

1 **COLLIER LAW FIRM, LLP**
2 Dustin L. Collier (State Bar No. 264766)
3 dcollier@collierlawssf.com
4 V. Joshua Socks (State Bar No. 303443)
5 jsocks@collierlawssf.com
6 Elizabeth R. Malay (State Bar No. 336745)
7 emalay@collierlawssf.com
8 240 Tamal Vista Blvd. Suite 100
9 Corte Madera, CA 94925
10 Telephone: (415) 767-0047
11 Facsimile: (415) 767-0037

12 **JACOBS LAW**
13 Richard A. Jacobs (WA State Bar No. 59292)*
14 ric@ricjacobs.com
15 P.O. Box 2877
16 Walla Walla, WA 99362
17 Telephone: (509) 761-4441
18 **pro hac vice* application forthcoming

19 *Attorneys for Plaintiff Sarah Ekstrom*
20 *and the Putative Class*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
05/18/2023
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

CGC-23-606599

21 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
22 **COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION**

23 SARAH EKSTROM, individually and on
24 behalf of all others similarly situated,

25 Plaintiffs,

26 vs.

27 FOX CORPORATION, TUBI, INC., and
28 DOES 1 through 50, inclusive,

Defendants.

Case No.: _____

CLASS ACTION

COMPLAINT FOR DAMAGES

- (1) Violation of California Equal Pay Act (“EPA”), as amended (Labor Code §§ 1197.5, 1194.5)
- (2) Violation of Fair Employment and Housing Act (“FEHA,” Cal. Gov’t Code § 12940 et seq.) – Gender Discrimination
- (3) Violation of FEHA (Cal. Gov’t Code § 12940 et seq.) – Failure to Prevent Gender Discrimination
- (4) Violation of FEHA (Cal. Gov’t Code § 12940 et seq.) – Retaliation (as to Plaintiff Ekstrom)

- (5) Violation of EPA (Labor Code §§ 1197.5, 1194.5) – Retaliation (as to Plaintiff Ekstrom)
- (6) Whistleblower Retaliation (Labor Code § 1102.5)
- (7) Unlawful and/or Unfair Business Practices (Cal. Business & Professions Code § 17200 et seq.)
- (8) Declaratory Judgment (Code Civ. Proc. § 1060 et seq.)

JURY TRIAL DEMANDED

Plaintiff Sarah Ekstrom, individually and on behalf of all others similarly situated, is informed and believes, and thereupon alleges:

I. NATURE OF THIS ACTION

1. Plaintiff Sarah Ekstrom brings this class action on behalf of herself and on behalf of a class defined as all U.S. based female employees¹ working at Defendant Tubi, Inc. protected by California law and employed jointly by Defendants Tubi, Inc. and Fox Corporation (collectively "Defendants"), during the time period beginning four years prior to the filing of this Complaint through the date of trial in this action ("Class Period"). These employees share a community of interest and are similarly situated under California Code of Civil Procedure section 382.

2. Throughout the Class Period, Defendants have discriminated against its U.S. based female employees working at Defendant Tubi, Inc. by paying them less than their male counterparts performing substantially similar work under similar working conditions, when viewed as a composite of skill, effort, and responsibility, in violation of the California Equal Pay Act, Cal. Labor Code section 1197.5, as amended. Defendant’s failure to pay U.S. based female employees equal wages for performing substantially similar work is not justified by any lawful reason.

¹ Presently, Plaintiff lacks information as to whether there is disparate pay among the U.S. Sales department for Defendant Tubi, Inc. All such references to the putative class do not presently include Tubi’s Sales team.

1 functional integration of operations; and (4) centralized control of labor relations. (*See, e.g., Mathews v.*
2 *Happy Valley Conference Center, Inc.* (2019) 43 Cal.App.5th 236, 248 [integrated enterprise test].)

3 **V. FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

4 18. It is no wonder that Fox was drawn to acquire Tubi in the first place. Tubi is a
5 streaming solution built in the Fox model—a poisonous corporate culture of misogyny that profits
6 at the expense of its female employees. It’s a company which prioritizes the narcissism of its fragile
7 leaders over the health and fair treatment of others. U.S. based female employees are controlled
8 through emotional abuse and gaslighting. And Fox sanctions these abuses. As one executive put it,
9 “You can’t fight these guys, just make sure they’re building a budget to get sued.”

10 19. For the brave women who dare challenge this hostile culture or demand equal pay,
11 the Fox playbook is clear: the company performs a sham investigation, high performing women are
12 suddenly targeted with false and defamatory performance complaints, then the legal team ushers the
13 women into an unbalanced and coercive mediation, and ultimately the women are relegated to roles
14 where they are set up to feel like failures or simply resign when they find themselves ostracized.
15 Women are given the option of becoming collaborators with their abusers or to question their own
16 self-worth.

17 20. Ironically, this is the appalling fate that marked the end of Ms. Ekstrom’s time at
18 Tubi. The woman hired to fix the corporate culture and compensation was ultimately fired for
19 attempting to do the same. Unfortunately, her experience was not unique.

20 21. Ms. Ekstrom began her employment with Tubi on February 9, 2022. She was hired
21 as the Chief People Officer reporting directly to Founder and CEO, Farhad Massoudi. Human
22 Resources, Recruiting, Workplace, and IT all reported into Ms. Ekstrom.

23 22. Almost immediately after starting this role, Ms. Ekstrom saw some concerning red
24 flags within the organization. For instance, on February 14, 2022, the Senior Director of Recruiting
25 resigned. That individual told Ms. Ekstrom the reason for her resignation related to issues with the
26 culture and executive leadership at Tubi. She said words to the effect of: “Farhad is the absentee dad
27
28

1 that is traveling for work, while Reza is the stay-at-home mom holding down the fort and raising the
2 kids, but he really hates the kids.”

3 23. Another red flag materialized on February 22, 2022, when Ms. Ekstrom attended a
4 planning meeting for International Women’s month. Several women shared their experiences with
5 the male leadership at Tubi, essentially stating that women are often dismissed and not supported.
6 According to those in attendance, Mr. Banki will go so far as to try and block some women from
7 being promoted at Tubi. Another individual raised the topic of the company’s Glassdoor reviews
8 being dismal but accurate when it came to women’s experiences at Tubi. To that end, the following
9 are some excerpts from www.glassdoor.com regarding Tubi: (i) “Heavy sexism. They’ve lost every
10 woman in the product team, except one. Lack of diversity and inclusion.” (ii) “Very political, high
11 turnover due to frequent firings. High nepotistic hiring results in lots of toxic behavior from people
12 who aren't worried about HR. Low comp and no equity.” (iii) “Terrible selfish leadership in place.”

13 24. On February 28, 2022, Ms. Ekstrom had a concerning phone call with Kristin
14 Ciccieri, Fox Compensation Leader. During the call, Ms. Ciccieri gratuitously stated that she had no
15 visibility into Tubi’s compensation practices or any of the market adjustments that were done in
16 November 2021. Ms. Ciccieri added that, if there was ever an audit or a lawsuit, she would not
17 participate. The implication regarding unequal pay came out of left field and Ms. Ekstrom was very
18 concerned following the exchange. Mr. Banki, for his part, has relayed to Ms. Ekstrom on several
19 occasions that Fox compensation is “incompetent” and that he would never permit Fox to have
20 ownership of Tubi’s compensation.

21 25. Ms. Ekstrom shared Ms. Ciccieri’s statements with Mr. Banki and Natasha Valani,
22 Senior VP HR at Fox Corporation, on March 1, 2022. Ms. Ekstrom asked how she could get more
23 involved in compensation matters and address any potential compensation issues. Unfortunately,
24 Mr. Banki and Ms. Valani indicated they would retain compensation oversight and they wanted Ms.
25 Ekstrom to keep her focus on onboarding and setting up her team.

26 26. Ms. Ekstrom knew that she would need to investigate Ms. Ciccieri’s ominous
27 comments so that any pay inequities could be addressed. Relatedly, when Ms. Ekstrom shared a
28

1 recap of her conversation with Ms. Cicciari with Mr. Massoudi, he also said Ms. Cicciari was
2 “incompetent” and rolled his eyes. This became a theme with Messrs. Banki and Massoudi: women
3 were perceived as “incompetent” or lesser than men whenever they were not aligned with the
4 thinking of these two men.

5 27. That same day, Ms. Ekstrom met with Natalie Bastian, then Senior Vice President
6 and Head of Marketing. During the meeting, Ms. Bastian shared that she had concerns about Mr.
7 Banki and the compensation for her team. Specifically, Ms. Bastian and her team were not provided
8 with the new LTI/bonus structure that had been rolled out in November 2021. Mr. Banki had told
9 Ms. Ekstrom that he did not have confidence in Ms. Bastian’s decision-making ability, and he felt
10 she had over-hired her team so it would need to be right sized. Mr. Banki’s decision to exclude Ms.
11 Bastian’s team from the new compensation structure reflected Mr. Banki’s general attitude towards
12 women, *i.e.*, that he and Mr. Massoudi were simply more capable than women and should handle the
13 big-ticket items such as compensation.

14 28. Ms. Ekstrom met with Mr. Massoudi on March 2, 2022, to discuss executive team
15 challenges. For instance, every individual on the team was in their first role as a C-suite executive
16 and many required executive coaches. Communication was poor and broken between Tubi’s leaders.
17 Mr. Banki was a bottleneck in all compensation, offers, and sales incentives. His actions caused
18 dissent amongst employees and Ms. Ekstrom suspected there were significant pay disparities at the
19 company. Mr. Massoudi made clear there needed to be more cohesion in the executive team and
20 jokingly lamented that Mr. Banki had control and trust issues.

21 29. On March 11, 2022, Ms. Ekstrom met with Ms. Valani and Ms. Bastian to discuss
22 Ms. Bastian’s severance agreement and next steps because Ms. Bastian’s contract had not been
23 renewed. During the meeting, Ms. Bastian shared that she would not be comfortable with Mr. Banki
24 calculating the details of her bonus because she believed he manipulated the data and was not fair or
25 consistent with how women at the company are paid. She was not wrong—Mr. Banki was not
26 supportive of paying out Ms. Bastian’s bonus and thought it was too generous to do so.
27
28

1 30. This was not the first—or last—time women reported that Mr. Banki was known to
2 manipulate the company’s financials. One of the more telling examples came during the Fox’s
3 acquisition of Tubi in 2020, when Mr. Banki was thought to have manipulated the financial data to
4 rob women of their fair buy-out under the deal.

5 31. On March 20, 2022, Ms. Ekstrom opened a role for a Compensation Manager who
6 was to report directly to her. With this new role, Ms. Ekstrom hoped the hire would create seamless
7 and transparent compensation ranges for the various job families and levels that Ms. Ekstrom was
8 working with leadership on. This was in direct conflict with Tubi’s antiquated, oppressive, and
9 opaque control over compensation decisions.

10 32. Ms. Ekstrom had heard enough complaints by now and knew that Tubi was
11 discriminating against women at the company—both in terms of pay and advancement
12 opportunities. As to pay, Ms. Ekstrom knew that women were being paid less in the C-suite. She
13 had also seen the numbers for proposed bonuses/LTIs for the new hires requested from recruiters.
14 Mr. Banki would often ask to see the resumes and interview notes of the new hires prior to
15 approving any LTI/bonus structures. Ms. Ekstrom noticed that he exhibited more scrutiny towards
16 women, often requesting to review female hires’ applications and screening materials more often,
17 and that Mr. Banki adjusted women’s compensation downward much more often.

18 33. Recruiters also had no visibility into compensation, nor did the hiring managers.
19 Only executives could access compensation for their specific organization. Such tactics were ripe for
20 abuse and Tubi was doing just that. As to opportunity, there was (and is) a barrier to leadership at
21 Tubi if the candidate is female.

22 34. The issues within Tubi and its male-driven executive leadership grew increasingly
23 obvious. For instance, on April 18, 2022, Ms. Ekstrom met with Mr. Banki to discuss a potential
24 candidate for his team in a role that was being recruited for over a year. Despite Mr. Banki’s team
25 wanting to hire a Ms. Ester,² Mr. Banki was not so inclined. Ms. Ekstrom wanted to understand the
26 communication gaps and how to help his team and recruiting be better calibrated. But rather than
27

28 ² This individual’s full name is not presently known.

1 have that dialogue, Mr. Banki told Ms. Ekstrom that she should not question his judgment and he
2 found it to be very inappropriate. As will be shown, that overreaction was a microcosm of Mr.
3 Banki's view towards women and authority more generally. Women are to be subjugated and, if they
4 do not come to heel or "swim in [Mr. Banki's] wake," then they are undercut through spurious and
5 false allegations.

6 35. On or about April 5, Mr. Banki took a similar tactic when Fox refused to follow his
7 guidance on certain senior executive compensation, he began to accuse Fox Chief Legal and Policy
8 Officer, Viet Dinh, of being a sexist and a racist who made compensation decisions based on his
9 discriminatory views. To support this position Mr. Banki shared a shareholder file, which showed
10 that Mr. Dinh's compensation was more than Fox COO, John Nallen. Mr. Banki suggested that this
11 explained why Mr. Dinh could get away with discriminating: "because he knows where all of the
12 bodies are buried." Mr. Banki then immediately deleted the file he had shared with Ms. Ekstrom via
13 Slack.

14 36. While Mr. Massoudi and Ms. Valani suggested Mr. Banki needed coaching over the
15 indiscretion regarding Mr. Dinh, it is not believed that either took any action to implement that
16 training.

17 37. On April 20, 2022, after the Tubi office was reopened post-COVID, Ms. Ekstrom
18 hosted a People Team meeting at the San Francisco Office to discuss values/mission, team
19 planning, process improvement, and SOP work. At this meeting, several individuals opened up
20 about how hard it was working with Mr. Banki and how his conduct impacted their ability to do
21 their jobs. They shared that it was virtually impossible for them to do their job without having access
22 to compensation ranges for the roles they were hiring for. They discussed how Mr. Banki
23 "controlled everything" and that he was "scary," "inconsistent" and "horrible to deal with." They
24 also checked on Ms. Ekstrom's well-being because apparently every other HR executive had
25 challenges in dealing with him. In sum, they wanted to know if there was a light at the end of the
26 tunnel for removing or limiting their involvement with Mr. Banki.
27
28

1 38. That same day, Mr. Banki slacked Ms. Ekstrom about compensation for a VP of
2 Design. Ms. Ekstrom was alarmed because Mr. Banki manipulated compensation data to propose
3 numbers that were significantly below other VPs on the team. Michael Ahiakpor (Chief Product
4 Officer) escalated the situation to Mr. Massoudi as did Mr. Banki. A meeting was scheduled with Ms.
5 Ekstrom, Mr. Banki, and Mr. Massoudi.

6 39. Ms. Ekstrom met with Mr. Banki and Mr. Massoudi to discuss the VP Design
7 compensation that day. Mr. Banki said that Ms. Ekstrom should not be discussing compensation
8 with any executives. Ms. Ekstrom retorted that executives need to be informed about compensation
9 and how to hire and retain their team. The compensation that Ms. Ekstrom discussed with Mr.
10 Ahiakpor (the hiring manager for the VP role) was based on market data and internal equity that Mr.
11 Ahiakpor already had visibility of in Workday. Ms. Ekstrom discussed the proposed path forward to
12 compensation, that job levels and compensation ranges should be created and offers that were
13 within range would not require CFO (Banki) approval, but exceptions would. Mr. Massoudi agreed
14 with Ms. Ekstrom's approach and proposed compensation for the VP Design role. It was agreed
15 that Ms. Ekstrom would move quickly on hiring the compensation manager role on her team. Mr.
16 Banki was not pleased with the decision.

17 40. On April 21, 2022, Ms. Ekstrom met with Mr. Massoudi to discuss her concerns and
18 frustrations with Mr. Banki, including the condescending, aggressive, and dismissive way that he
19 spoke to her and others. She shared feedback she had received from other executives and employees
20 across the organization. Ms. Ekstrom further conveyed that she would not be allowing Mr. Banki to
21 treat her or speak to her in a disrespectful manner going forward.

22 41. Rather than offer sympathy, Mr. Massoudi effectively enabled the behavior and
23 relayed it was simply a common issue—*i.e.*, that he had discussed with his own executive coach who
24 stated HR and Finance roles typically butt heads. Ms. Ekstrom assured Mr. Massoudi that this was
25 not that particular dynamic, rather it was a lack of respect and professional courtesy. Mr. Massoudi
26 was largely dismissive and said that it would get better and then get worse, and then get better and
27 then get worse again, and that he had seen it happen before. He also stated that Ms. Ekstrom had
28

1 such high “EQ” so she should be able to figure out the situation with Mr. Banki and they would
2 ultimately become best friends.

3 42. Also on April 21, 2022, Ms. Forrest asked Ms. Ekstrom to have dinner with her and
4 one of her direct reports, Vice President and Deputy General Counsel, Matthew Elliott. Ms. Forrest
5 explained that she was uncomfortable with Mr. Elliott’s behavior and did not want to attend dinner
6 with him alone. This request was unsurprising, Mr. Elliott was the subject of multiple concerns and
7 an investigation over his behavior within the company and his treatment of women.

8 43. More issues with the culture at Tubi continued rising to the surface. On April 26,
9 2022, Capri Gill (HR Director) gave her resignation. She cited Mr. Banki and the culture within the
10 company as the reason for her departure. Specifically, despite what Ms. Ekstrom had begun to do
11 with the team, Ms. Gill did not have confidence that things with Mr. Banki would improve or that
12 his decision-making would be lessened.

13 44. On May 11, 2022, Ms. Ekstrom shared her concerns about Mr. Banki with Paul
14 Cheesbrough (then Chief Technology Officer & President of Digital at Fox), because Mr. Massoudi
15 reports to Mr. Cheesbrough. Namely, she would be working with Mr. Massoudi regarding the exit of
16 four (4) executive women in her first 90 days, each of whom cited Mr. Banki as the primary factor in
17 their decision to leave. A fifth was departing because Messrs. Banki and Massoudi would not renew
18 her contract, but she also shared her concerns about Mr. Banki’s leadership as negatively impacting
19 her ability to be effective in her role.

20 45. Ms. Ekstrom also inquired about Mr. Banki’s claims that Fox was pushing for Ms.
21 Ekstrom to significantly reduce the number of employees on the People team. Mr. Cheesbrough
22 shared that there was no actual directive for Ms. Ekstrom to cut headcount and she should continue
23 to do what she felt was best for the team and the organization. But the implication of Mr. Banki’s
24 desire to reduce Ms. Ekstrom’s team was obvious: greatly limit any control or influence that Ms.
25 Ekstrom might have on the organization so he could continue to have nearly unfettered discretion
26 in his role.
27
28

1 46. Mr. Cheesbrough said that Mr. Banki almost failed to make the cut with the Tubi
2 acquisition since he was not qualified and did not have the necessary experience, but that Mr. Banki
3 was unfortunately viewed as Mr. Massoudi’s safety blanket and so Fox would allow it for now. Mr.
4 Cheesbrough shared that Mr. Massoudi was fully aware of the issues with Mr. Banki, but that he
5 would never show it. Instead, he was “dealing with it in his own way.” Mr. Cheesbrough said he felt
6 strongly about Mr. Massoudi as a capable leader, but also told Ms. Ekstrom that if Mr. Massoudi did
7 not take the necessary steps to let him know.

8 47. The next day, May 12th, Ms. Ekstrom met with Mr. Massoudi at Fox. They discussed
9 several topics, but the primary focus was feedback that Ms. Ekstrom had received from the women
10 who were leaving Tubi. Ms. Ekstrom further shared that she was also receiving feedback from
11 executives regarding how Mr. Banki was impacting their teams, their hiring, and their ability to move
12 quickly with the business. Specifically, the women alleged that Mr. Banki manipulated data to rob
13 women of their bonuses and to limit women to unequal pay. Likewise, the women characterized Mr.
14 Banki as dismissive and aggressive with women and that he seemed to believe that women just
15 needed to fall in line.

16 48. Rather than take Ms. Ekstrom’s reports of patently unlawful treatment towards
17 women seriously, Mr. Massoudi said that he was “strongly” hoping that Ms. Ekstrom was not trying
18 to pit people against each other. Ms. Ekstrom relayed she was neutral and was able to separate her
19 own experiences with Mr. Banki from these other women, but that she had a duty to surface issues
20 like this that would impact the organization. Mr. Massoudi asked for the details regarding the
21 women who were leaving, and Ms. Ekstrom sent such an email later that day. The email
22 demonstrates that Ms. Ekstrom continued reporting her concerns regarding the disparate treatment
23 of women directly to the Founder and CEO of the company, apparently to no avail.

24 49. On May 18, 2022, Ms. Ekstrom had a one-on-one with Mr. Banki where he inquired
25 about the exit interview feedback provided by the female director on his team that departed, Colleen
26 Monaco. Apparently, Mr. Massoudi had shared the anonymous exit interview feedback from the
27 May 12, 2022, email with Mr. Banki instead of working with Ms. Ekstrom to collaborate on a way to
28

1 address the behavior. Ms. Ekstrom told Mr. Banki that exit interviews are kept anonymous until they
2 can be distilled into themes to protect the individuals' identities.

3 50. Mr. Banki was dismissive and seemed irritated, stating that he was not worried
4 because “[Ms. Monaco] was not performing well and would not be promoted to VP.” He shared
5 that he knew “she would probably leave” because he was already planning on hiring a VP above
6 her—a male friend of his who ultimately declined the position. Mr. Banki also discussed feedback
7 on the Compensation Manager candidate, suggesting that she was too junior, and that the role
8 should report to him despite the previous agreement that the role would report to Ms. Ekstrom. The
9 above further corroborated Tubi’s toxic culture of treating women as less capable than men and
10 subservient to Mr. Banki in particular, especially as one climbs the corporate ladder.

11 51. That same day, May 18th, Ms. Ekstrom had a phone call with Mr. Massoudi wherein
12 he reacted to the feedback in Ms. Ekstrom’s May 12, 2022, email regarding exit interview feedback
13 from women leaving Tubi. Mr. Massoudi indicated that he was not worried about the feedback, that
14 there were “performance issues” with the women who gave the feedback, and that this was an issue
15 that Mr. Banki and Ms. Ekstrom needed to fix on their own because it was causing a lot of “drama”
16 on the executive team. Mr. Massoudi, in failing to take Ms. Ekstrom’s concerns about gender
17 discrimination seriously, sanctioned and ratified the unfair treatment of women at Tubi.

18 52. On May 20, 2022, Ms. Ekstrom sent a follow-up email memorializing much of the
19 meeting. Within, she reinforced the concerns that executives were strongly considering resigning
20 because of Mr. Banki, including how difficult she personally was finding it to work with him because
21 of his aggressive nature. Ever the consummate professional, Ms. Ekstrom closed with: “I am aware
22 that this may be difficult to receive, but I also feel that I'm not doing my job if I don't surface these
23 areas of concern and the impact on the culture and the organization.” As had become typical, Mr.
24 Massoudi never responded or acknowledged the email—sweeping legitimate concerns from Ms.
25 Ekstrom and other female executives at Tubi under the proverbial rug.

26 53. The toxic environment began to wear on Ms. Ekstrom. She had a one-on-one with
27 Ms. Forrest on May 24, 2022, sharing that she had never been so frustrated or brought to tears in
28

1 any of her previous positions. Ms. Forrest seemed sympathetic and told Ms. Ekstrom her experience
2 was the same in the first six months, adding that she too had been brought to tears more times than
3 she could count.

4 54. On June 3, 2022, during a standing weekly meeting with Messrs. Banki and
5 Massoudi, Ms. Ekstrom approached the discussion inquiring about Tubi's values and the culture that
6 they were wanting to create. Mr. Massoudi referenced Tubi's values in which Ms. Ekstrom inquired
7 what should be done if the values are not being demonstrated, or there was a lack of professional
8 courtesy. Mr. Massoudi asked for more information and Ms. Ekstrom once again voiced her
9 concern about the lack of professional courtesy Mr. Banki was demonstrating, noting that there were
10 regular complaints and incidents being brought to her team's attention.

11 55. Predictably, Mr. Banki's reaction was aggressive. He shouted at Ms. Ekstrom that he
12 "didn't know who she thought she was," that she "owed [him] 120 pieces of feedback if [she] is
13 receiving it every day," that she "was only at Tubi because of [him]," and that she should "show
14 [him] more respect!" He then demanded Ms. Ekstrom show him every incident that was raised. Ms.
15 Ekstrom said that she would not share that confidential information with Mr. Banki because there
16 needed to be an agreement with how people and information are handled in the workplace. Mr.
17 Banki was irate and said: "I'll never work with you again. I don't know who you think you are." Mr.
18 Massoudi ended the call and contacted the others individually.

19 56. In the follow up call with Mr. Massoudi, and despite being put on notice of Mr.
20 Banki's hostile and discriminatory behavior yet again, Mr. Massoudi shifted blame to Ms. Ekstrom.
21 He told her that she should not have called out Mr. Banki in front of his superior, stating that she
22 needed to respect him as the second most senior leader at the company and that they should be
23 friends. Ms. Ekstrom was in tears on the call and relayed that this has been the most difficult
24 position in her career, that she has never felt so disrespected by a colleague, and that the employee
25 and executive feedback about Mr. Banki's unlawful conduct needed to be addressed lest people lose
26 confidence in Ms. Ekstrom's ability to improve the culture at Tubi. Mr. Massoudi took no further
27 action at this time, citing his recent Covid illness and that he needed to think about what to do next.
28

1 57. Ms. Ekstrom sent a text to Mr. Cheesbrough that day and informed him of the
2 contentious conversation with Mr. Banki. Mr. Cheesbrough characterized Ms. Ekstrom’s concerns
3 as a personality conflict, much like Mr. Massoudi had, but told her to document others’ concerns
4 with Mr. Banki, nevertheless.

5 58. On June 8, 2022, Ms. Ekstrom sent a copy of the confidential feedback summary to
6 Ms. Valani at Fox via Slack for review prior to sending to Mr. Massoudi. On a Zoom later that day,
7 Ms. Valani’s tone and demeanor was hostile, and she asked if Ms. Ekstrom was trying to get Mr.
8 Banki fired, wanting to know what Ms. Ekstrom “hope[d] to achieve” with the document. Ms.
9 Ekstrom continued doing what was right and ethical, to wit, she reiterated that it was important to
10 address behaviors that impact the workplace. Ms. Ekstrom then sent the email to Mr. Massoudi that
11 day. Presciently, Ms. Ekstrom stated in part: “I would caution that there is a widely referenced fear
12 of retaliation that we can discuss how to best address moving forward.”

13 59. Mr. Massoudi’s reaction was both lackluster and predictable. He responded:
14 “Thanks. Can you include the names and titles?” When Ms. Ekstrom pushed back on breaching the
15 confidentiality of the employees because there was a “widely referenced fear of retaliation,” Mr.
16 Massoudi just persisted and said that he “think[s] the circumstances matter. And whether these are
17 from different individuals or some of the comments are from the same individual.” In short, he was
18 more interested in who made the complaints than the substance of the complaints themselves.
19 Instead of trying to correct the unethical and unlawful behavior within Tubi, Mr. Massoudi instead
20 opted to send Ms. Ekstrom and Mr. Banki to a “mediation” in some backwards effort to quash Ms.
21 Ekstrom’s protected conduct.

22 60. On June 15, 2022, Ms. Ekstrom raised a discrepancy in the comp file versus her
23 actual compensation with Mr. Banki, who quipped that that Ms. Ekstrom should have been a better
24 negotiator. To wit, Ms. Ekstrom’s role was budgeted for \$1.2 million but her offer was only for
25 \$900,000. Ms. Ekstrom pointed out that women at Tubi were making less than men across the
26 board. Mr. Banki said that only Ms. Forrest should be earning more, but the “rest” were here before
27 the acquisition, so it was a “Fox issue.”
28

1 61. Of course, Messrs. Banki and Massoudi subjected other female executives to their
2 capricious and sexist compensation practices. During Tubi’s search for a Chief Marketing Officer
3 (CMO), Mr. Massoudi worked with Paul Cheesbrough’s wife, Anda Gansca—who is regarded as a
4 subject matter expert in the space—to discuss the scope of the role and where to find ideal
5 candidates. Ms. Gansca was adamant that a true CMO should direct growth marketing, but this team
6 had been reporting to Mr. Banki despite his utter lack of experience. So, when Nicole Parlapiano
7 was interviewed for the CMO role, Mr. Banki immediately began to denigrate her saying that she
8 was “too junior,” that she should be hired in at the VP-level, and that his team would run circles
9 around her. Nevertheless, Ms. Gansca pushed for Ms. Parlapiano and felt she had the right expertise
10 for growth marketing. Mr. Massoudi said that it was out of line for Ms. Gansca to suggest otherwise
11 in her discussions with Ms. Parlapiano, that he only brought Ms. Gansca in to keep Mr.
12 Cheesbrough happy, but not because he valued her opinion. Messrs. Massoudi and Banki refused to
13 assign growth marketing to her organization.

14 62. Nicole Parlapiano started work at Tubi on July 20, 2022. During the ensuing July
15 2022 compensation review process, Mr. Banki summarily applied a \$43,000 base increase to the VP
16 of Growth, in Mr. Banki’s own organization, so that the male employee would make more than Ms.
17 Parlapiano, whose role existed within Tubi’s C-Suite. That male employee continues to report to Mr.
18 Banki.

19 63. On August 17, 2022, Ms. Ekstrom met with Michael Ahiakpor in San Francisco. He
20 relayed significant concerns regarding how Mr. Banki was handling compensation and asked when
21 the responsibility would be moved to Ms. Ekstrom. He also apologized for being “quiet” and not
22 calling out Mr. Banki’s inappropriate behavior himself. Mr. Ahiakpor also said he would speak to
23 Mr. Massoudi regarding the same. Ms. Ekstrom advised that the Compensation Manager role that
24 she was trying to hire was put on hold, and that Mr. Banki subsequently told Fox Finance that it was
25 not a critical role. She shared that Mr. Banki was originally trying to have the role report to him. Mr.
26 Ahiakpor shared that “Reza is killing this company,” and “enough is enough.”
27
28

Gender	Level	Number	Avg Base	Avg Total Potential Comp	Unequal Pay
Male	C-suite	4	\$ 1,079,166.67	\$ 2,987,500.00	
Female	C-suite	3	\$ 466,000.00	\$ 838,000.00	28%
Male	L4/L6	7	\$358,545.00	\$624,399.00	
Female**	L4/L6	0	\$ -	\$ -	
Male	L8	5	\$ 350,262.00	\$ 535,686.00	
Female	L8	4	\$ 315,596.00	\$ 488,062.00	91%
Male	L10	18	\$ 277,816.00	\$ 450,765.00	
Female	L10	7	\$ 241,601.00	\$ 367,276.00	81%
Male	L12	36	\$ 235,272.00	\$ 319,250.00	
Female	L12	8	\$ 166,931.00	\$ 193,819.00	61%
Male	L14	50	\$ 195,722.00	\$ 261,150.00	
Female	L14	32	\$ 163,228.00	\$ 202,562.00	78%
Male	L16	36	\$ 146,011.00	\$ 171,489.00	
Female	L16	20	\$ 128,951.00	\$ 144,556.00	84%
Male	L18	10	\$ 119,385.00	\$ 138,226.00	
Female	L18	14	\$ 100,538.00	\$ 108,819.00	79%
Male	L20	8	\$ 93,895.00	\$ 95,958.00	
Female	L20	10	\$ 87,253.00	\$ 89,754.00	94%
Male	L22	22	\$ 69,276.00	\$ 69,892.00	
Female	L22	19	\$ 71,513.00	\$ 72,934.00	104%
**Tubi has 0 Female EVPs					

Numerosity and Impracticability of Joinder

67. The proposed Class is numerous and ascertainable. While the precise number of class members has not been determined at this time, Plaintiff is informed and believes, and on that basis alleges, that Defendants currently employ, and during the relevant time periods employed, approximately 200-300 Class Plaintiffs. Plaintiff is informed and believes, and on that basis alleges, that the proposed class consists of hundreds of U.S. based female employees protected under California law, and therefore joinder of all individual class members would be impractical.

Community of Interest

68. There is a well-defined community of interest because common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Common questions of law and fact include, but are not limited to:

- 1 a. Whether Tubi has had systemic policy and/or practice of paying its U.S. based
2 female employees less than what is paid to its male employees performing
3 substantially similar work, when viewed as a composite of skill, effort, and
4 responsibility, and performed under similar conditions;
- 5 b. Whether Defendants' systemic policy and/or practice of paying its U.S. based
6 female employees less than that paid to their male counterparts violates the
7 California Equal Pay Act, as amended, Cal. Labor Code § 1197.5;
- 8 c. Whether Defendants' systemic policy and/or practice of paying its U.S. based
9 female employees less than that paid to their male counterparts violates the Fair
10 Employment and Housing Act (FEHA), Cal. Gov't. Code§ 12940(a);
- 11 d. Whether Defendants' systemic policy and/or practice of paying its U.S. based
12 female employees less than that paid to male counterparts was willful;
- 13 e. Whether Defendants' have a systemic policy and/or practice of
14 disproportionately hiring U.S. based female employees for lower level and lower
15 grade positions as compared to male employees, leading to overall lower
16 compensation;
- 17 f. Whether Defendants has had a systemic policy and/or practice of
18 disproportionately excluding U.S. based female employees from management
19 and leadership positions as compared to their male counterparts, leading to lower
20 overall compensation;
- 21 g. Whether Defendants' systemic policy and/or practice of disproportionately
22 hiring U.S. based female employees for lower-level and lower-grade positions as
23 compared to male employees violates the Fair Employment and Housing Act
24 (FEHA), Cal. Gov't. Code§ 12940(a); and
- 25 h. Whether Defendants' systemic policy and/or practice of excluding U.S. based
26 female employees from management and leadership positions as compared to
27
28

1 their male counterparts violates the Fair Employment and Housing Act (FEHA),
2 Cal. Gov't. Code § 12940(a).

3 **Typicality of Claims and Relief Sought**

4 69. Plaintiff's claims are typical of the claims of the proposed class. Plaintiff, like the
5 members of the proposed class, is a woman and worked for Tubi in California during the Class
6 Period. On information and belief, Plaintiff, like the members of the proposed class, has been paid
7 less than male employees for substantially similar work, and was denied opportunities for
8 advancement in a manner that is disproportionate as compared to her male counterparts. The relief
9 sought by the Plaintiff herein is also typical of the relief sought on behalf of the proposed class.

10 **Adequacy of Representation**

11 70. Plaintiff is able to fairly and adequately protect the interests of all members of the
12 class because it is in Plaintiff's best interest to prosecute the claims alleged herein to obtain full
13 compensation due to the members of the class, and to obtain injunctive relief to protect the Class
14 from further discrimination going forward. Plaintiff's interests align with those of Class Members.

15 71. Plaintiff has selected counsel who have the requisite resources and ability to
16 prosecute this case as a class action and are experienced labor and employment attorneys who have
17 successfully litigated class actions and other cases involving similar issues.

18 72. The suit is properly maintained as a Class Action under Code of Civil Procedure
19 section 382 because Defendants have implemented an unlawful scheme that is generally applicable
20 to the Class, making it appropriate to issue final injunctive relief and corresponding declaratory relief
21 with respect to the class as a whole. This suit is also properly maintained as a class action because
22 the common questions of law and fact predominate over any questions affecting only individual
23 members of the class. For all these and other reasons, a class action is superior to other available
24 methods for the fair and efficient adjudication of the controversy set forth herein.

25 ///

26 ///

27 ///

1 **VII. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Violation of the California Equal Pay Act, as amended Cal. Labor Code §§ 1197.5, 1194.5**

4 **(Brought by Plaintiff Ekstrom on Behalf of Herself and the Class)**

5 73. Plaintiff hereby alleges and incorporates by reference all allegations in each preceding
6 paragraph as if fully set forth herein.

7 74. Defendants willfully violated California Labor Code § 1197.5 by intentionally,
8 knowingly, and deliberately paying U.S. based female employees less than their male counterparts for
9 substantially similar work throughout the Class Period.

10 75. As a result of Defendants' conduct, violation of California Labor Code § 1197.5,
11 and/or willful, knowing, and intentional discrimination, Plaintiff and Class Members have suffered
12 and will continue to suffer harm, including but not limited to lost earnings, lost benefits, and other
13 financial loss, as well as non-economic damages.

14 76. Plaintiff and Class Members are therefore entitled to all legal and equitable remedies
15 available, including an injunction under Labor Code § 1194.5, attorney's fees under Labor Code §
16 1197.5 and Code of Civil Procedure §1021.5, and lost wages, interest, and liquidated damages.

17 **SECOND CAUSE OF ACTION:**

18 **Gender Discrimination in Violation of FEHA**

19 **(California Government Code § 12940, *et seq.*)**

20 **(Brought by Plaintiff Ekstrom on Behalf of Herself and the Class)**

21 77. Plaintiff hereby realleges and incorporates by reference all allegations in each
22 preceding paragraph as if fully set forth herein.

23 78. In relevant part, California Government Code §12940(a) provides that it shall be
24 unlawful for an employer to discriminate against an employee in the terms and conditions of their
25 employment because of their gender.

26 79. Plaintiff and the putative Class Members are U.S. based female employees of Tubi
27 subject to California law and thus members of a protected class.
28

1 87. California Government Code section 12940(k) provides that it shall be an unlawful
2 employment practice for an employer to fail to take all reasonable steps necessary to prevent
3 discrimination, harassment, and retaliation from occurring in the workplace.

4 88. Plaintiff and the putative Class Members are female and are thus members of a
5 protected class.

6 89. Defendants are employers as defined by FEHA.

7 90. Plaintiff and the putative Class Members were and/or are employees of Defendants
8 under the terms of the FEHA.

9 91. Defendants failed to provide Plaintiff and the Class Members with protections
10 required under California Government Code section 12940(k) by not taking immediate and
11 sufficient action to correct the discriminatory conduct directed at its U.S. based female employees,
12 even after being alerted repeatedly to the discrimination by Plaintiff.

13 92. As a direct, legal, and proximate result of the discrimination, Plaintiff and the
14 putative Class Members have suffered damages, including lost wage and other economic damages,
15 emotional distress, and punitive damages in an amount to be proven at trial.

16 93. By reason of the conduct of Defendants, Plaintiff has necessarily retained attorneys
17 to prosecute the action on behalf of herself and the Class. Pursuant to California Government Code
18 section 12965(b), and because of Defendants' discrimination, Plaintiff and the Class are entitled to
19 recover attorneys' fees.

20 94. Defendant's actions were ratified by managing agents, and were willful, malicious,
21 fraudulent, and oppressive, and were committed with wrongful intent to harm Plaintiff and the Class
22 Members in conscious disregard of their rights. Plaintiff and the Class Members are therefore
23 entitled to recover punitive damages from Defendant in an amount according to proof at trial.

24 95. Plaintiff timely exhausted administrative remedies and obtained a right to sue.

25 ///

26 ///

27 ///

1 § 12965(b), and because of Defendants' discrimination, Plaintiff is entitled to recover damages for
2 economic harm, noneconomic harm, attorneys' fees, costs, and expert witness fees.

3 105. Defendant's actions were ratified by managing agents, and were willful, malicious,
4 fraudulent, and oppressive, and were committed with wrongful intent to harm Plaintiff in conscious
5 disregard of her rights. Plaintiff and the Class Members are therefore entitled to recover punitive
6 damages from Defendant in an amount according to proof at trial.

7 106. Plaintiff timely exhausted administrative remedies and obtained a right to sue.

8 **FIFTH CAUSE OF ACTION:**

9 **Retaliation in Violation of EPA**

10 **(as amended Cal. Labor Code §§ 1197.5, 1194.5)**

11 **(Brought by Plaintiff Ekstrom on Behalf of Herself)**

12 107. Plaintiff hereby realleges and incorporates by reference all allegations in each
13 preceding paragraph as if fully set forth herein.

14 108. California Labor Code § 1197.5(k) provides that it shall be an unlawful employment
15 practice for an employer to retaliate against or otherwise discriminate against an employee because
16 of any action taken by an employee to invoke or assist in any maimer the enforcement of the Equal
17 Pay Act.

18 109. Defendants are employers as defined by the EPA. Labor Code § 1197.5(l).

19 110. Plaintiff was an employee of Defendants.

20 111. Defendants retaliated against Plaintiff when it took adverse employment actions or
21 discriminated against Plaintiff in compensation, terms, conditions, or privileges of her employment,
22 ultimately culminating in her unlawful termination.

23 112. As a direct, legal, and proximate cause of the discrimination, Plaintiff has suffered
24 damages, including lost wages and other economic damages, emotional distress, and punitive
25 damages in an amount to be proven at trial.
26
27
28

1 amended, Labor Code § 1197.5, and thus constitute an unlawful business practice prohibited by
2 Business & Professions Code § 17200 *et seq.* Defendants' business practice of paying U.S. based
3 female employees less than their male counterparts for substantially similar work causes harm to
4 Plaintiff and Class Members that outweighs any reason Defendants may have for doing so.
5 Defendants' business practice as alleged herein is also sexist, immoral, unethical, oppressive,
6 unscrupulous, and offensive to the established public policies of ensuring employees of all sex or
7 gender are paid equally for performing equal and substantially similar work, as reflected in the
8 California Equal Pay Act, Cal. Labor Code § 1997.5, and ensuring U.S. based female employees are
9 not discriminated against in the workplace, as reflected in the California Fair Employment and
10 Housing Act, Cal. Gov't Code § 12940.

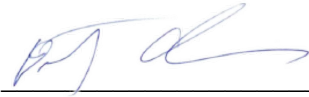
11 128. Defendants' policies and/or practices of disproportionately excluding U.S. based
12 female employees from management and leadership positions as compared to male employees
13 constitutes a business practice because Defendants' acts and omissions, as alleged herein, violate the
14 California Fair Employment and Housing Act, Cal. Gov't Code §12940, and therefore constitute an
15 unlawful business practice prohibited by Business & Professions Code § 17200 *et seq.* Defendants'
16 discriminatory business practice regarding promotions causes harm to Plaintiff and Class Members
17 that outweighs any reason Defendants may have for doing so. Defendants' business practice as
18 alleged herein is also sexist, immoral, unethical, oppressive, unscrupulous, and offensive to the
19 established public policies of ensuring U.S. based female employees are not discriminated against in
20 the workplace, as reflected in the California Fair Employment and Housing Act Cal. Gov't Code §
21 12940.

22 129. As a result of their unlawful and/or unfair business practices, Defendants have
23 reaped and continue to reap unfair and illegal profits at the expense of Plaintiff and the Class
24 Members. Accordingly, Defendants should be disgorged of its illegal profits, and Plaintiff and Class
25 Members are entitled to restitution with interest of such ill-gotten profits in an amount according to
26 proof at the time of trial.

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

Dated: 5/18/2023

Respectfully Submitted,



Dustin L. Collier

V. Joshua Socks

Elizabeth R. Malay

Richard A. Jacobs*

**pro hac vice* application forthcoming

Attorneys for Plaintiff and the Putative Class