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 11 CATHY NEUSHUL

12 **UNITED STATES DISTRICT COURT FOR THE**
 13 **CENTRAL DISTRICT OF CALIFORNIA**

14 CATHY NEUSHUL, 15 Plaintiff, 16 vs. 17 THE REGENTS OF THE UNIVERSITY OF 18 CALIFORNIA, 19 Defendants.) Case No. 2:15-cv-06286-FMO (ASx))) FIRST AMENDED COMPLAINT FOR) DAMAGES AND INJUNCTIVE) RELIEF)) (Civil Rights)) Demand for Jury Trial))))))
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 23 Plaintiff CATHY NEUSHUL complains against defendant THE REGENTS as
 24 follows:

25 **PRELIMINARY STATEMENT**

26 1. Plaintiff Cathy Neushul, former Head Coach of Women’s Water Polo at the
 27 University of California at Santa Barbara (“UCSB”), brings this action against defendant
 28 The Regents for discrimination and retaliation based upon gender and protected acts.

1 2. Ms. Neushul brings a claim under 20 U.S.C. § 1681(a) for retaliation based upon
2 protected Title IX disclosures. She brings a claim for gender discrimination and
3 retaliation under California Government Code § 12940. She also brings a claim for
4 retaliation based upon protected whistleblower conduct under California Labor Code
5 § 1102.5. She brings a claim of failure to release personnel records under California
6 Labor Code § 1198.5.

7 **JURISDICTION**

8 3. This action arises under Title IX of the Education Amendments of 1972 (20
9 U.S.C. § 1681(a)). The Court has jurisdiction over this matter under 28 U.S.C. § 1331.

10 4. The state law claim in this action is so related to claims in the action within
11 original jurisdiction that they form part of the same case or controversy under Article III
12 of the United States Constitution. The Court has supplemental jurisdiction over the
13 related state law claims under 28 U.S.C. § 1367.

14 **VENUE**

15 5. Venue is proper in the Central District of California because the events or
16 omissions giving rise to the claim occurred in this District.

17 **PARTIES**

18 6. At all times relevant to this controversy, plaintiff CATHY NEUSHUL was a Water
19 Polo Coach and employee for THE REGENTS, and a resident of Isla Vista, California.

20 7. At all times relevant to this controversy, defendant THE REGENTS was a public
21 agency that governs the University of California.

22 **STATEMENT OF FACTS**

23 8. Plaintiff Cathy Neushul was demoted by the UCSB Athletics Department from
24 Head Women's Water Polo Coach to Second Assistant Coach, an action unprecedented
25 in Intercollegiate Athletics, as a result of gender discrimination.

26 9. Ms. Neushul is an extremely successful and experienced water polo coach. She
27 trained Olympians, was one of few women who held several head women's water polo
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1 coaching positions, and currently two of her players are on the U.S. Senior Women's
2 National Team.

3 10. From 2003 to 2008, there were five different Women's Water Polo ("WWP")
4 Head Coaches over five years at UCSB.

5 11. In 2008, Wolf Wigo, previously the UCSB Men's Water Polo ("MWP") coach, was
6 promoted to UCSB Head Coach of both Men's and Women's Water Polo. At that time,
7 Wigo hired Ms. Neushul as Assistant WWP Coach.

8 12. In September 2011, Ms. Neushul became Head Coach of WWP, with a salary of
9 \$48,000, and a non-benefitted assistant compensated at \$5,000. Wigo told her he was
10 making her Head Coach because he "didn't want to coach the women's team anymore."

11 13. Simultaneously, Athletic Director Mark Massari retained Wigo as "Director of
12 Water Polo," overseeing both the Men's Water Polo ("MWP") team, the WWP team, and
13 fundraising for the two programs.

14 14. In her tenure as Head Coach at UCSB, Ms. Neushul was the most successful
15 WWP Coach in program history. She led the team to the most consecutive winning
16 seasons, holds the highest winning percentage in the history of the program, and in
17 2013, recruited the most talented freshman class in school history, including the
18 Southern Section CIF Division I Player of the Year.

19 15. Over her two years as Head Coach, Ms. Neushul realized that funding and staff
20 allocation for the Women's program was not commensurate with the Men's.

21 16. In or around June 2012, Ms. Neushul attended a budget meeting with Athletic
22 Director Mark Massari, Senior Women's Administrator Diane O'Brien, Water Polo
23 Director Wolf Wigo and Budget Manager Karen Dietz where Ms. Neushul questioned
24 the discrepancy between Men's and Women's budget and salaries.

25 17. In this meeting, Ms. Neushul also brought up that she was not invited to work at
26 summer water polo camps Wigo held at the UCSB campus. Wigo used the camp revenue
27 to fund only the MWP team. Ms. Neushul offered to work at these camps to help fund
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1 the WWP team, and O'Brien responded that the school "would have to look into these
2 camps."

3 18. In this meeting, Ms. Neushul pointed out that UCSB's WWP scholarships were
4 not adequate for championship competition. Massari responded, "We need to build the
5 pool first and then raise money for scholarships," referring to a new pool UCSB was
6 planning to build.

7 19. In September 2012, WWP hired Connor Levoff as its Assistant Coach for \$5,000.

8 20. On June 24, 2013, in a meeting with Massari and O'Brien, Ms. Neushul again
9 reported her concerns about ongoing gender discrimination at UCSB's Water Polo
10 department.

11 21. That day, Ms. Neushul told Massari and O'Brien that there was \$40,000
12 designated for WWP coaching salaries that was going neither to Ms. Neushul nor her
13 assistant, Connor Mr. Levoff, but to Wigo as "Director of Water Polo."

14 22. However, Director of Water Polo Wigo exclusively coached the Men's team, had
15 very little involvement with the Women's team, never attended a single Women's
16 practice, and was not a presence at their games.

17 23. Massari told Ms. Neushul that the WWP program would not get the \$40,000,
18 even if it did not go to Wigo.

19 24. Ms. Neushul also reported to Massari and O'Brien that the WWP scholarship
20 allotment was unequal to the MWP scholarships, and not adequate to compete for
21 championships.

22 25. Massari told her this was because "the Men's team has to play Stanford." Ms.
23 Neushul responded that WWP also played against Stanford, as well as most other teams
24 ranked in the nation's top ten.

25 26. Ms. Neushul reported at this meeting that money raised by Wigo was going solely
26 to the Men's team, though he was supposed to be fundraising for both teams.

27 27. Ms. Neushul reported that while the Men's Team had a fully funded Associate
28 Coach, the WWP only had a temporary assistant coach paid \$5,000 (Mr. Levoff).

1 28. In August 2013, O'Brien met informally with Ms. Neushul. Ms. Neushul again
2 reported the salary discrepancies, fundraising dollars going primarily to MWP, Wigo's
3 running a water polo camp that funded only the MWP, and underpayment of WWP
4 team staff. O'Brien acknowledged these problems.

5 29. Ms. Neushul had a reasonable belief that she was disclosing violations of Title IX.

6 30. On August 31, 2013 the funding raised by Wigo for MWP Associate Head Coach
7 Abdou's salary was exhausted.

8 31. On September 4, 2013, Wigo and O'Brien told Ms. Neushul she was demoted
9 from Women's Head Coach to the second assistant coach of both WWP and MWP. In
10 the meeting, Wigo stated that Ms. Neushul is "making too much money as the second
11 assistant and I don't like it."

12 32. After O'Brien left the meeting, Wigo screamed at Ms. Neushul, "You are ruining
13 our lives (Wigo and MWP assistant coach John Abdou) by making us coach the women."

14 33. Defendant demoted Ms. Neushul despite Senior Women Administrator O'Brien's
15 recommendation that she stay.

16 34. Also on September 4, 2013, Wigo terminated WWP Assistant Mr. Levoff by
17 failing to renew his contract.

18 35. Defendant reduced Ms. Neushul's pay by \$10,000. Wigo used that money, and
19 the \$5,000 from the WWP Assistant Coach Mr. Levoff's termination, to retain MWP
20 Assistant Coach Abdou.

21 36. That day, Wigo informed Ms. Neushul that the new structure would be Wigo as
22 Head Coach for MWP and WWP, Abdou as Associate Coach for both teams, and Ms.
23 Neushul as Assistant Coach for both teams. Wigo could not explain to Ms. Neushul what
24 her job duties would be. He told her to take a vacation and "do nothing" until the WWP
25 returned, although the MWP was already in practice.

26 37. Abdou never attended WWP's practices or games.

27 38. Mr. Levoff informed the WWP team that he had been terminated, and on
28 September 5, 2013, a parent started a MoveOn petition to reestablish both Mr. Levoff

1 and Ms. Neushul, garnering over 350 signatures. Upon information and belief, UCSB
2 was inundated with calls and emails questioning the adverse acts.

3 39. Mr. Levoff filed a complaint with the UCSB Title IX office alleging discrimination
4 against Ms. Neushul by the UCSB Athletics Department.

5 40. On September 17, 2013, Ms. Neushul contacted Faculty Advisor to the Chancellor
6 Dr. Richard J. Watts and described the above events. She told Watts that the role of the
7 UCSB SWA was a façade and that O'Brien's voice as SWA was "not being heard" at the
8 Athletics Department. Watts told Neushul that O'Brien had resigned as SWA. He also
9 suggested that Ms. Neushul should "consider legal action." Watts told her he would
10 contact UC Legal Counsel on her behalf, and referred her to the Title IX office.

11 41. On September 17, 2013, Ms. Neushul visited the Title IX office. Their staff
12 recommended she talk with the Campus Ombudsman prior to filing an official
13 complaint. Ms. Neushul talked to the Campus Ombudsman twice.

14 42. On September 17, 2013, Ms. Neushul met with Faculty Athletics Representative
15 Janis Ingham and told her the above events. Ingham told Ms. Neushul this was
16 "probably the last straw" for Massari. Ingham confirmed that O'Brien recommended
17 Ms. Neushul stay as Head Coach. Ingham became visibly upset during the meeting,
18 stating that Ms. Neushul had truly advanced UCSB WWP.

19 43. In that meeting, Ingham told Ms. Neushul that she would speak to AD Massari.
20 She also stated that Ms. Neushul should stay on as the second Assistant to the programs
21 and would really be "acting as the Head Coach" despite her demotion.

22 44. On September 18, 2013, Watts called Ms. Neushul and told her not to tell anyone
23 he had informed her that there may be a legal issue or that he would call UC Legal.

24 45. On September 25, 2013, Wigo informed the WWP Team that he was interviewing
25 for a new WWP Head Coach. UCSB never posted the position. Wigo directed Ms.
26 Neushul to meet with two interviewees. No applicant would take the job.

1 46. On September 26, 2013, Ms. Neushul made a written request to UCSB to inspect
2 her personnel file, records regarding her performance and records related to grievances
3 concerning her. The Regents did not provide these documents.

4 47. On September 27, 2013, Ms. Neushul told Massari she would give up her salary if
5 he would separate the MWP and WWP because Wigo's direction was so
6 disadvantageous to WWP.

7 48. On October 1, 2013, Wigo related private personnel issues about Ms. Neushul to a
8 parent of a community water polo player. He called Ms. Neushul a "liar," claimed she
9 and Mr. Levoff had "tanked" one of the most successful WWP teams in UCSB history,
10 and that she had been under National Collegiate Athletic Association ("NCAA")
11 investigation for the last eight months.

12 49. Other parents complained about Wigo to The Regents.

13 50. On October 2, 2013, Wigo informed the WWP team and Ms. Neushul that he
14 could not find a WWP coach so "I guess I am coaching you."

15 51. On October 4, 2013, Ms. Neushul met with Massari who told her she was not
16 under NCAA investigation, but had been "under investigation" by the Athletic
17 Department since April 2013. He refused to provide any documents or details despite
18 Ms. Neushul's request, and told her, "This will hurt the (Water Polo) program."

19 52. Massari also said Ms. Neushul was valuable to the program and could be Head
20 Coach of WWP again next year. Ms. Neushul told Massari that Wigo "did nothing" for
21 WWP.

22 53. On October 10, 2013, Ms. Neushul made a second request for personnel records
23 related to her. The Regents has failed to provide Ms. Neushul with these documents to
24 this day, despite a promise to deliver records by October 18, 2013.

25 54. On October 15, 2013, training begun. Wigo marginalized Ms. Neushul poolside by
26 texting her swim sets instead of speaking to her, and disallowed her any coaching duties.

27 55. On October 16, 2013, Massari questioned Ms. Neushul about a number of issues
28 of supposed misconduct by her, concerning UCSB jackets.

1 56. Finally, exhausted by the inequity, abusive statements by Wigo, and in fear from
2 the threat that Wigo would reduce her salary or terminate her altogether from the
3 program, Ms. Neushul resigned on November 19, 2013, stating that the department was
4 not a “safe environment.”

5 57. Community members sent letters of concern regarding Ms. Neushul’s separation
6 directly to Chancellor Henry T. Yang. The Regents did not ensure a response to these
7 Title IX complaints.

8 58. After separation, Ms. Neushul agreed to UCSB’s request that she participate in
9 investigations against Wigo by providing information to UCSB about Wigo’s conflicts of
10 interest selling UCSB equipment from his company, misusing the UCSB logo, engaging
11 in inappropriate admissions procedures, and other issues.

12 59. Despite the UC policy against communicating with or threatening suspected
13 whistleblowers, Wigo threatened a lawsuit against Ms. Neushul, and contacted her
14 daughter online.

15 60. UCSB has also apparently engaged in other Title IX violations, and appears
16 negligent about compliance. There appears to be a revolving door of Senior Women’s
17 Administrators. UCSB appears not to post Title IX compliance reports.

18 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

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20 61. The Department of Fair Housing and Employment issued Ms. Neushul a right to
21 sue letter on February 27, 2015. *See* Exhibit A.

22 **FIRST CLAIM – RETALIATION IN VIOLATION OF TITLE IX**
23 **(against defendant THE REGENTS)**
(20 U.S.C. § 1681(a))

24 62. Plaintiff incorporates by reference paragraphs 1 through 61 above as though fully
25 set forth herein.

26 63. By virtue of the foregoing, defendant retaliated against plaintiff because she
27 complained of sex discrimination against the Women’s Water Polo Team at UCSB.
28

1 **SECOND CLAIM - GENDER DISCRIMINATION**
2 **(against defendant THE REGENTS)**
3 (Gov. Code, § 12940(a))

4 64. Plaintiff incorporates by reference paragraphs 1 through 63 above as though fully
5 set forth in this claim.

6 65. By virtue of the foregoing, defendant THE REGENTS discriminated against
7 plaintiff based on her gender in violation of Government Code section 12940(a).

8 **THIRD CLAIM - RETALIATION**
9 **(against defendant THE REGENTS)**
10 (Gov. Code, § 12940(h))

11 66. Plaintiff incorporates by reference paragraphs 1 through 65 above as though fully
12 set forth in this claim.

13 67. By virtue of the foregoing, defendant THE REGENTS retaliated against plaintiff
14 for reporting gender discrimination in violation of Government Code section 12940(h).

15 **FOURTH CLAIM – VIOLATION OF**
16 **CALIFORNIA LABOR CODE § 1102.5**
17 **(against defendant THE REGENTS)**
18 (Cal. Lab. Code § 1102.5)

19 68. Plaintiff incorporates by reference paragraphs 1 through 68 above as though fully
20 set forth herein.

21 69. By virtue of the foregoing, defendant The Regents retaliated against plaintiff for
22 disclosing what she reasonably believed were violations of state and/or federal laws.

23 **FIFTH CLAIM – DENIAL OF RIGHT TO INSPECT RECORDS**
24 **(against defendant THE REGENTS)**
25 (Cal. Lab. Code § 1198.5)

26 70. Plaintiff incorporates by reference paragraphs 1 through 69 above as though fully
27 set forth herein.

28 71. By virtue of the foregoing, defendant The Regents denied plaintiff's right to
inspect records concerning her.

DAMAGES

72. As a result of the actions of defendants, plaintiff has been injured and has suffered damages as follows:

- a. She has lost compensation and other employment-related benefits to which she has been entitled and will lose such compensation and benefits in the future;
- b. She has suffered from emotional distress, embarrassment and humiliation, and has suffered damage to her professional reputation and standing;
- c. She has incurred out-of-pocket expenses for health care benefits.

WHEREFORE, plaintiff requests that this Court grant her relief as follows:

- (1) Injunctive relief to require defendant The Regents to reinstate plaintiff together with all pay, benefits, seniority, and emoluments of that position; and treat her without retaliation;
- (2) Compensatory damages for past and future lost wages and benefits, in an amount to be determined;
- (3) Interest at the legal rate;
- (4) General damages for emotional distress, pain and suffering, in an amount to be determined;
- (5) Special damages for out-of-pocket expenses;
- (6) Attorney fees;
- (7) Costs of suit; and
- (8) Such other and further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

In accordance with the Federal Rules of Civil Procedure, Rule 38(b), and Central District Local Rule 38, plaintiff Cathy Neushul hereby demands a jury trial.

Dated: September 19, 2015

SIEGEL & YEE

By: /s/ Sonya Z. Mehta
Sonya Z. Mehta

Attorneys for Plaintiff
CATHY NEUSHUL

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EXHIBIT A



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

DIRECTOR KEVIN KISH

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | TDD 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

February 27, 2015

Cathy Neushul
915 Camino Lindo
Goleta California 93114

RE: Notice of Case Closure and Right to Sue
DFEH Number: 273507-110886
EEOC Number: 37A-2014-04395-C Alameda - N
Neushul / The Regents, University Of California At Santa Barbara

Dear Cathy Neushul:

The Department of Fair Employment and Housing (DFEH) has closed your case for the following reason: Investigated and Dismissed: Non-Jurisdictional Impediments. Based upon its investigation, DFEH is unable to conclude that the information obtained establishes a violation of the statute. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this complaint.

This is your Right to Sue notice. According to Government Code section 12966, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. This is also applicable to DFEH complaints that are filed under, and allege a violation of, Government Code section 12948, which incorporates Civil Code sections 51, 51.7, and 54. The civil action must be filed within one year from the date of this letter. However, if your civil complaint alleges a violation of Civil Code section 51, 51.7, or 54, you should consult an attorney about the applicable statutes of limitation.

Your complaint **is dual filed** with the United States Equal Employment Opportunity Commission (EEOC). You have a right to request EEOC to perform a substantial weight review of our findings. This request must be made within fifteen (15) days of your receipt of this notice. Pursuant to Government code section 12965, subdivision (d) (1), your right to sue may be tolled during the pendency of EEOC's review of your complaint. To secure this review, you must request it in writing to the State and Local Coordinator nearest you:

EEOC Northern California
450 Golden Gate Avenue, 5th Floor West
P.O. Box 36025
San Francisco, CA 94102-3661
(415) 522-3000

EEOC Southern California
Roybal Federal Building
255 East Temple Ste., 4th Floor
Los Angeles, CA 90012
(213) 894-1100

You may file an appeal with DFEH which is a written request made to the District

Administrator for reconsideration of the decision to close your case. Your appeal should include a 1) summary as to why you disagree with the reason; and/or, 2) any new detailed information (e.g., documents, records, witness information) that supports your claim. If you appeal, the information you provide will be carefully considered.

Although DFEH has concluded that the evidence and information did not support a finding that a violation occurred, the allegations and conduct at issue may be in violation of other laws. You should consult an attorney as soon as possible regarding any other options and/or recourse you may have regarding the underlying acts or conduct.

Should you decide to bring a civil action on your own behalf in court in the State of California under the provisions of the California Fair Employment and Housing Act (FEHA) against the person, employer, labor organization or employment agency named in your complaint, below are resources for this. Please note that if a settlement agreement has been signed resolving the complaint, you might have waived the right to file a private lawsuit.

Finding an Attorney

To proceed in Superior Court, you should contact an attorney. If you do not already have an attorney, the organizations listed below may be able to assist you:

- The State Bar of California has a Lawyer Referral Services Program which can be accessed through its Web site at www.calbar.ca.gov or by calling (866) 442-2529 (within California) or (415) 538-2250 (outside California).
- Your county may have a lawyer referral service. Check the Yellow Pages of your telephone book under "Attorneys."

Filing in Small Claims Court

- The Department of Consumer Affairs (DCA) has a publication titled "The Small Claims Court: A Guide to Its Practical Use" online at of "The Small Claims Court: A Guide to Its Practical Use" online at http://www.dca.ca.gov/publications/small_claims. You may also [order a free copy](#) of "The Small Claims Court: A Guide to Its Practical Use" online, by calling the DCA Publication Hotline at (866) 320-8652, or by writing to them at: DCA, Office of Publications, Design and Editing; 1625 North Market Blvd., Suite N-112; Sacramento; CA; 95834.
- The State Bar of California has information on "Using the Small Claims Court" under the "Public Services" section of its Web site located at www.calbar.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'MPL' or similar, written in a cursive style.

Notice of Case Closure and Right to Sue

February 27, 2015

Page 3 of 4

Marshalena Adkins

Consultant I

510.789.1049

marshalena.adkins@dfeh.ca.gov

cc: The Regents University of California
1111 Franklin Street 8th Floor
Oakland, CA 94607

Notice of Case Closure and Right to Sue

February 27, 2015

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