an amount in excess of the minimum jurisdiction of this  
4 court, the precise amount to be proven at trial.

5 104. As a direct and proximate result of the harassment of the Plaintiff and hostile and  
6 offensive work environment, as described above, the Plaintiff has incurred, and will continue to  
7 incur medical expenses, loss of deferred compensation, benefits, earning capacity, wages,  
8 opportunities for employment and advancement, loss of professional reputation and work  
9 experience, all to her damage in an amount according to proof.

10 105. As a further direct and proximate result of Defendants' violation of the FEHA,  
11 Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and  
12 conditions of her employment relationship with Defendants, and has thereby incurred, and will  
13 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to  
14 Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided  
15 by the FEHA, Cal. Govt. Code § 12965(b).

16 106. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants  
17 were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or  
18 unmindful of obligations to Plaintiff and/or exhibits that entire want of care which would rise to the  
19 presumption of conscious indifference to the consequences so as to warrant the imposition of  
20 punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which  
21 Defendants are all liable to Plaintiff. Defendants, and each of them either intentionally personally  
22 engaged in such outrageous misconduct, as alleged herein, or had advance knowledge of the  
23 harassing, discriminatory conduct of the other Defendants and nevertheless failed to take action to  
24 abate the wrongful conduct and continue to employ the offenders with conscious disregard of the  
25 rights and safety of the Plaintiff and other employees, or otherwise authorized or ratified the  
26 wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or otherwise incited

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3 each of the other Defendants into doing acts forbidden by the FEHA, as alleged herein. As a result,  
4 the Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

5 WHEREFORE, PLAINTIFF prays for judgment as hereinafter set forth.

6 **FIFTH CLAIM FOR RELIEF- ENCOURAGING VIOLATION OF THE FEHA**  
7 **(CAL GOVT. CODE § 12940(i))**  
8 **(AGAINST DEFENDANTS KPFA, PACIFICA FOUNDATION AND DOES 1-20)**

9 107. By this reference, Plaintiff hereby incorporates paragraphs 1-106 of this document as  
10 if they were set forth within this cause of action. Plaintiff also incorporates into this cause of action  
11 each and every allegation set forth in every paragraph of this Complaint, except those that are  
12 inconsistent with a cause of action for encouraging violation of the FEHA.

13 108. Despite notice by Plaintiff, and complaints by other employees of KPFA and  
14 PACIFICA FOUNDATION, KPFA and PACIFICA FOUNDATION failed to adequately  
15 investigate the violations of the FEHA. KPFA and PACIFICA FOUNDATION failed to take  
16 appropriate and sufficient corrective action to stop the violations of the FEHA from occurring in the  
17 future.

18 109. Such action and inactions by KPFA and PACIFICA FOUNDATION constitute  
19 implicit approval of and sanction for violations of the FEHA. Through its various forms of action  
20 and inaction, as specified above, KPFA and PACIFICA FOUNDATION encouraged violations of  
21 the FEHA to occur.

22 110. The Defendants, and each of them, by refusing to take action to abate the offensive  
23 and continuing discriminatory and/or harassing conduct of each of the other Defendants, acted  
24 and/or failed to act and/or attempted to act in such a way as to aid, abet, incite, compel and/or  
25 coerce each of the other defendants in doing acts prohibited by the FEHA, as alleged above.

26 111. The acts/and or omissions and/or attempts of the Defendants, and each of them,  
27 undertaken for the purpose of, of which had the effect of, aiding, abetting, inciting, compelling

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3 and/or coercing the other Defendants to violate the FEHA, constitutes unlawful conduct on the part  
4 of the Defendants, and each of them, separately and apart from the harassing and discriminatory  
5 behavior itself, as provided in the FEHA, Cal. Govt. Code § 12940(i).

6 112. As a direct and proximate result of the role of Defendants, and each of them, in  
7 aiding, abetting, inciting, compelling and/or coercing the other Defendants to commit sexual  
8 harassment, sex discrimination and retaliation of the Plaintiff as described above, the Plaintiff has  
9 suffered and will continue to suffer embarrassment, humiliation, mental anguish, severe emotional  
10 and physical distress.

11 113. As a further direct and proximate result of the role of Defendants, and each of them,  
12 in aiding, abetting, inciting, compelling and/or coercing the other Defendants to commit sex  
13 discrimination, sexual harassment and retaliation as described above, the Plaintiff has and will  
14 continue to incur medical expenses, loss of deferred compensation, benefits, earning capacity,  
15 wages, opportunities for employment and advancement, loss of professional reputation, and work  
16 experience, all to her damage in an amount according to proof.

17 114. As a further direct and proximate result of Defendants' violation of the FEHA,  
18 Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and  
19 conditions of her employment relationship with Defendants, and has thereby incurred, and will  
20 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to  
21 Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided  
22 by the FEHA, Cal. Govt. Code § 12965(b).

23 115. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants  
24 were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or  
25 unmindful of obligations to Plaintiff and/or exhibits that entire want of care which would rise to the  
26 presumption of conscious indifference to the consequences so as to warrant the imposition of  
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3 punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which  
4 Defendants are all liable to Plaintiff. Defendants, and each of them either intentionally personally  
5 engaged in such outrageous misconduct, as alleged herein, or had advance knowledge of the  
6 harassing, discriminatory conduct of the other Defendants and nevertheless failed to take action to  
7 abate the wrongful conduct and continue to employ the offenders with conscious disregard of the  
8 rights and safety of the Plaintiff and other employees, or otherwise authorized or ratified the  
9 wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or otherwise incited  
10 each of the other Defendants into doing acts forbidden by the FEHA, as alleged herein. As a result,  
11 the Plaintiff is entitled to recover punitive damages against said Defendants, and each of them.

12 WHEREFORE, PLAINTIFF prays for judgment as hereinafter set forth.

13 **SIXTH CLAIM FOR RELIEF-NEGLIGENT HIRING, RETENTION AND SUPERVISION**  
14 **(AGAINST DEFENDANTS KPFA, PACIFICA FOUNDATION and DOES 1-20)**

15 116. By this reference, Plaintiff hereby incorporates paragraphs 1-113 of this document as  
16 if they were set forth within this cause of action. Plaintiff also incorporates into this cause of action  
17 each and every allegation set forth in every paragraph of this Complaint, except those that are  
18 inconsistent with a cause of action for negligent hiring, retention and supervision.

19 117. At all times relevant herein, Defendants KPFA and PACIFICA FOUNDATION  
20 knew or reasonably should have known that the harassing, discriminatory and retaliatory conduct,  
21 acts and omission of all other Defendants, and of other employees, as described elsewhere in this  
22 Complaint and incorporated by reference into this cause of action, violated Plaintiff's rights under  
23 federal and state statutes, and municipal statutes, codes and ordinances, and that said Defendants  
24 and other employees of KPFA and PACIFICA FOUNDATION were engaged in the unlawful  
25 behavior as described herein above.

26 118. KPFA and PACIFICA FOUNDATION knew or should have known BERNSTEIN  
27 was unfit for his position because of his history of abuse of employees, shouting, engaging in acts of

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3 violence, sexual harassment, sex discrimination, retaliation, and similar conduct. KPFA and  
4 PACIFICA FOUNDATION knew or should have known that BERNSTEIN required supervision  
5 and/or discipline, including but not limited to termination, in order to curb his harassing and  
6 discriminatory behavior.

7 119. At all times relevant herein, said Defendants, and each of them, knew, or in the  
8 exercise of reasonable care should have known, that unless they intervened to protect Plaintiff, and  
9 adequately supervised, prohibited, controlled, regulated, disciplined and/or otherwise penalized the  
10 improper conduct, acts and omission of the offending employee as described herein, Defendants'  
11 failure to so protect, supervise and intervene would have the effect of encouraging, ratifying,  
12 condoning, exacerbating, worsening and continuing said conduct, acts and failures to act, thereby  
13 subjecting Plaintiff to personal injury and emotional distress.

14 120. At all times relevant herein, Defendants, and each of them, had the power, ability,  
15 authority, and duty to so intervene, supervise, prohibit, control, regulate, discipline and /or penalize  
16 the conduct of all other Defendants and/or offending supervisors, agents, or employees as described  
17 herein above.

18 121. Despite said knowledge, power and duty, Defendants, and each of them, negligently  
19 failed to act so as to prevent, supervise, prohibit, control, regulate, discipline, and/or penalize the  
20 offending conduct described above, or to otherwise protect Plaintiff from such conduct.

21 122. As a direct and proximate result of the negligent hiring, retention, and supervision of  
22 Defendant BERNSTEIN, and other employees named herein, and each of them, as described above,  
23 Plaintiff has suffered and will continue to suffer embarrassment, humiliation, mental anguish and  
24 severe emotional and physical distress.

25 123. As a direct and proximate result of the negligent hiring, retention, and supervision  
26 Defendant BERNSTEIN and other employees named herein, and each of them, as described above,  
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3 Plaintiff has and will continue to incur medical expenses, loss of deferred compensation, benefits,  
4 earning capacity, wages, opportunities for employment and advancement, loss of professional  
5 reputation, and work experience, all to her damage in an amount according to proof.

6 124. As a further direct and proximate result of Defendants' violation of the FEHA,  
7 Plaintiff has been compelled to retain the services of counsel in an effort to enforce the terms and  
8 conditions of her employment relationship with Defendants, and has thereby incurred, and will  
9 continue to incur, legal fees and costs, the full nature and extent of which are presently unknown to  
10 Plaintiff, and Plaintiff is therefore entitled to reasonable attorneys' fees and costs of suit as provided  
11 by the FEHA, Cal. Govt. Code § 12965(b).

12 125. Plaintiff is informed and believes and thereon alleges that the conduct of Defendants  
13 were grossly intentional, negligently reckless, willful, wanton, malicious, oppressive and/or  
14 unmindful of obligations to PLAINTIFF and/or exhibits that entire want of care which would rise to  
15 the presumption of conscious indifference to the consequences so as to warrant the imposition of  
16 punitive damages in an amount sufficient to punish, penalize or deter Defendants, for which  
17 DEFENDANTS are all liable to PLAINTIFF. The Defendants, and each of them either  
18 intentionally personally engaged in such outrageous misconduct, as alleged herein, or had advance  
19 knowledge of the harassing, discriminatory conduct of the other Defendants and nevertheless failed  
20 to take action to abate the wrongful conduct and continue to employ the offenders with conscious  
21 disregard of the rights and safety of the Plaintiff and other employees, or otherwise authorized or  
22 ratified the wrongful conduct of the offenders. Indeed, said Defendants aided and abetted or  
23 otherwise incited each of the other Defendants into doing acts forbidden by the FEHA, as alleged  
24 herein. As a result, the Plaintiff is entitled to recover punitive damages against said Defendants, and  
25 each of them.

26 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

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**SEVENTH CLAIM FOR RELIEF- WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

126. Plaintiff realleges and incorporates by reference Paragraphs 1 through 125 of this Complaint as if fully set forth herein. Plaintiff also incorporates into this cause of action each and every allegation set forth in every paragraph of this Complaint, except those that are inconsistent with a cause of action wrongful termination in violation of public policy.

127. It is a fundamental, substantial and well-established public policy under California law that a workplace be free of sexual harassment, sex discrimination, and retaliation for complaints of discrimination. This fundamental public policy is expressed under California Constitution Art. 1 § 8, and California Government Code § 12940, *et seq.* It is also a fundamental, substantial and well-established public policy of California as expressed in California Labor Code Section 1102.5 that no employer shall retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute.

128. In acting as alleged herein, Defendants KPFA and PACIFICA FOUNDATION discharged Plaintiff arbitrarily, without just cause, and in violation of statutes and/or fundamental public policies of the State of California.

129. WHEREFORE, Plaintiff prays for relief as set forth below.

**EIGHTH CLAIM FOR RELIEF- VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200, ET. SEQ.**

130. Plaintiff realleges and incorporates by reference Paragraphs 1 through 129 of this Complaint as if fully set forth herein. Plaintiff also incorporates into this cause of action each and every allegation set forth in every paragraph of this Complaint, except those that are inconsistent with a cause of action for violation of the Business and Professions Code Sec. 17200.

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3 131. California Business and Professions Code sections 17200 *et seq.* allows any person  
4 or group to sue on behalf of themselves or on behalf of the general public to enjoin an entity doing  
5 business in California from engaging in unfair competition which is broadly defined to include any  
6 unlawful business practices.

7 132. Defendants' unlawful policies and practices as alleged above, including failing to  
8 prevent the sexual harassment against Plaintiff, sexually harassing Plaintiff, discriminating against  
9 Plaintiff because of her sex, and retaliating against Plaintiff because she made complaints of  
10 discrimination constitute an unlawful business practice that violates California Business and  
11 Professional Code sections 17200, *et seq.*

12 133. The unlawful, unfair business practices of KPFA and PACIFICA FOUNDATION  
13 described above present a continuing threat to members of the public in that there is a threat that  
14 such discrimination and retaliation will continue in the future against other employees, clients and  
15 members of the public.

16 134. WHEREFORE, Plaintiff prays for relief as set forth below.

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18 **NINTH CAUSE OF ACTION**  
19 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**  
20 **(AGAINST ALL DEFENDANTS)**

21 135. Plaintiff realleges and incorporates by reference Paragraphs 1 through 134 of this  
22 Complaint as if fully set forth herein. Plaintiff also incorporates into this cause of action each and  
23 every allegation set forth in every paragraph of this Complaint, except those that are inconsistent  
24 with a cause of action for negligent infliction of emotional distress.

25 136. By engaging in the conduct set forth herein, Defendants have negligently breached  
26 their duty of care not to engage in the conduct alleged.

27 137. Defendants, and each of them, knew or should have known that their actions were  
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3 likely to result in serious emotional harm, anguish and distress to Plaintiff.

4 138. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer  
5 discomfort, anxiety, humiliation and emotional distress, and will continue to suffer serious  
6 emotional distress in the future in an amount according to proof.

7 139. Plaintiff is informed and believe that the wrongful acts and/or conduct alleged herein  
8 which was perpetuated by all Defendants was done maliciously, oppressively, and/or fraudulently  
9 and with a wrongful intent of harming and injuring Plaintiff and did in fact harm Plaintiff with an  
10 improper and evil motive amounting to malice and in conscious disregard of the Plaintiff's rights.  
11 As a result, Plaintiff is entitled to recover punitive damages against said Defendants, and each of  
12 them.

13 **TENTH CAUSE OF ACTION**  
14 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
15 **(AGAINST ALL DEFENDANTS)**

16 140. Plaintiff realleges and incorporates by reference Paragraphs 1 through 139 of this  
17 Complaint as if fully set forth herein. Plaintiff also incorporates into this cause of action each and every  
18 allegation set forth in every paragraph of this Complaint, except those that are inconsistent with a cause  
19 of action for.

20 141. The conduct set forth hereinabove by Defendants was extreme and outrageous. Said  
21 conduct was intended to cause and did cause severe emotional distress, or was done in conscious  
22 disregard of the probability of causing such distress.

23 142. As a proximate result of said conduct, Plaintiff has suffered and continues to suffer  
24 discomfort, anxiety, humiliation and emotional distress, and will continue to suffer serious  
25 emotional distress in the future in an amount according to proof.

26 143. Plaintiff is informed and believe that the wrongful acts and/or conduct alleged herein  
27 which was perpetuated by all Defendants was done maliciously, oppressively, and/or fraudulently

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3 and with a wrongful intent of harming and injuring Plaintiff and did in fact harm Plaintiff with an  
4 improper and evil motive amounting to malice and in conscious disregard of the Plaintiff's rights.  
5 As a result, Plaintiff is entitled to recover punitive damages against said Defendants, and each of  
6 them.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiff demands judgment against all Defendants as follows:

9 That process be issued and served as provided by law, requiring Defendants to appear and  
10 answer or face judgment;

11 That Plaintiff has and recovers a judgment against Defendants in an amount to be  
12 determined at trial as general, special, actual, compensatory and/or nominal damages;

13 That Plaintiff has and recovers a judgment against Defendants for punitive damages in an  
14 amount to be determined at trial sufficient to punish, penalize and/or deter  
15 Defendants;

16 That Plaintiff has and recovers a judgment against Defendants in an amount to be  
17 determined at trial for expenses of this litigation, including, but not limited to,  
18 reasonable attorneys' fees, costs and expert fees;

19 That Plaintiff have and recover a judgment against Defendants enjoining Defendants from  
20 engaging in each of the unlawful practices set forth in this Complaint;

21 For disgorgement of Defendants' profits as a result of their unlawful business practices;

22 That Plaintiff recovers pre-judgment and post-judgment interest; and

23 That Plaintiff has such other relief as this Court deems just and appropriate.

24 **PLAINTIFF DEMANDS TRIAL BY JURY.**

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26 ~~Dated: June 10, 2005~~ Dated June 2, 2005      ———LAW OFFICES OF WENDY E. MUSELL

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By: \_\_\_\_\_  
Wendy E. Musell

Elisa J. Stewart  
LAW OFFICES OF ELISA J. STEWART  
Attorneys for Plaintiff