

1 BRIAN L. WILLIAMS, State Bar No. 227948  
BWilliams@GGTrialLaw.com  
2 JEMMA E. DUNN, State Bar No. 258454  
JDunn@GGTrialLaw.com  
3 MATTHEW T. HALE, State Bar No. 303826  
MHale@GGTrialLaw.com  
4 **GREENBERG GROSS LLP**  
601 South Figueroa Street, 30th Floor  
5 Los Angeles, California, 90017  
Telephone: (213) 334-7000  
6 Facsimile: (213) 234-7001

7 MICHAEL RECK, State Bar No. 209895  
MReck@AndersonAdvocates.com  
8 **JEFF ANDERSON & ASSOCIATES**  
12011 San Vicente Boulevard, Suite 700  
9 Los Angeles, California, 90049  
Telephone: (310) 357-2425  
10 Facsimile: (651) 297-6543

11 *Attorneys for Plaintiff*

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **COUNTY OF LOS ANGELES**

14 SARA LEWIS, an individual;  
15 Sara,  
16 v.  
17 BMG RIGHTS MANAGEMENT (US) LLC,  
a limited liability company; KENNY  
18 MACPHERSON, an individual; and DOES 1-  
19 20,  
20 Defendants.

Case No. **23STCV24103**

**COMPLAINT FOR DAMAGES for:**

- 1) Sexual Battery
- 2) Gender Violence
- 3) Sexual Harassment – Civil Code § 51.9
- 4) Negligent Hiring, Supervision, and Retention
- 5) Discrimination in Violation of the FEHA
- 6) Harassment in Violation of the FEHA
- 7) Retaliation in Violation of the FEHA
- 8) Failure to Prevent Discrimination, Harassment, and Retaliation in Violation of the FEHA
- 9) Violation of Labor Code § 1102.5
- 10) Violation of Labor Code § 98.6
- 11) Wrongful Termination in Violation of Public Policy
- 12) Intentional Infliction of Emotional Distress

*[Filed Pursuant to Code of Civil Procedure Section 340.16, as Amended by Assembly Bill 2777]*

**[Jury Trial Demanded]**

1 Plaintiff SARA LEWIS (“Sara” or “Plaintiff”) brings this action against Defendants BMG  
2 RIGHTS MANAGEMENT (US) LLC, a limited liability company; KENNY MACPHERSON, an  
3 individual; and DOES 1-20 (together, “Defendants”), and based on information and belief alleges  
4 as follows:

### 5 **INTRODUCTION**

6 1. What should have been Sara’s dream job in the music industry became a literal  
7 nightmare at the hands of Defendant Kenny MacPherson. For years, Sara endured an onslaught of  
8 unwanted sexual advances by MacPherson, who unabashedly used his power and authority to  
9 exact Sara’s compliance and submission.

10 2. As MacPherson’s subordinate, Sara faced the impossible task of weighing her  
11 career ambitions against daily, relentless sexual harassment. Sara was subjected to the humiliation  
12 of being sexualized, groped, and singled out by MacPherson – put on display for her colleagues,  
13 co-workers and friends to gossip over.

14 3. Unwilling to accept Sara’s rejections, MacPherson spent years grooming and  
15 harassing Sara, escalating from non-consensual touching, to groping, and even a traumatic sexual  
16 assault. MacPherson’s sexual harassment and abuse of Sara was well known among colleagues  
17 and executives, and yet, rather than help Sara, her co-workers and supervisors chided her behind  
18 her back and shielded MacPherson from accountability.

19 4. The entertainment industry is rife with tales of the abuse of aspiring entrepreneurial  
20 women at the hands of older, powerful executives. Women have been historically punished for  
21 standing up for themselves, refuting sexual advances, or speaking out against their perpetrators.  
22 Sara is unwilling to perpetuate that stigma. This lawsuit is about reclaiming agency for survivors  
23 of sexual violence and bringing to justice those high powered perpetrators who have historically  
24 avoided culpability.

### 25 **PARTIES**

26 5. Sara is an adult female currently residing in Texas. At the time of the grooming and  
27 assault by Defendant MacPherson, Sara was a resident of Los Angeles County, California, and  
28 employed at Chrysalis Music Group, Inc. (“Chrysalis”). The assaults occurred in various locations

1 including in Los Angeles, California.

2           6.       Upon information and belief, Defendant Kenneth MacPherson (“MacPherson”) is a  
3 resident of Los Angeles County, California. At the time of the grooming and assaults by  
4 Defendant MacPherson, he was the President of Chrysalis USA from approximately 2002 to 2005,  
5 and then promoted to President and Senior Executive of Chrysalis Music Division North America.

6           7.       At the time of the grooming and assaults by Defendant MacPherson, Chrysalis’  
7 office where Defendant MacPherson and Sara worked, was located at 8500 Melrose Ave, Ste 207,  
8 Los Angeles, California 90069.

9           8.       Upon Information and belief, Chrysalis merged with Defendant BMG Rights  
10 Management (US) LLC (“BMG”) in December of 2012. As the successor entity, BMG is liable  
11 for the torts of Chrysalis.

12           9.       BMG is a Limited Liability Company formed in Delaware in 2009. Upon  
13 information and belief, BMG has an office in California at 5670 Wilshire Blvd, Suite 1400, Los  
14 Angeles, California 90036. BMG maintains its principal address in New York, New York and  
15 maintains agents in California through a corporation service company, CSC – Lawyers  
16 Incorporating Service.

17           10.      The true names and capacities, whether individual, corporate, partnership,  
18 associate, or otherwise, of Defendants DOES 1-20, inclusive, are unknown to Sara. Accordingly,  
19 Sara sues DOES 1-20 by such fictitious names pursuant to section 474 of the California Code of  
20 Civil Procedure. Sara will amend this Complaint to allege their true names and capacities when  
21 they are ascertained. Each of these fictitiously named defendants is an alter ego of one or more of  
22 the named defendants, or is in some manner liable or responsible to Sara under the causes of  
23 action set forth in this Complaint.

24           11.      On information and belief, at all times material hereto, there existed a unity of  
25 interest and ownership among Defendants and each of them, such that an individuality and  
26 separateness between Defendants ceased to exist. Defendants were the successors-in-interest  
27 and/or alter egos of the other Defendants in that they purchased, controlled, dominated and  
28 operated each other without any separate identity, observation of formalities, or any other

1 separateness. To continue to maintain the façade of a separate and individual existence between  
2 and among Defendants, and each of them, would serve to perpetuate a fraud and injustice.

3 12. On information and belief, at all times material hereto, Defendants were the agents,  
4 representatives, servants, employees, partners, and/or joint venturers of each and every other  
5 Defendant and were acting within the course and scope of said alternative capacity, identity,  
6 agency, representation and/or employment and were within the scope of their authority, whether  
7 actual or apparent. Each of the Defendants is responsible in some manner for one or more of the  
8 events and happenings described herein. Each Defendant approved and/or ratified the conduct of  
9 each other Defendant. Consequently, each Defendant is jointly and severally liable to Sara for the  
10 damages sustained as a proximate result of his, her, or its conduct. Each of the Defendants  
11 proximately caused the injuries and damages alleged.

12 13. Each of the Defendants aided and abetted each other Defendant. Each Defendant  
13 knowingly gave substantial assistance to each other Defendant, as well as Defendants' employees  
14 who performed the wrongful conduct alleged herein. Accordingly, each Defendant is jointly and  
15 severally liable for the damages proximately caused by the wrongful conduct of each Defendant,  
16 and their respective employees.

17 14. Each of the Defendants is, and at all relevant times herein mentioned was, the co-  
18 conspirator of each other and, therefore, each Defendant is jointly and severally liable to Sara for  
19 the damages sustained as a proximate result of each other Defendant. Each Defendant entered into  
20 an express or implied agreement with each of the other Defendants to commit the wrongs herein  
21 alleged.

22 15. Whenever reference is made to "Defendants" in this Complaint, such allegation  
23 shall be deemed to mean the acts of Defendants acting individually, jointly, and/or severally.

24 **GENERAL FACTUAL ALLEGATIONS**

25 **I. Chrysalis Hires Sara and MacPherson Supervises Sara**

26 16. Chrysalis, a music publishing group incorporated in California in 1982, signed  
27 major music acts including Ray LaMontagne, My Morning Jacket, OutKast, TV on the Radio,  
28 Bon Iver, and Velvet Revolver.

1           17.     Sara is an accomplished musician and had lifelong aspirations of working in the  
2 music industry. In or around July of 2002, Sara landed what she thought was her dream job and  
3 joined Chrysalis as an assistant in the company's Film and TV group.

4           18.     Shortly after Sara began working at Chrysalis, Defendant MacPherson was hired as  
5 the company's new President. Others warned Sara that MacPherson was imposing and vindictive,  
6 but Sara was determined to succeed. To Sara's surprise, once MacPherson arrived, he instead  
7 showed Sara special attention, giving her additional responsibilities and feigning a mentorship  
8 role.

9           19.     Over the next year, MacPherson showed more and more interest in Sara. He began  
10 taking Sara out for one-on-one lunches, and delegated more responsibilities to Sara, including  
11 allowing Sara the opportunity to scout for new talent. In 2003, MacPherson eventually transferred  
12 Sara from Chrysalis's Film and TV group to its Artists and Repertoire (A&R) group, and to an  
13 office adjacent to MacPherson, where he could more directly oversee Sara's work. At the time,  
14 Sara welcomed these professional opportunities, believing her dedication and hard work were  
15 paying off.

16 **II.     MacPherson Grooms and Sexually Harasses Sara**

17           20.     Over time, and in true textbook grooming fashion, MacPherson's interactions with  
18 Sara devolved from mentorship to inappropriate behavior. MacPherson began physically invading  
19 Sara's personal space, standing a little too closely and leaning suggestively over Sara's desk when  
20 speaking with her. He began to physically touch her and caress her under the guise of chivalry or  
21 care. Sara was confused by his actions, but as a young aspiring employee, she naively believed  
22 that if she did not return the affection, he would simply stop his unwelcome advances.

23           21.     In or about 2004, MacPherson offered to take Sara with him on a scouting trip to  
24 Vancouver, Canada to view a prospective music act. Although assistants were not typically invited  
25 on these trips, Sara agreed to attend believing that her talents were being recognized and that this  
26 was an incredible professional opportunity. After attending the concert, MacPherson invited  
27 himself to Sara's hotel room to further discuss the band. Under the pretext of a work meeting,

28 ///

1 MacPherson secluded Sara in her hotel room, leaned over her, placed his hands on her thigh, and  
2 confessed that he loved her and could no longer control his feelings.

3 22. Shocked and in fear, Sara began to cry as she unequivocally told MacPherson that  
4 she did not share his feelings. Although MacPherson left Sara's hotel room that evening, this was  
5 only the beginning of the relentless harassment that was to come.

6 23. Following the Vancouver trip and undeterred by her rejection, MacPherson  
7 escalated his actions and found every opportunity to physically touch Sara. He routinely cornered  
8 her in the office, using his stature to physically block her movements. He leaned his body against  
9 her when speaking to her and attempted to kiss her on numerous occasions. At work lunches and  
10 dinners, he positioned himself next to her at the table, visibly groping her legs and even her  
11 vagina. MacPherson also sent Sara lavish gifts including a Tiffany's necklace and expensive  
12 travel luggage, along with pleas for Sara to accept his romantic advances. If MacPherson learned  
13 that Sara returned his gifts or refused to use them, he would become upset and guilt Sara into  
14 accepting them.

15 24. As time went on, Sara continued to excel in her work. Unfortunately, with her  
16 continued success, MacPherson increased and continued his sexual harassment.

17 25. By 2004 and into 2005, MacPherson's harassment of Sara was relentless.  
18 MacPherson demanded telephonic access to Sara at all hours of the day. During many of  
19 MacPherson's calls to Sara, he would try to flirt with, and profess his love to, Sara. MacPherson  
20 would tell Sara about his personal life, his loveless marriage, and made attempts to initiate phone-  
21 sex with Sara. She dreaded MacPherson's phone calls, but was compelled to continue answering  
22 his calls, day and night, as part of her job duties.

23 26. Each of the repeated advances were unwanted and unwelcome. But Sara had  
24 nowhere to turn. As president of Chrysalis, MacPherson knew all and controlled all. As a  
25 professional and aspiring executive, Sara put her head down, endured the harassment, and  
26 continued to pursue her dream career in the music industry.

27 27. But MacPherson's unrelenting harassment began to take its toll, both physically  
28 and mentally. Sara lost considerable weight, suffered hair loss, and began experiencing crippling

1 anxiety and depression. Sara became a shell of a human being. She would cry daily under the  
2 stress of enduring constant sexual harassment. Sara's life became consumed with attempts to  
3 avoid MacPherson's advances. Even simple tasks, such as getting dressed for the day, were filled  
4 with anxiety-ridden decisions and flashbacks of sexually charged comments made about her  
5 appearance. What shoes she wore, the outfits she chose, and even the nail polish she used, were  
6 conscious decisions to attempt to avoid unwanted attention by MacPherson.

7         28. As Sara's mental and physical health deteriorated, MacPherson capitalized on her  
8 vulnerabilities. To further isolate and control Sara, MacPherson falsely told Sara that she needed  
9 him because her colleagues did not like her or respect her, and others did not find her attractive.  
10 He destroyed her confidence and self-worth. At the same time, MacPherson promoted Sara to  
11 Director of A&R, which allowed her to pursue more artists and assume more responsibilities in  
12 the company. MacPherson employed textbook grooming tactics by isolating Sara and giving Sara  
13 no choice but to lean on him for support and professional advancement.

14         29. MacPherson's relentless sexual harassment of Sara occurred amidst the presence of  
15 other employees at Chrysalis, none of whom ever intervened, let alone offered support for Sara.  
16 Instead, employees spread derisive sexual rumors about Sara and MacPherson.

17         30. Sara later learned that other employees and senior managers at Chrysalis referred to  
18 MacPherson and Sara as "Bill and Monica" behind Sara's back. Unbeknownst to Sara, rumors  
19 quickly spread throughout the office that MacPherson and Sara were having an affair.

20 **III. After Months of Sexual Harassment and Assaults, MacPherson's Actions Escalate**

21         31. Despite the ongoing and increasingly aggressive sexual harassment from  
22 MacPherson, Sara believed that her perseverance would eventually allow her to find success in the  
23 industry she loved.

24         32. In 2005, Sara was set to visit a newly-signed artist in Chicago, Illinois. Although he  
25 was not originally intended to accompany Sara, MacPherson inserted himself into the plans and  
26 made all of the travel arrangements for the two of them, including booking two adjoining hotel  
27 rooms.

28 ///

1           33.     Throughout the trip, MacPherson bought Sara alcoholic drinks, including on the  
2 flight to Chicago and at the concert venue. During the show, MacPherson repeatedly touched  
3 Sara’s arms and waist while plying her with alcohol.

4           34.     Upon the show’s conclusion, MacPherson insisted that he and Sara have another  
5 drink in Sara’s hotel room, again under the guise of a work discussion. Once in the room,  
6 MacPherson once again professed his love to Sara, confiding in her that even his wife had  
7 suspicions they were having an affair, guiltling Sara into taking blame for his failing marriage. At  
8 the same time, MacPherson’s wife repeatedly called his cell phone, and MacPherson admitted to  
9 Sara that his wife was panicking because MacPherson had taken his erectile dysfunction  
10 medication on the trip with him. In that moment, as MacPherson inched closer, Sara’s heart sank  
11 as she realized MacPherson had brought the medication along with him to use with her. Bravely,  
12 Sara reiterated that she did not share these feelings with MacPherson and explicitly told  
13 MacPherson that she was not interested in pursuing anything romantically or sexually, and wished  
14 to maintain a professional relationship.

15           35.     Undeterred, MacPherson forced himself upon Sara, undressing them both against  
16 her wishes. MacPherson attempted to penetrate Sara, but was unable to maintain an erection.  
17 MacPherson then forcibly performed oral sex on Sara as she laid motionless, repeatedly crying  
18 and saying “no,” and pleading for MacPherson to stop. Eventually, apparently frustrated with  
19 Sara’s lack of participation and his own inability to perform, MacPherson relented and stopped his  
20 sexual assault.

21 **IV.    MacPherson Continues to Harass Sara**

22           36.     When MacPherson and Sara returned from Chicago, he again showered her with  
23 gifts, meals, cash bonuses, and additional opportunities for career advancement. Coinciding with  
24 these gestures, MacPherson also continued to make unwanted romantic advances toward Sara.  
25 MacPherson continued to engage in non-consensual touching of Sara in and out of the office and  
26 continued to send love notes to her. When these advances were not returned, MacPherson  
27 expressed his disappointment with Sara, and she feared potential professional repercussions.

28 ///



1           37.     At one point, MacPherson appeared at Sara’s home unannounced, forced himself  
2 inside, pushed Sara against a wall, spread her legs, and pressed his genitals against hers as he  
3 forcibly kissed her. Again, Sara refused his advances.

4           38.     In 2007, Sara attended the South by South West (“SXSW”) festival with other co-  
5 workers from Chrysalis, including MacPherson. During the event, MacPherson demanded that  
6 Sara accompany him as he tried to force Sara to become intoxicated. Sara spent the entire  
7 weekend attempting to avoid MacPherson, only to be berated by him for not being available to  
8 him at his beck and call.

9 **V.     Sara’s Reports MacPherson, Only to be Silenced and Retaliated Against**

10          39.     After years of psychological, emotional, and sexual abuse at the hands of  
11 MacPherson, upon her return from SXSW, Sara mustered the courage to report MacPherson’s  
12 abuse to her direct supervisor at Chrysalis, Jamie Cerreta.

13          40.     Cerreta was recruited from Hollywood Records by MacPherson. Eventually,  
14 Cerreta was promoted to Vice President of the A&R group at Chrysalis, and was the direct  
15 supervisor of Sara. She considered Cerreta to be her friend and a superior, and Sara believed that  
16 Cerreta would help her. Chrysalis did not have a Human Resources department, nor did it have  
17 any Human Resource employees. On information and belief, Chrysalis lacked any policies or  
18 procedures to address workplace sexual harassment and assault.

19          41.     Over three hours, Sara painstakingly told Cerreta about the years of harassment she  
20 endured at the hands of MacPherson, including the unwanted touching, the love letters, and his  
21 persistence despite her repeated rejections of him. Cerreta nodded along, and told Sara that he  
22 always knew something was going on between Sara and MacPherson. Cerreta then asked Sara to  
23 allow him some time to think about what to do in response.

24          42.     Sara believed that Cerreta would help end MacPherson’s abuse. Instead, Cerreta  
25 did nothing and never mentioned the topic again. It became clear to Sara that Chrysalis was  
26 covering up the abuse and attempting to sweep it under the rug.

27          43.     Shortly after Sara spoke with Cerreta, Sara’s relationship with MacPherson began  
28 to deteriorate. MacPherson refused to set meetings with Sara, refused to respond to Sara, both

1 literally and figuratively shut Sara out. Sara found herself unable to arrange important meetings  
2 with other employees at Chrysalis, such as the legal and business affairs departments, both of  
3 whom were necessary to allow her to perform her job. Sara’s report resulted in a complete  
4 stonewalling at the company wherein she had dedicated her life for so many years. Sara knew her  
5 time was limited.

6 44. By reason of the foregoing, Sara’s work environment had become unbearable.  
7 MacPherson had sexually harassed Sara for years, and Chrysalis had done nothing to address her  
8 report of sexual harassment, but rather, had engaged in increasing levels of retaliation and adverse  
9 employment actions toward Sara. Faced with intolerable working conditions, Sara felt she had no  
10 other option but to search for a new job within the music industry. Unfortunately, Defendants’  
11 retaliation only continued. Despite nearly a decade in the music industry with success, Sara was  
12 unable to find similar employment. Eventually, Sara learned that MacPherson had branded Sara as  
13 “un-hirable,” stifling her ability to be employed. On information and belief, MacPherson and  
14 Chrysalis blacklisted Sara in retaliation of her report of sexual harassment, and in an attempt to  
15 silence Sara and further cover up MacPherson’s sexual harassment.

16 45. As a result of MacPherson and Chrysalis’s actions, and due to the intolerable  
17 working conditions she continued to face, Sara was forced to take a large demotion and pay cut at  
18 a smaller company. Over the next year, as she continued to pursue potential opportunities, despite  
19 having a very good reputation and work ethic, Sara learned she was blackballed from the industry  
20 by MacPherson. Ultimately, Sara was forced to leave the music industry entirely.

21 46. MacPherson and Chrysalis created an environment wherein Sara was without  
22 recourse. She either acquiesced to MacPherson’s relentless and unwanted sexual advances, or  
23 faced a career-ending fate.

24 47. Sara will no longer remain silent and now brings this action to seek redress for the  
25 years of sexual harassment and abuse she suffered at the hands of MacPherson, which was enabled  
26 and covered up by Chrysalis.

27 ///

28 ///



1 employees during, before, and after the work day, (3) actively shielding MacPherson from  
2 responsibility for his sexual assaults of Sara, (4) failing to acknowledge the existence of  
3 complaints against MacPherson of sexual assault on Sara, (5) failing to inform, or concealing  
4 from, law enforcement officials that the fact Defendants knew or had reason to know MacPherson  
5 may have sexually assaulted Sara, thereby enabling Sara to continue to be endangered and  
6 sexually assaulted, (6) failing to take steps to timely remove MacPherson from Chrysalis's employ  
7 so as to prevent him from using the authority bestowed upon him by Chrysalis to gain access to  
8 Sara and sexually assault her, and (7) failing to take reasonable steps, and to implement reasonable  
9 safeguards and/or policies to avoid acts of unlawful sexual misconduct by MacPherson.

10 54. Because of MacPherson's position of authority, Sara was unable to and did not give  
11 consent to such acts.

12 55. As a result of Defendants' conduct, Sara has suffered economic injury, all to Sara's  
13 general, special, and consequential damage in an amount to be proven at trial, but in no event less  
14 than the minimum jurisdictional amount of this Court.

15 56. As a result of the above-described conduct, Sara has suffered and continues to  
16 suffer great emotional distress, and was prevented and will continue to be prevented from  
17 performing daily activities and obtaining the full enjoyment of life.

18 **SECOND CAUSE OF ACTION**

19 **GENDER VIOLENCE**

20 **(Against All Defendants)**

21 57. Plaintiff repeats, re-alleges and incorporates herein by reference all consistent  
22 paragraphs of this Complaint as if fully set forth herein.

23 58. California Civil Code section 52.4 provides a Sara with a private cause of action for  
24 damages against any person who subjects another to "Gender Violence." Gender Violence  
25 constitutes gender discrimination through either: (1) at least one act: (a) that would constitute a  
26 criminal offense under state law that has as an element the use, attempted use, or threatened use of  
27 physical force against the person or property of another, and (b) that was committed at least in part

28 ///

1 based on the gender of the victim; or (2) a physical intrusion or physical invasion of a sexual  
2 nature under coercive conditions.

3 59. Defendants committed gender violence in violation of section 52.4 as follows:  
4 MacPherson sexually battered, sexually assaulted, molested, and otherwise sexually violated Sara.  
5 Defendants aided and abetted MacPherson's crimes and sexual assault of Sara. They hired and  
6 retained MacPherson as President of Chrysalis. Defendants knowingly, intentionally, deliberately,  
7 willfully, and/or recklessly disregarded complaints regarding MacPherson's sexual violence  
8 against Sara. In so doing, they fostered and facilitated the environment and impunity MacPherson  
9 needed to sexually violate Sara. Defendants aided, incited, or conspired in the denial of Sara's  
10 right to be free from violence or intimidation based on her gender. They explicitly and/or  
11 implicitly agreed to perpetrate harmful and offensive contact between MacPherson and Sara and  
12 otherwise create the hostile environment necessary for MacPherson to sexually violate Sara.

13 60. BMG, as successor entity for Chrysalis, is directly liable for violations of section  
14 52.4 through the acts of its President, MacPherson, who acted as and on behalf of Chrysalis.

15 61. As a result of Defendants' conduct, Sara has suffered economic injury, all to Sara's  
16 general, special, and consequential damage in an amount to be proven at trial, but in no event less  
17 than the minimum jurisdictional amount of this Court.

18 62. As a result of the above-described conduct, Sara has suffered and continues to  
19 suffer emotional distress, and was prevented and will continue to be prevented from performing  
20 daily activities and obtaining the full enjoyment of life.

21 63. Pursuant to section 52.4 of the California Civil Code, Sara seeks actual damages,  
22 compensatory damages, attorneys' fees and costs, and all other appropriate relief.

23 **THIRD CAUSE OF ACTION**

24 **SEXUAL HARASSMENT – CIVIL CODE § 51.9**

25 **(Against All Defendants)**

26 64. Plaintiff repeats, re-alleges and incorporates herein by reference all consistent  
27 paragraphs of this Complaint as if fully set forth herein.

28 ///

1           65.     During MacPherson's time as President of Chrysalis, MacPherson intentionally,  
2 recklessly, and wantonly made sexual advances, solicitations, requests, and demands for sexual  
3 compliance of a hostile nature that were unwelcome, pervasive, and severe. The sexual harassment  
4 and assaults occurred while MacPherson, in his role as President of Chrysalis, supervised Sara in  
5 the capacity of her employment with Chrysalis and its agents, while Sara was acting on behalf of  
6 Defendants. Because of Sara's relationship with Defendants, Sara was unable to easily terminate  
7 the relationship she had with Defendants.

8           66.     Because of MacPherson's position of authority, physical seclusion of Sara, Sara's  
9 mental and emotional state, Sara was unable to, and did not, give meaningful consent to  
10 MacPherson's inappropriate and criminal acts.

11           67.     Even though Defendants knew or should have known of these activities by  
12 MacPherson, Defendants did nothing to investigate, supervise, or monitor MacPherson to ensure  
13 the safety of Sara or its employees.

14           68.     On information and belief, Defendants ratified and authorized MacPherson's sexual  
15 assault of Sara by (1) failing to discharge, dismiss, discipline, suspend and/or supervise  
16 MacPherson after receiving notice that MacPherson was sexually assaulting Sara, (2) failing to  
17 supervise and/or stop MacPherson from committing wrongful sexual acts with Sara, (3) placing  
18 MacPherson in and allowing him to create a workplace environment where he would supervise or  
19 control the conduct of Sara and other subordinate employees during, before, and after the work  
20 day, (4) actively shielding MacPherson from responsibility for his sexual assault of Sara, (5)  
21 failing to acknowledge the existence of complaints against MacPherson of sexual assault on Sara,  
22 (6) failing to inform, or concealing from, law enforcement officials that the fact Defendants knew  
23 or had reason to know MacPherson may have sexually assaulted Sara, thereby enabling Sara to  
24 continue to be endangered and sexually assaulted, (7) failing to take steps to timely remove  
25 MacPherson from Chrysalis's employ so as to prevent him from using the authority bestowed  
26 upon him by Chrysalis to gain access to Sara and sexually assault her, and (8) failing to take  
27 reasonable steps, and to implement reasonable safeguards and/or policies to avoid acts of unlawful  
28 sexual misconduct by MacPherson.



1           76.     Chrysalis had a duty to investigate Sara’s complaint of sexual harassment and not  
2 to retaliate against her.

3           77.     Chrysalis owed a duty of care to Sara to appoint, hire, retain, and supervise persons  
4 who would not engage in retaliatory, harassing, or discriminatory conduct, and not to retain  
5 managers, supervisors, or employees who would discriminate against, harass, or retaliate against  
6 employees for engaging in protected activities. Chrysalis owed a duty of care to Sara to supervise  
7 its managers and employees closely to ensure that they would refrain from harassing and  
8 retaliating against Sara.

9           78.     Chrysalis’s conduct, actions, and omissions served to create an environment in  
10 which MacPherson was afforded years of continuous secluded access to Sara, who was sexually  
11 abused, molested and assaulted by MacPherson between 2003 and 2007. Upon report her assaults,  
12 Chrysalis should have investigated and appropriately responded to such complaints, and should  
13 have taken action to further protect Sara.

14           79.     As is set forth herein, BMG/Chrysalis failed to uphold numerous duties imposed  
15 upon it by state and federal law, including, but not limited to, the following: (1) duty to use  
16 reasonable care to protect employees from known or foreseeable dangers; (2) duty to protect  
17 employees and provide adequate supervision; (3) duty to supervise Defendant MacPherson; (4)  
18 duty to act promptly and diligently and not ignore or minimize problems; and (5) duty to refrain  
19 from violating Sara’s right to protection from bodily restraint or harm.

20           80.     By virtue of his unique authority and position as president of Chrysalis,  
21 MacPherson was able to identify Sara as a vulnerable person, upon which he could perform sexual  
22 assault; to manipulate his authority to procure compliance with his sexual demands from his  
23 victim; to induce Sara to continue to allow the assault; and to coerce her not to report it to any  
24 other persons or authorities.

25           81.     As a direct and proximate result of Defendants’ multiple and continuous breaches,  
26 Sara has suffered economic injury, all to Sara’s general, special, and consequential damage in an  
27 amount to be proven at trial, but in no event less than the minimum jurisdictional amount of this  
28 Court.





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

**SIXTH CAUSE OF ACTION**

**HARASSMENT ON THE BASES OF SEX/GENDER IN VIOLATION OF THE FEHA**

**(Against All Defendants)**

90. Plaintiff incorporates the allegations contained in the preceding paragraphs as though fully set forth herein.

91. At all times herein mentioned, FEHA, Government Code section 12940, *et seq.*, was in full force and effect and was binding on Defendants. This statute provides in pertinent part that it is unlawful for an employer to subject an employee to harassment on the basis of a protected class, e.g., the employee’s sex/gender.

92. Chrysalis through its successor Defendant BMG is an employer within the meaning of FEHA. Sara was an employee of Chrysalis through its successor, Defendant BMG.

93. Sara was subjected to unwanted sexual harassment and a hostile work environment, in whole or in part on the bases of her protected characteristics, her sex and/or gender, in violation of Government Code sections 12940(j) and 12923.

94. The harassing conduct was severe or pervasive. Pursuant to Government Code section 12923(b), a single incident of harassing conduct is sufficient to create a hostile work environment if the harassing conduct has unreasonably interfered with Sara’s work performance or created an intimidating, hostile, or offensive working environment. Defendants’ above-described conduct created a work environment that was intimidating, hostile, or offensive to female employees, including Sara, and unreasonably interfered with Sara’s work performance.

95. A reasonable person in Sara’s circumstances would have consider the work environment to be hostile or abusive.

96. Sara did in fact considered the work environment to be hostile or abusive.

97. Terms of employment, job benefits, or favorable working conditions were made contingent, by words or conduct, on Sara’s acceptance of MacPherson’s sexual advances or conduct.

98. At the time of the relevant conduct, MacPherson was Sara’s supervisor.

///





1 115. As a direct and proximate result of the conduct of Defendants, Sara has and will  
2 continue to suffer harm, including lost earnings, salary, and other job benefits, and humiliation,  
3 embarrassment, and emotional distress, according to proof.

4 116. Chrysalis, as liable through their successor Defendant BMG, failed to take all  
5 reasonable steps to prevent harassment which was a substantial factor in causing Sara's harm.

6 117. Sara has incurred and continues to incur legal expenses and attorneys' fees.  
7 Pursuant to Government Code section 12965(c)(6), Sara is entitled to recover reasonable  
8 attorneys' fees and costs in an amount according to proof.

9 **NINTH CAUSE OF ACTION**

10 **VIOLATION OF LABOR CODE § 1102.5**

11 **(Against All Defendants)**

12 118. Plaintiff incorporates the allegations contained in the preceding paragraphs as  
13 though fully set forth herein.

14 119. At all relevant times, Labor Code section 1102.5 was in effect and was binding on  
15 Defendants. This statute prohibits Defendants from retaliating against any employee, including  
16 Sara, for actually raising complaints of actual or potential illegality, for providing information of  
17 such actual or potential illegality, because the employee is believed to have engaged in such  
18 conduct, or because the employee may engage in such conduct. The statute also further prohibits  
19 Defendants from retaliating against any employee, including Sara, where the employee refused to  
20 participate in activity that would result in a violation of the law.

21 120. Sara had a reasonable belief that Defendants were violating actual or potential state  
22 and federal laws and regulations, including but not limited to complaints about violations of  
23 Government Code Section 12900 *et seq.* while she worked for Defendants.

24 121. Sara reported those violations to a "to a person with authority over [him] or another  
25 employee who has the authority to investigate, discover, or correct the violation or  
26 noncompliance[.]" (Labor Code, § 1102.5, subd. (b).)

27 122. Defendants retaliated against Sara for her whistleblowing by harassing and  
28 constructively discharging her in violation of section 1102.5 of the Labor Code.



1           130. Sara had a reasonable belief that Defendants were violating actual or potential state  
2 and federal laws and regulations, including but not limited to complaints about violations of  
3 Government Code Section 12900 *et seq.* while she worked for Defendants.

4           131. Sara reported those violations to a “to a person with authority over [him] or another  
5 employee who has the authority to investigate, discover, or correct the violation or  
6 noncompliance[.]” (Labor Code, § 1102.5, subd. (b).)

7           132. Defendants retaliated against Sara for her whistleblowing by harassing and  
8 constructively discharging her in violation of sections 98.6 and 1102.5 of the Labor Code. These  
9 adverse employment actions materially and adversely affected Sara’s overall terms and conditions  
10 of employment.

11           133. Defendants’ adverse employment actions against Sara resulted from her protected  
12 activity under the California Labor Code by reporting violations of law.

13           134. As a proximate result of Defendants’ actions, Sara has and will continue to suffer  
14 harm, including lost earnings, salary, and other job benefits, and humiliation, embarrassment, and  
15 emotional distress, according to proof.

16           135. Defendants’ misconduct was committed intentionally, in a malicious, fraudulent,  
17 despicable, and/or oppressive manner, and this entitles Sara to punitive damages against  
18 Defendants.

19           136. Sara requests all available relief under section 98.6 of the Labor Code, including  
20 reimbursement for lost wages and benefits pursuant to section 98.6, subdivision (b)(1), and the  
21 imposition of a civil penalty of \$10,000.00 for each violation pursuant to section 98.6, subdivision  
22 (b)(3).

23           137. Sara has incurred and continues to incur legal expenses and attorneys’ fees.  
24 Pursuant to California Code of Civil Procedure section 1021.5, which provides that a “court may  
25 award attorney’s fees to a successful party against one or more opposing party in any action which  
26 has resulted in the enforcement of an important right affecting the public interest,” Sara seeks  
27 reasonable attorneys’ fees and costs incurred in bringing this claim.

28 ///

1 **ELEVENTH CAUSE OF ACTION**

2 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

3 **(Against BMG and DOES 1-20)**

4 138. Plaintiff incorporates the allegations contained in the preceding paragraphs as  
5 though fully set forth herein.

6 139. Defendants terminated Sara's employment in violation of various fundamental  
7 public policies underlying state law. These actions were in violation of, but not limited to  
8 Government Code section 12900, et seq., and California Labor Code sections 98.6 and 1102.5.

9 140. At all times material hereto, section 1102.5 of the Labor Code was in full force and  
10 effect and was binding on Defendants. This law requires Defendants to refrain from, among other  
11 things, retaliating against employees who disclose to their employer, or refuse to participate in or  
12 condone, conduct they reasonably believe to violate state or federal law or regulations.

13 141. Section 1102.5 of the Labor Code sets forth a fundamental public policy of the  
14 State of California.

15 142. The public has a fundamental interest in a workplace free from discrimination,  
16 harassment, and retaliation, as embodied by the California Constitution, Article I, Section 8, the  
17 California Fair Employment and Housing Act, and the Fair Labor Standards Act.

18 143. As described above, Sara was subjected to years of ongoing sexual harassment and  
19 reported those violations of law.

20 144. Defendants retaliated against Sara for her whistleblowing by harassing and  
21 constructively discharging her in violation of sections 98.6 and 1102.5 of the Labor Code. These  
22 adverse employment actions materially and adversely affected Sara's overall terms and conditions  
23 of employment. These adverse employment actions were motivated by Sara's whistleblowing and  
24 her refusal to participate in or condone illegal activity and therefore constituted wrongful conduct  
25 in violation of fundamental public policy.

26 145. As a proximate result of Defendants' actions, Sara has and will continue to suffer  
27 harm, including lost earnings, salary, and other job benefits, and humiliation, embarrassment, and  
28 emotional distress, according to proof.



1 146. Defendants' misconduct was committed intentionally, in a malicious, fraudulent,  
2 despicable, and/or oppressive manner, and this entitles Sara to punitive damages against  
3 Defendants.

4 147. Sara has incurred and continues to incur legal expenses and attorneys' fees.  
5 Pursuant to Code of Civil Procedure sections 1021.5 and 1032, et seq. Sara is entitled to recover  
6 reasonable attorneys' fees and costs in an amount according to proof.

7 **TWELFTH CAUSE OF ACTION**

8 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

9 **(Against All Defendants)**

10 148. Plaintiff incorporates the allegations contained in the preceding paragraphs as  
11 though fully set forth herein.

12 149. Defendants' conduct caused Sara to suffer severe emotional distress. Defendants'  
13 conduct as alleged herein was outrageous and exceed all bounds of decency and is odious and  
14 utterly intolerable in a civilized society.

15 150. A reasonable person would not expect or tolerate the sexual harassment and  
16 assaults of Sara by MacPherson, and Defendants' knowledge and callous indifference  
17 thereof. Sara had great trust, faith, and confidence in Defendants, which, by virtue of MacPherson  
18 and Defendants' wrongful conduct, turned to fear.

19 151. A reasonable person would not expect or tolerate Defendants putting MacPherson  
20 who was known to Defendants to have physically and sexually abused Sara and potentially other  
21 employees, in a position of authority and supervision where he could commit wrongful sexual  
22 acts, including the conduct described herein, with female employees, including Sara.

23 152. A reasonable person would not expect or tolerate the Defendants and their agents to  
24 be incapable of supervising and/or stopping participants and members of Defendants, including  
25 MacPherson, from committing wrongful sexual acts with other employees, including Sara, or to  
26 report MacPherson. As a direct and proximate result of Defendants' tortious acts, omissions,  
27 wrongful conduct and breaches of their duties, Sara has suffered injury, all to her general, special,

28 ///

1 and consequential damage in an amount to be proven at trial, but in no event less than the  
2 minimum jurisdictional amount of this Court.

3 153. Defendants' discriminatory, harassing, and retaliatory actions against Sara  
4 constituted extreme and outrageous misconduct and caused Sara severe emotional distress.  
5 Defendants were aware that treating Sara in the manner alleged above, including depriving Sara of  
6 her livelihood, would devastate Sara and cause her extreme hardship.

7 154. Defendants' conduct described herein was intentional and malicious and done for  
8 the purpose of causing or with the substantial certainty that Sara would suffer humiliation, mental  
9 anguish, and emotional and physical distress.

10 155. As a direct and proximate result of Defendants' failure to discharge, dismiss,  
11 discipline, suspend and/or supervise MacPherson after receiving notice that MacPherson was  
12 sexually harassing and assaulting female employee(s), Sara has suffered injury, all to her general,  
13 special, and consequential damage in an amount to be proven at trial, but in no event less than the  
14 minimum jurisdictional amount of this Court.

15 156. As a result of the above-described conduct, Sara has suffered and continues to  
16 suffer emotional distress, and physical manifestations of emotional distress.

17 157. Sara is informed and based thereon alleges that the conduct of Defendants was  
18 oppressive, malicious, manipulative, and despicable in that it was intentional and done in  
19 conscious disregard for the rights and safety of others, and were carried out with a conscious  
20 disregard of their rights to be free from such tortious behavior, such as to constitute oppression,  
21 fraud or malice pursuant to California *Civil Code* section 3294, entitling Sara to punitive damages  
22 against Defendants in an amount appropriate to punish and set an example of Defendants.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///


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

**PRAYER FOR RELIEF**

1. WHEREFORE, Plaintiff prays for the following relief against Defendants:
2. For past, present, and future general damages in an amount to be determined at trial;
3. For past, present, and future special damages, including but not limited to past, present and future lost earnings, economic damages, and others in an amount to be determined at trial;
4. For any appropriate punitive or exemplary damages;
5. Any appropriate statutory damages;
6. For cost of suit;
7. For interest as allowed by law;
8. For attorney’s fees pursuant to Code of Civil Procedure section 1021.5, Civil Code sections 51, et seq., 52 et seq., and 52.4, Labor Code 1102.5, Government Code section 12965(c)(6) or otherwise as allowable by law; and
9. For such other and further relief as the Court may deem proper.

DATED: October 4, 2023

GREENBERG GROSS LLP

By:   
\_\_\_\_\_  
Brian L. Williams  
Jemma E. Dunn  
Matthew T. Hale

JEFF ANDERSON & ASSOCIATES  
Michael Reck  
*Attorneys for Plaintiff*

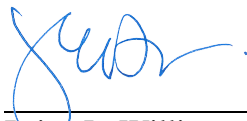
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demand a trial by jury in this action for any and all claims so triable.

DATED: October 4, 2023

GREENBERG GROSS LLP

By:   
\_\_\_\_\_  
Brian L. Williams  
Jemma E. Dunn  
Matthew T. Hale

JEFF ANDERSON & ASSOCIATES  
Michael Reck

*Attorneys for Plaintiff*