

90292
AL024

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JUN 03 2013

JOHN A. CLARK, CLERK OF COURT
BY [Signature] Deputy
Clerk

1 THE GILLAM LAW FIRM
2 *A Professional Law Corporation*
3 CAROL L. GILLAM, State Bar No. 102354
4 1880 Century Park East, Suite 817
5 Los Angeles, California 90067
6 Telephone: (310) 203-9977
7 Facsimile: (310) 203-9922
8 email: carol@gillamlaw.com;
9 Attorneys for Plaintiff Cecilia Hyoun

D52 Susan Bryant-Deason

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

BC 510759

11 CECILIA HYOUN, an individual,
12 Plaintiff,

13 vs.

14 WALT DISNEY PICTURES, an entity;
15 DMP PRODUCTIONS, INC., an entity;
16 JAMES THOMAS, an individual; and
17 DOES 1-20, inclusive,

18 Defendants.

CASE NO.:

**COMPLAINT FOR DAMAGES AND
OTHER RELIEF**

1. Retaliation (Cal. Gov't Code § 12940(h))
2. Harassment (Gov't Code § 12940(j))
3. Gender Discrimination (Cal. Gov't Code § 12940(a))
4. Failure to Take Reasonable Steps (Cal. Gov't Code § 12940(k))
5. Wrongful Termination in Violation of Public Policy
6. Negligent Supervision/Retention
7. Intentional Infliction of Emotional Distress
8. Promissory Estoppel

JURY TRIAL DEMANDED

23 Plaintiff CECILIA HYOUN ("Plaintiff"), upon information and belief, alleges
24 following on her own behalf. Specifically, Plaintiff brings claims for retaliation, discrimination,
25 discrimination, harassment, failure to prevent discrimination, wrongful termination,
26 violation of public policy, negligent supervision and retention, intentional infliction of
27 emotional distress, and promissory estoppel.

28 ////

00/03/2013

CIT/CASE #: BC510759
 LEA/DEF#:
 RECEIVED # : CCE07417076
 DATE PAID: 06/03/13 03:47 PM
 PAYMENT #: 43500
 RECEIVED: 310
 \$435.00
 \$0.00
 \$0.00
 \$0.00

COMPLAINT FOR DAMAGES AND OTHER RELIEF

1 **JURISDICTION AND VENUE**

2 1. This Court has jurisdiction pursuant to California Code of Civil Procedure §
3 410.10 and Business and Professions Code § 17203. Venue is proper in this Court under
4 California Code of Civil Procedure §§ 395 and 395.5 and under Government Code § 12965
5 because the Defendants operate in this County, Plaintiff resides in and/or worked in this
6 county and the injuries that are the subject of this lawsuit arose in this county, and records
7 related to Plaintiff's employment are maintained in this county.

8
9 **PARTIES**

10 2. Plaintiff CECILIA HYOUN worked as a First Assistant Film Editor of the
11 film, *The Muppets*. She is highly skilled in her field, regularly selected to work on major
12 motion pictures with budgets exceeding \$50 million. Plaintiff has worked in the motion
13 picture industry for more than 15 years. Ms. Hyoun is one of a small number of women who
14 have succeeded in the highly male-dominated field of film editing of major motion pictures.
15 She has worked 60+ hour weeks regularly on such pictures while juggling the demands of
16 two small children at home. Among Plaintiff's 20+ credits are her work on *Almost Famous*, *8*
17 *Mile* and *Vanilla Sky*.

18 3. Plaintiff resides in the County of Los Angeles, in the State of California at all
19 times material to this complaint. At all times material to this complaint, Plaintiff was
20 employed by WALT DISNEY PICTURES and DMP PRODUCTIONS, INC. in Burbank,
21 California. The numerous unlawful actions set forth hereinbelow occurred in Los Angeles
22 County.

23 4. Upon information and belief, at all times material to this complaint, Defendant
24 WALT DISNEY PICTURES is and was an entity with a principal place of business in
25 Burbank, California.

26 5. Upon information and belief, at all times material to this complaint, Defendant
27 DMP PRODUCTIONS, INC. is and was an entity with a principal place of business in
28 Burbank, California.

1 6. Plaintiff is informed and believes, and thereupon alleges, that at all times
2 material herein Defendants WALT DISNEY PICTURES and DMP PRODUCTIONS, INC.
3 (collectively, "DISNEY") were joint employers of Plaintiff. Upon information and belief,
4 DISNEY maintains records relevant to Plaintiff's employment in Los Angeles County.

5 7. Plaintiff is informed and believes that Defendant JAMES THOMAS
6 ("THOMAS") was at all times relevant herein an adult resident of California.

7 8. During her employment with DISNEY, Plaintiff was subjected to a hostile
8 work environment due to severe and pervasive harassment by THOMAS.

9 9. In addition, Plaintiff was retaliated against by DISNEY through the words and
10 deeds of THOMAS.

11 10. Plaintiff is ignorant of the true names and capacities of Defendants sued herein
12 as DOES 1-20, inclusive, and therefore sues these Defendants by such fictitious names and
13 capacities. Plaintiff is informed and believes, and on that basis alleges, that each Defendant
14 sued under such fictitious names is in some manner responsible for the occurrences herein
15 alleged, and that Plaintiff's injuries as herein alleged were proximately caused by the conduct
16 of such Defendants.

17 11. Plaintiff is informed and believes and thereupon allege that, at all times
18 material herein, each of the Defendants was functioning as the agent, servant, partner,
19 employee and/or working in concert with his, her or its co-defendants and was acting within
20 the course and scope of such agency, partnership, employment and/or concerted activity. To
21 the extent that certain acts and omissions were perpetrated by certain Defendants, the
22 remaining Defendants condoned, authorized and ratified said acts and omissions of the co-
23 defendants, and in doing the actions mentioned below was acting within the course and scope
24 of his, her or its authority as such agent, servant, partner, and employee with the permission,
25 consent and ratification of the co-Defendants.

26 12. Plaintiff is informed and believes and thereupon alleges that, at all times
27 material herein, each Defendant was completely dominated and controlled by his, her or its
28 co-defendant, and each was the alter ego of the other.

1 13. Whenever and wherever reference is made in this complaint to any act or
2 failure to act by a Defendant or Defendants, such allegations and reference shall also be
3 deemed to mean the acts and failures to act of each Defendant acting individually, jointly,
4 and severally. Whenever and wherever reference is made to individuals who are not named
5 as a Plaintiff or a Defendant in this complaint but who were employees/agents of GROUP 1
6 such individuals at all relevant times acted on behalf of GROUP 1 within the course and
7 scope of their employment.

8 14. Plaintiff is informed and believes and thereupon alleges that, at all times
9 material herein, Defendants, and/or their agents/employees knew or reasonably should have
10 known that unless they intervened to protect Plaintiff, and to adequately supervise, prohibit,
11 control, regulate, discipline, and/or otherwise penalize the conduct of partners, members, or
12 employees of DISNEY, set forth above, the remaining Defendants and employees perceived
13 the conduct and omissions as being ratified and condoned.

14
15 **FACTUAL ALLEGATIONS RELEVANT TO ALL CAUSES OF ACTION**

16 15. Plaintiff CECILIA HYOUN (“Plaintiff” or Ms. Hyoun”) began work for
17 Defendants on *The Muppets* movie (“the Picture”) in or about September 2010. She was
18 contracted for and fully expected to remain employed on the Picture through its completion
19 in approximately October or November 2011. Plaintiff is an Asian woman over age 40.

20 16. Throughout her employment, but particularly during the latter months, Plaintiff
21 was subjected to differential treatment because of her gender, her family responsibilities, her
22 race and age.

23 17. Among other things, Defendant THOMAS, the Picture’s editor, frequently
24 interrogated Plaintiff about her personal life and family situation, which made Plaintiff feel
25 very uncomfortable. On information and belief he did not interrogate male employees this
26 way. Defendant THOMAS made derogatory remarks about Plaintiff’s race as well.

27 18. Defendant THOMAS regularly made derogatory comments about other female
28 employees, including but not limited to calling the Post Production Supervisor a “cu*t.”

1 19. Defendant THOMAS failed and refused to select women for more desirable
2 work assignments, doling them out to less qualified men.

3 20. Defendant singled out Plaintiff for reprimands for tardiness despite the fact that
4 male employees were often more tardy than she was, and despite the fact that she was
5 working extremely long hours on the Picture.

6 21. Plaintiff believes and thereon alleged that Defendants have engaged in a pattern
7 and practice of gender discrimination.

8 22. In or about May 2011, Defendants, through THOMAS, grilled Plaintiff
9 repeatedly about choosing between her family responsibilities and her work, telling her to
10 decide between "being a mom" and working. Plaintiff continued to reiterate her dedication to
11 her work and protested Defendants' insistence that she choose between one and the other.

12 23. In or about May 2011, Defendants promised Plaintiff she would continue to be
13 employed on the Picture through its conclusion, and that there was sufficient budget to keep
14 all people currently employed as well as to add additional personnel.

15 24. After telling Plaintiff she had to choose between her family responsibilities and
16 her career, Defendants made the choice for her - firing her for pretextual reasons. Defendant
17 THOMAS told her that it was time for her to go. Her last day worked on the Picture was June
18 2, 2011.

19 25. Defendants also falsely claimed that Plaintiff's position was being eliminated,
20 whereas in truth and in fact a subordinate male employee with vastly less experience than
21 Plaintiff was promoted to her position.

22 26. Plaintiff's firing was completely unexpected. Because she had been assured her
23 position would remain intact through the completion of the Picture, Plaintiff turned down an
24 opportunity at Paramount Studios.

25 27. After her termination, Plaintiff observed that she was no longer called as
26 frequently for work, and has not secured a position in the motion picture industry since her
27 termination until the date of this Complaint.

28 28. Like many, many people in the motion picture industry, Plaintiff is fearful of

1 being blackballed for standing up to a major studio over its discriminatory practices.

2
3 **FIRST CAUSE OF ACTION**

4 **Retaliation - Violation of Cal. Gov't Code § 12940(h)**

5 **(Against DISNEY and Does 1-20)**

6 29. As a separate and distinct cause of action, Plaintiff complains and realleges all
7 of the allegations contained in this complaint, and incorporates them by reference into this
8 cause of action as though fully set forth herein, excepting those allegations which are
9 inconsistent with this cause of action.

10 30. At all relevant times herein and in violation of California Government Code
11 §12940(h), Defendants and each of them, and/or their agents/employees, retaliated against
12 Plaintiff by adversely affecting her employment and retaliating against her after she engaged
13 in protected activity as set forth hereinabove.

14 31. Within the time provided by law, Plaintiff filed a complaint with the California
15 Department of Fair Employment and Housing, in full compliance with these sections, and has
16 received and served a right-to-sue letter. Because the Department investigated Plaintiff's
17 claims before issuing a right-to-sue letter, Defendants were or should have been fully aware
18 of the nature of Plaintiff's claims.

19 32. As a proximate result of Defendants' willful, knowing, and intentional
20 discrimination against Plaintiff, Plaintiff has sustained and continues to sustain substantial
21 losses in earnings and other employment benefits.

22 33. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
23 sustained and continues to sustain depression, humiliation, embarrassment, shame, and
24 emotional distress. Plaintiff has suffered and continues to suffer a loss of earnings and other
25 employment benefits. Plaintiff is thereby entitled to general and compensatory damages in
26 amounts to be proven at trial. Wherefore, Plaintiff prays for relief as set forth below.

27 ///

28 ///

1 **SECOND CAUSE OF ACTION**

2 **Harassment – Violation of Cal. Gov't Code § 12940(j)**

3 **(Against All Defendants)**

4 34. As a separate and distinct cause of action, Plaintiff complains and realleges all
5 of the allegations contained in this complaint, and incorporates them by reference into this
6 cause of action as though fully set forth herein, excepting those allegations which are
7 inconsistent with this cause of action.

8 35. At all times mentioned in this Complaint, Government Code § 12940 *et seq.*
9 were in full force and effect and were binding on Defendants. These sections require
10 Defendants to refrain from harassing any employee on the basis of gender, among other
11 things. Defendants' conduct, as alleged herein, created a hostile work environment for
12 Plaintiff.

13 36. Within the time provided by law, Plaintiff filed a Complaint with the California
14 Department of Fair Employment and Housing, in full compliance with these sections, and has
15 received and served a right-to-sue letter.

16 37. As a proximate result of Defendants' willful, knowing, and intentional
17 discrimination against and harassment of Plaintiff, Plaintiff has sustained and continues to
18 sustain substantial losses in earnings and other employment benefits.

19 38. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
20 sustained and continues to sustain pain and suffering, severe mental anguish and emotional
21 distress. Plaintiff is thereby entitled to general and compensatory damages in amounts to be
22 proven at trial.

23 39. Defendants' conduct as described above was willful, despicable, knowing, and
24 intentional. Accordingly, Plaintiff seeks an award of punitive and exemplary damages in an
25 amount according to proof.

26 40. Pursuant to Government Code § 12965(b), Plaintiff seeks recovery of her
27 attorneys' fees and costs against Defendants, and each of them.

28 *////*

00202013

1 THIRD CAUSE OF ACTION

2 **Gender Discrimination – Violation of Cal. Gov’t Code § 12940(a)**

3 **(Against DISNEY and Does 1-20)**

4 41. As a separate and distinct cause of action, Plaintiff complains and realleges all
5 of the allegations contained in this complaint, and incorporates them by reference into this
6 cause of action as though fully set forth herein, excepting those allegations which are
7 inconsistent with this cause of action.

8 42. At all times herein mentioned, Government Code § 12940 *et seq.* were in full
9 force and effect and were binding on Defendants. These sections require Defendants to
10 refrain from discriminating against any employee on the basis of gender, among other things.

11 43. Plaintiff is a member of a protected class within the meaning of the aforesaid
12 Government Code sections. Plaintiff alleges that her gender was a factor in Defendants'
13 actions including discriminating against her, harassing her, retaliating against her and
14 terminating her as set forth hereinabove. Such discrimination is in violation of Government
15 Code § 12940 *et seq.* and has resulted in damage and injury to Plaintiff as alleged herein.

16 44. Plaintiff performed her job competently at all relevant times.

17 45. Within the time provided by law, Plaintiff filed a complaint with the California
18 Department of Fair Employment and Housing, in full compliance with these sections, and has
19 received and served a right-to-sue letter.

20 46. As a proximate result of Defendants' willful, knowing, and intentional
21 discrimination against Plaintiff, Plaintiff has suffered and continues to experience substantial
22 losses in earnings, benefits and other consequential damages in amounts according to proof.

23 47. Defendants' conduct as described above was willful, despicable, knowing, and
24 intentional. Accordingly, Plaintiff seeks an award of punitive and exemplary damages in an
25 amount according to proof.

26 ///

27 ///

28 ///

1 express public policy and, in particular, the policies embodied in the California Fair
2 Employment and Housing Act California ("FEHA") (Cal. Gov. Code §§ 12940 *et seq.*) and
3 the California Constitution.

4 54. Specifically, California law prohibits an employer from retaliating against an
5 employee for making good faith complaints about violations of the law, *Yanowitz v. L'Oreal*
6 *USA, Inc.*, 36 Cal. 4th 1028 (2005), and for discriminating on the basis of gender, family
7 responsibilities, marital status, age and race, among other things.

8 55. Defendants retaliated against Plaintiff, created a hostile work environment and
9 treated Plaintiff differently because she was an Asian woman over age 40, and terminated
10 Plaintiff's employment because of her gender, race and family responsibilities and because
11 she made good faith complaints and opposed Defendants' unlawful conduct.

12 56. As a direct and proximate result of Defendants' unlawful conduct alleged
13 hereinabove, Plaintiff has suffered and continues to suffer emotional distress. Plaintiff has
14 also suffered financial losses such as loss of income, professional position, wages, salary,
15 bonuses and other benefits of employment and compensation pursuant to which Plaintiff is
16 entitled to damages in an amount to be determined.

17 57. Plaintiff is informed and believes, and thereon alleges, that Defendants'
18 wrongful conduct alleged herein was undertaken with a deliberate and conscious disregard
19 for Plaintiff's rights, and that Defendants acted with oppression, fraud, or malice justifying
20 an award of punitive damages against Defendants in an amount according to proof.

21
22 **SIXTH CAUSE OF ACTION**

23 **Negligent Supervision and Retention**

24 **(Against DISNEY and Does 1-20)**

25 58. As a separate and distinct cause of action, Plaintiff complains and realleges all
26 of the allegations contained in this Complaint, and incorporates them by reference into this
27 cause of action as though fully set forth herein, excepting those allegations which are
28 inconsistent with this cause of action.

1 professional position, wages, salary, bonuses and other benefits of employment and
2 compensation pursuant to which Plaintiff is entitled to damages in an amount according to
3 proof.

4
5 **PRAYER FOR RELIEF**

6 Wherefore, Plaintiff, prays for judgment against Defendants as follows:

- 7 1. For compensatory damages, including lost wages, sick pay, vacation pay and
8 employment benefits, according to proof;
9 2. For general, mental and emotional distress damages;
10 3. For punitive damages on each cause of action for which they are awardable;
11 4. For an award of interest, including prejudgment interest, at the legal rate;
12 5. For a declaration of the parties' respective rights, duties, and obligations under the
13 arbitration provision;
14 6 For an award of litigation costs and attorneys' fees as awardable on each cause of
15 action;
16 7. For costs of suit incurred; and
17 8. For such other and further relief as the court deems just and proper.

18
19 DATED: June 3, 2013.

THE GILLAM LAW FIRM
A Professional Law Corporation

20
21 By: Mary Ogunda CA bar No. 268710
22 CAROL A. GILLAM
Attorneys for Plaintiff Cecilia Hyoun

23
24
25
26
27
28
09/03/2013

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

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.

DATED: June 3, 2013.

THE GILLAM LAW FIRM
A Professional Law Corporation

By: Mary Orquiza CA Bar No. 268710
CAROL L. GILLAM
Attorneys for Plaintiff Cecilia Hyoun

DEADLINE.COM

06/03/2013