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1 **ADISHIAN LAW GROUP, P.C.**
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9 Attorneys for Plaintiff Russell Miller

**ENDORSED
FILED**
San Francisco County Superior Court

NOV 06 2017

**CLERK OF THE COURT
BY: KALENE APOLONIO**
Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN FRANCISCO**

12 **RUSSELL MILLER,**

13 Plaintiff,

14 V.

15 **CAMBRIA COMPANY LLC, a Minnesota
16 limited liability company; and DOES 1 through
17 50, Inclusive,**

18 Defendants.

Case No. **CGC-17-562310**

COMPLAINT FOR DAMAGES:

1. **Age Discrimination [CGC §12940(a)]**
2. **Failure to Prevent Discrimination [CGC §12940(k)]**
3. **Wrongful Termination in Violation of Public Policy**
4. **Unfair Competition [BPC §17200]**

DEMAND FOR JURY TRIAL

Complaint Filed:
Trial Date: None

19 COMES NOW Plaintiff RUSSELL MILLER ("Plaintiff" or "Russ") and alleges as
20 follows:
21

22 **PARTIES**

23 1. Plaintiff was, at all times relevant to this Complaint, an individual employed
24 by Defendant CAMBRIA COMPANY LLC, ("Cambria"), while residing in the State of
25 California.

26 2. Defendant Cambria is, and at all times herein mentioned was, a Minnesota
27 corporation qualified to do and doing business within the State of California.

28 3. Defendant Cambria, employs more than 5 persons and is an employer as

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BY FAX

1 defined in the California Fair Employment and Housing Act (“FEHA”).

2 4. Plaintiff is informed and believes and, based on that information and belief,
3 alleges that, at various times herein mentioned, each of the defendants was the agent, either
4 direct, ostensible or otherwise, servant, representative of employee of each of the remaining
5 defendants and, in engaging in certain acts hereinafter alleged, was acting within the course
6 and scope of said agency, service, representation, or employment and materially assisted
7 the other defendants. Plaintiff is further informed and believes and, based on that
8 information and belief, alleges that each of the defendants ratified the acts of the remaining
9 defendants.

10 5. Plaintiff is ignorant of the true names and capacities, whether individual,
11 corporate, associate or otherwise, of defendants sued herein as Does 1 through 50,
12 inclusive, and therefore sues said defendants by such fictitious names. Plaintiff is informed
13 and believes and, upon such information and belief, alleges that each of the defendants
14 designated as a Doe is legally responsible in some manner for the events and happenings
15 referred to herein and caused the damages proximately thereby to Plaintiff as hereinafter
16 alleged. Plaintiff will seek leave of court to amend this complaint to show the true names
17 and capacities of said Doe defendants when same have been ascertained.

18 **CASE SUMMARY**

19 6. Defendant Cambria terminated Russ and at least four other employees based
20 on their age and replaced them with younger workers.

21 **STATEMENT OF FACTS**

22 7. On or about November 13, 2014, Cambria hired Russ as a fabricator
23 representative with a starting salary of \$90,000.00.

24 8. On or about January 1, 2016, Cambria promoted Russ to builder
25 representative with significant responsibilities.

26 9. On or about March 30, 2017, Cambria terminated Russ along with four other
27 employees over the age of 40. He was 55 years old at the time and replaced by a younger
28 employee.

1 set forth in paragraphs 1 through 29 as though fully set forth herein.

2 30. Defendant Cambria had a statutory duty, pursuant to CALIFORNIA
3 GOVERNMENT CODE §12940(k) to take all reasonable steps necessary to prevent
4 discrimination from occurring in the workplace.

5 31. Defendant Cambria breached its statutory duty of care to Plaintiff by failing
6 to take all reasonable steps necessary to prevent the discrimination experienced by Plaintiff,
7 ultimately resulting in his wrongful termination.

8 32. As a proximate result of Defendants' discriminatory conduct, Plaintiff has
9 sustained and continues to sustain substantial loss in past, present and future earnings,
10 career opportunities, bonuses and other employment benefits in amounts to be proven at
11 trial. Plaintiff's damages include all consequential, general and special economic damages
12 in amounts to be proven at trial.

13 33. As a further proximate result of Defendants' discriminatory conduct, Plaintiff
14 has suffered and continues to suffer humiliation, severe emotional distress and mental and
15 physical pain and anguish, all to his damage in a sum according to proof.

16 34. The foregoing acts of Defendants were oppressive, malicious, and
17 despicable, and Plaintiff is, therefore, entitled to an award of punitive damages against
18 Defendants in an amount to be proven at trial.

19 **THIRD CAUSE OF ACTION**

20 **(For Wrongful Termination in Violation of Public Policy Against All Defendants)**

21 35. Plaintiff realleges and incorporates herein by reference all of the allegations
22 set forth in paragraphs 1 through 35 as though fully set forth herein.

23 36. On or about March 30, 2017, Russ was 55 years old.

24 37. At all times relevant herein, there existed fundamental and established
25 California public policies, as codified by case law and statute, including but not limited to:
26 (a) CALIFORNIA GOVERNMENT CODE §12940(a) and (b) CALIFORNIA
27 GOVERNMENT CODE §12940(k).

28 38. On or about March 30, 2017, Defendant Cambria violated California public

1 policies by wrongfully terminating Plaintiff on the basis of his age. As a proximate result
2 of Defendants' wrongful termination in violation of public policy of the State of California,
3 Plaintiff has sustained and continues to sustain substantial loss in past, present and future
4 earnings, career opportunities, bonuses and other employment benefits in amounts to be
5 proven at trial. Plaintiff's damages include all consequential, general and special economic
6 damages in amounts to be proven at trial.

7 39. As a further proximate result of Defendants' wrongful termination in
8 violation of public policy of the State of California, Plaintiff has suffered and continues to
9 suffer humiliation, severe emotional distress and mental and physical pain and anguish, all
10 to his damage in a sum according to proof.

11 40. The foregoing acts of Defendants were oppressive, malicious, and
12 despicable, and Plaintiff is, therefore, entitled to an award of punitive damages against
13 Defendants in an amount to be proven at trial.

14 **FOURTH CAUSE OF ACTION**

15 **(For Violation of Business & Professions Code §17200 Against All Defendants)**

16 41. Plaintiff realleges and incorporates herein by reference all of the allegations
17 set forth in paragraphs 1 through 41 as though fully set forth herein.

18 42. Plaintiff is informed and believes and, based on that information and belief,
19 alleges that Defendants created, devised, developed, supervised and approved employment
20 practices and protocols which directly impacted Plaintiff's employment.

21 43. Plaintiff is informed and believes and, based on that information and belief,
22 alleges that by implementing policies and protocols which are discriminatory and in direct
23 contravention of public policy, Defendants intended to reduce its overhead and maximize
24 its profits.

25 44. Plaintiff relied upon, by accepting and continuing his employment with
26 Defendants, Defendants' representations that they did not mandate or approve
27 discriminatory policies in hiring and retaining their employees, including but not limited to
28 discrimination based on age. However, as described herein, Plaintiff was subjected, to his

1 detriment, to discriminatory policies implemented and executed by Defendants.

2 45. Defendants, by the conduct described herein, have engaged in unfair and
3 fraudulent business practices within the meaning of Business & Professions Code §17200.

4 46. Defendants' employment policies and protocols, as implemented and
5 described herein, resulted in the unjustifiable and abrupt termination of Plaintiff's
6 employment, for which he incurred, and continues to incur, monetary loss in earnings and
7 employment benefits.

8 47. As a direct and proximate result of Defendants' conduct, Plaintiff is entitled
9 to restitution and injunctive relief.

10
11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff RUSSELL MILLER prays for judgment as follows:

13 FOR THE FIRST THROUGH THIRD CAUSES OF ACTION:

- 14 1. Compensatory damages, including loss of wages (front and back pay), career
15 opportunities, benefits and other opportunities of employment;
- 16 2. Special damages in a sum to be proven at trial;
- 17 3. Punitive damages in a sum to be proven at trial;
- 18 4. Interest, including pre-judgment interest, thereon at the legal rate, including
19 but not limited to Civil Code §3291;
- 20 5. Attorney's fees according to proof, pursuant to California Government Code
21 §12965, or other applicable statutes or contracts;
- 22 6. Costs of suit incurred herein; and
- 23 7. Such other and further relief as to the Court may seem just and proper.

24 FOR THE FOURTH CAUSE OF ACTION:

- 25 1. Restitution according to proof;
- 26 2. Injunctive relief, including but not limited to, an injunction ordering
27 Defendants to stop engaging in such unconstitutional and unlawful acts, and
28 to develop policies and procedures for preventing the recurrence of any such

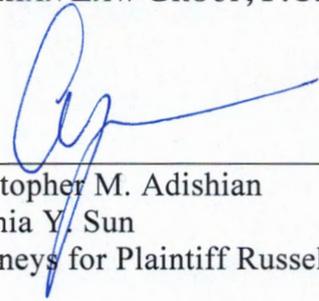
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- unconstitutional or unlawful acts;
- 3. Costs of suit incurred herein; and
- 4. Such other and further relief as to the Court may seem just and proper.

Dated: November 3, 2017

ADISHIAN LAW GROUP, P.C.

By:



Christopher M. Adishian
Cynthia Y. Sun
Attorneys for Plaintiff Russell Miller

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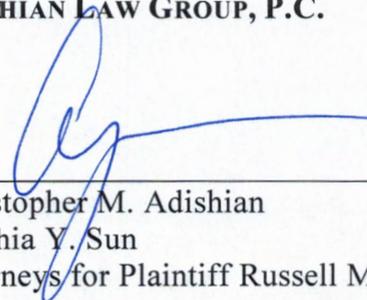
DEMAND FOR JURY TRIAL

Plaintiff RUSSELL MILLER demands a trial by jury as to all claims triable by a jury.

Dated: November 3, 2017

ADISHIAN LAW GROUP, P.C.

By:



Christopher M. Adishian
Cynthia Y. Sun
Attorneys for Plaintiff Russell Miller

EXHIBIT 1

EXHIBIT 1



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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

DIRECTOR KEVIN KISH

May 19, 2017

Chris Adishian
222 N. Sepulveda Blvd., Ste. 2000
El Segundo California 90245

RE: Notice to Complainant or Complainant's Attorney

DFEH Matter Number: 892615-291137

Right to Sue: Miller / Cambria Company LLC

Dear Complainant or Complainant's Attorney:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue. Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You or your attorney must serve the complaint. If you do not have an attorney, you must serve the complaint yourself. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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

DIRECTOR KEVIN KISH

May 19, 2017

RE: Notice of Filing of Discrimination Complaint

DFEH Matter Number: 892615-291137

Right to Sue: Miller / Cambria Company LLC

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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DIRECTOR KEVIN KISH

May 19, 2017

Russell Miller
1753 Risdon Rd.
Concord, California 94518

RE: Notice of Case Closure and Right to Sue
DFEH Matter Number: 892615-291137
Right to Sue: Miller / Cambria Company LLC

Dear Russell Miller,

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective May 19, 2017 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, 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. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must visit the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

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800-884-1684 | TDD 800-700-2320
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DIRECTOR KEVIN KISH

Enclosures

cc:

restrictions, Race, Religion, Sex - Gender, Sex - Gender identity or Gender expression, Sex - Pregnancy, Sexual Orientation, Other, Military or Veteran status as revealed during discovery.

3. Complainant **Russell Miller** resides in the City of **Concord**, State of **California**. If complaint includes co-respondents please see below.

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Additional Complaint Details:

The following is stated on information and belief: Cambria discriminated against Russ on the basis of his age. Russ (55 years old) was in an age protected class at the time of his termination. Cambria terminated Russ and replaced him with a significantly younger employee in her 20s. On or around the same date that Cambria terminated Russ, Cambria terminated at least four other age-protected workers.

1 VERIFICATION

2 I, **Chris Adishian**, am the Attorney for Complainant in the above-entitled complaint.
3 I have read the foregoing complaint and know the contents thereof. The same is
4 true of my own knowledge, except as to those matters which are therein alleged on
information and belief, and as to those matters, I believe it to be true.

5 On May 19, 2017, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **El Segundo, California**
8 **Chris Adishian**

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