

ENDORSED
FILED
ALAMEDA COUNTY

JUL 18 2010

CLERK OF THE SUPERIOR COURT
By [Signature]
Deputy

1 Bill Lann Lee (SBN 108452)
Todd F. Jackson (SBN 202598)
2 Julia Campins (SBN 238023)
Kirsten G. Scott (SBN 253464)
3 LEWIS, FEINBERG, LEE, RENAHER &
JACKSON, P.C.
4 1330 Broadway, Suite 1800
Oakland, CA 94612
5 Telephone: (510) 839-6824
Facsimile: (510) 839-7839
6 Email: blee@lewisfeinberg.com
tjackson@lewisfeinberg.com
7 jcampins@lewisfeinberg.com
kscott@lewisfeinberg.com
8

9 Thomas Saenz (SBN 159430)
Victor Viramontes (SBN 214158)
Shana Ramirez (SBN 270186)
10 MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL
11 634 S. Spring Street, 11th Floor
Los Angeles, CA 90014
12 Telephone: (213) 629-2512
Facsimile: (213) 629-0266
13 Email: tsaenz@maldef.org
vviramontes@maldef.org
14 sramirez@maldef.org

15 *Attorneys for Plaintiffs and the Proposed Class*

16
17
18 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 FOR THE COUNTY OF ALAMEDA

20 RAOUL FULCHER, JR.,
KENNETH KING, JR.,
21 RICHARD LOPEZ,
REBECCA MASON,
22 LESLIE THORNHILL, and
THOMAS WEEKS
23 on behalf of themselves and all others
similarly situated,

24 Plaintiffs,

25 v.

26 24 HOUR FITNESS USA, INC.,
27 Defendant.
28

Case No. 10524911

**CLASS ACTION COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF AND DAMAGES, FOR
VIOLATIONS OF**

**(1) Cal. Gov't Code § 12940 et seq., and
(2) Cal. Bus & Prof. Code § 17200 et seq.**

DEMAND FOR JURY TRIAL

Amount demanded exceeds \$10,000.

Judge: _____
Dept: _____

1 not reliably or consistently applied. For the few minorities and women hired into management
2 positions, 24 Hour Fitness makes unjustified subjective decision-making regarding compensation
3 that is arbitrary and permits discriminatory bias to influence decisions.

4 4. 24 Hour Fitness engages in a pattern or practice of intentional
5 discrimination against its minority and female employees seeking promotion to managerial jobs
6 and equal compensation. The adverse effect of its discriminatory policies and practices on
7 minority and female employees seeking managerial positions is not justified by any business
8 necessity under the disparate impact standard. Less discriminatory alternatives exist in the form
9 of job-related managerial promotion and compensation criteria that could be uniformly and fairly
10 applied.

11 5. This class action is accordingly brought by representative minority and
12 female employees of 24 Hour Fitness, on behalf of themselves individually and on behalf of all
13 other minority and female employees against whom 24 Hour Fitness has discriminated on the
14 basis of their race, color, national origin and/or gender in denying promotion to managerial jobs
15 and equal compensation in the State of California.

16 6. This class action seeks to enjoin these discriminatory policies or practices
17 through declaratory relief, injunctive relief, back pay, punitive damages, and such other relief as
18 is just and equitable so that class members may achieve their rightful places in the Company.

19 **II. JURISDICTION AND VENUE**

20 7. This Court has subject matter jurisdiction because the total amount of
21 damages sought exceeds \$25,000 and the relief requested is within the jurisdiction of this Court.

22 8. Venue as to Defendant is proper in the County of Alameda, pursuant to
23 Code of Civil Procedure § 395.5. Defendant maintains offices and facilities, transacts business,
24 and has agents in Alameda County, and Defendant is otherwise within this Court's jurisdiction for
25 purposes of service of process. The unlawful acts alleged herein have a direct effect on the
26 Representative Plaintiffs and those similarly situated within the State of California and Alameda
27 County. Defendant operates services in Alameda County as well as in other counties within the
28 State of California, and employs numerous Class Members in Alameda County. Representative

1 Plaintiffs Raoul Fulcher, Jr., Kenneth King, Jr., Rebecca Mason, and Thomas Weeks, were
2 employed by Defendant in Alameda County.

3 **III. PARTIES**

4 9. Plaintiff Raoul Fulcher, Jr. is an African American male who resides in
5 American Canyon, California. He has worked at 24 Hour Fitness locations and has been subject
6 to discrimination by being denied managerial promotions and equal compensation by 24 Hour
7 Fitness in the State of California between August 2003 and the present on account of his race,
8 color and/or national origin.

9 10. Plaintiff Kenneth King, Jr. is an African American male who resides in
10 Walnut Creek, California. He has worked at 24 Hour Fitness locations and has been subject to
11 discrimination by being denied managerial promotions and equal compensation by 24 Hour
12 Fitness in the State of California between November 2008 and the present on account of his race,
13 color and/or national origin.

14 11. Plaintiff Richard Lopez is a Latino male who resides in Antioch,
15 California. He has worked at 24 Hour Fitness locations and has been subject to discrimination by
16 being denied managerial promotions and equal compensation by 24 Hour Fitness in the State of
17 California between March 2006 and the present on account of his race, color and/or national
18 origin.

19 12. Plaintiff Rebecca Mason is a woman who resides in Alameda, California.
20 She worked at 24 Hour Fitness locations and was subject to discrimination by being denied
21 managerial promotions and equal compensation by 24 Hour Fitness in the State of California
22 between June 2008 and March 2009 on account of her gender.

23 13. Plaintiff Leslie Thornhill is an African American male who resides in
24 Pittsburg, California. He has worked for 24 Hour Fitness locations and has been subject to
25 discrimination by being denied managerial promotions and equal compensation by 24 Hour
26 Fitness in the State of California between November 2002 and the present on account of his race,
27 color and/or national origin.

28

1 notice similar to those customarily used in class action lawsuits of this nature.

2 b. Commonality: There are questions of law and fact common to the
3 Representative Plaintiffs and the Class that predominate over any questions affecting only
4 individual members of the Class. These common questions of law and fact include: (1) whether
5 24 Hour Fitness's policies or practices discriminate against minority or female employees; (2)
6 whether 24 Hour Fitness's use of subjective decision-making and other promotion policies or
7 practices to fill managerial positions discriminate against minority or female employees;
8 (3) whether 24 Hour Fitness's use of subjective decision-making and other compensation policies
9 and practices to determine a managerial employee's compensation discriminates against minority
10 or female employees; (4) whether 24 Hour Fitness's policies and practices for promotion to
11 managerial positions and compensation violate the Fair Employment and Housing Act; and (5)
12 whether declaratory relief, injunctive relief, back pay, punitive damages, and other equitable
13 remedies for the Class are warranted.

14 c. Typicality: The Representative Plaintiffs' claims are typical of the
15 claims of the Class. Defendant's common course of unlawful conduct has caused the
16 Representative Plaintiffs and Class Members to sustain the same or similar injuries and damages
17 caused by the same practices of Defendant. The Representative Plaintiffs' claims are thereby
18 representative of and co-extensive with the claims of the Class.

19 d. Adequacy of Representation: The Representative Plaintiffs are all
20 members of the Class, do not have any conflicts of interest with other Class Members, and will
21 prosecute the case vigorously on behalf of the Class. The Representative Plaintiffs will fairly and
22 adequately represent and protect the interests of the Class Members. Counsel for the
23 Representative Plaintiffs are competent and experienced in litigating employment class actions,
24 including employment discrimination actions.

25 e. Superiority of Class Action: A class action is superior to other
26 available means for the fair and efficient adjudication of this controversy. Individual joinder of
27 all Class Members is not practicable, and questions of law and fact common to the Class
28 predominate over any questions affecting only individual members of the Class. Each Class

1 Member has been injured and is entitled to recovery by reason of Defendant's unlawful policies
2 and/or practices described herein. Because the monetary injury suffered by individual Class
3 Members may be relatively small, albeit significant, the expense and burden of individual
4 litigation make it impractical for most Class Members individually to seek redress for the
5 wrongful conduct alleged. Class action treatment will allow those similarly situated persons to
6 litigate their claims in the manner that is most efficient and economical for the parties and the
7 judicial system.

8 **V. STATEMENT OF FACTS**

9 18. The denial of equal employment opportunity suffered by the
10 Representative Plaintiffs and Class Members are part of a general policy or practice of
11 discrimination in denial of managerial promotions and unequal compensation on the basis of race,
12 color, national origin or gender. They are not isolated examples, but result from 24 Hour
13 Fitness's systemic discrimination against minority and women employees in managerial
14 promotions and compensation.

15 19. 24 Hour Fitness has no uniform job posting or application process, no
16 promotion criterion, no employee or promotional evaluation standards, and no standards or
17 guidelines to determine managerial compensation levels for managerial promotions. The
18 Company engages in discriminatory policies and practices in filling managerial positions by (a)
19 using unjustified subjective decision-making that is arbitrary and permits discriminatory bias to
20 influence decisions, (b) failing to notify all employees of job openings, (c) failing to consider
21 applications before filling jobs, (d) failing to establish and inform employees of criteria for
22 promotion, (e) using promotion criteria unrelated to job performance, and (f) using promotion
23 criteria that are not reliably or consistently applied. In addition, 24 Hour Fitness makes
24 unjustified subjective decision-making regarding compensation that is arbitrary and permits
25 discriminatory bias to influence decisions.

26 20. 24 Hour Fitness clubs typically have a Club Manager as well as three
27 managers who report to the Club Manager: Membership Manager, Service Manager and Fitness
28

1 Manager. Many of this latter group of managers have assistant managers who report to them.
2 Some of the largest and smallest clubs have a different number of management positions.

3 21. Historically, 24 Hour Fitness, on information and belief, has generally
4 promoted to managerial positions from within the Company. However, the Company has no
5 uniform criteria, standards or guidelines governing promotions to managerial jobs. Instead, 24
6 Hour Fitness uses a subjective and arbitrary process in which high-level Regional Vice
7 Presidents, who are and have been mostly white men, make discriminatory managerial promotion
8 and compensation decisions directly or through their District Managers, irrespective of an
9 employee's job experience or performance. In addition, over the last three years, 24 Hour Fitness
10 has arbitrarily placed individuals without prior experience in the Company into management
11 positions based on recommendations by senior management. Many, if not all, of these
12 individuals, senior management knew from having previously worked at other companies. These
13 positions were filled without the Company posting job announcements or allowing anyone to
14 submit applications. All of these practices by 24 Hour Fitness have led to the exclusion of many
15 minority and female employees from managerial positions.

16 22. 24 Hour Fitness fails to uniformly post managerial job openings. While
17 the Company maintains a "Jobs at a Glance" webpage, it posts managerial job openings on an
18 inconsistent and ad hoc basis. Until recently, the Company has failed to inform employees of the
19 procedures for applying for managerial positions. 24 Hour Fitness has also denied access to
20 managerial promotions by requiring that employees receive permission from their Regional Vice
21 President in order to apply for a managerial job.

22 23. 24 Hour Fitness has failed to promulgate uniform selection criteria and
23 standards for managerial positions or to hold managers accountable to apply such criteria and
24 standards. Instead, the Company allows Regional Vice Presidents, directly or through their
25 District Managers, to exercise unfettered, subjective and arbitrary discretion in making
26 managerial promotion decisions. Without such criteria and standards, these managers have
27 tended to promote few minority or female managerial employees.

28

1 24. Nor does 24 Hour Fitness have established criteria for measuring employee
2 job performance. For example, the Company makes subjective and arbitrary determinations as to
3 setting revenue goals and as to deciding whether managerial employees are meeting revenue
4 goals for the employee, the employee's club, or the employee's team whereby the Regional Vice
5 Presidents, directly or through their District Managers, make these determinations irrespective of
6 the quality and location of the club, proximity of competitor clubs, or other relevant factors. The
7 lack of established and/or consistently applied job requirements and criteria for measuring job
8 performance at 24 Hour Fitness has resulted in the discrimination of minority and female
9 employees in managerial promotions and compensation.

10 25. In addition, on information and belief, 24 Hour Fitness has had no uniform
11 guidelines or established criteria governing compensation for managerial positions. For
12 Membership Manager and Service Manager positions, and possibly for other positions as well, 24
13 Hour Fitness has established pay scales that set forth a range of hourly pay rates for different club
14 categories based on the size of the club. However, the Company has no uniform guidelines or
15 established criteria for determining what pay from within that range is appropriate for an
16 employee. Some employees have received a pay rate outside the pay range. The lack of
17 guidelines or criteria allows the mostly all white male Regional Vice Presidents and their District
18 Managers to make these decisions on subjective and arbitrary basis irrespective of a person's job
19 experience or performance. This has led to unequal compensation of minority and women in
20 managerial positions.

21 26. The denial of managerial promotions and unequal compensation to
22 minority and female employees by 24 Hour Fitness at its clubs throughout California results from
23 a pattern or practice of intentional discrimination on the basis of race, color, national origin or
24 gender.

25 27. 24 Hour Fitness's policies and practices with respect to promotions to
26 managerial positions and compensation have an adverse disparate impact on minority and female
27 employees. The selection criteria for managerial promotions are not justified by business
28 necessity and are unreliably or inconsistently applied. Less discriminatory alternatives exist in

1 the form of job-related managerial promotion and compensation criteria that could be fairly
2 applied to all employees.

3 **VI. CLAIMS OF REPRESENTATIVE PLAINTIFFS**

4 **Raoul Fulcher, Jr.**

5 28. Plaintiff Raoul Fulcher, Jr. is an African American male who started
6 working at 24 Hour Fitness in 1993, and has worked at the San Leandro, San Jose, Vallejo,
7 Antioch, Fairfield, San Francisco, and Daly City club locations.

8 29. Mr. Fulcher began working at 24 Hour Fitness as an entry-level Sales
9 Counselor. He performed well in the job, and in 1994 he was promoted to a Sales Manager
10 position. He continued to perform well, and in 1995 was promoted first to Assistant General
11 Manager and then to General Manager.

12 30. In 1999 Mr. Fulcher left 24 Hour Fitness for several years, but in 2003 he
13 returned to the Company. He sought a General Manager position, but was told that he needed to
14 prove his dedication, and so was given a Fitness Counselor position. In December 2003 he was
15 promoted to General Manager. In 2007 24 Hour Fitness underwent a reorganization at which
16 time his title changed to Club Manager, but he has otherwise performed the same work.

17 31. Since 2003 (and during the 1990s as well) Mr. Fulcher performed very well
18 at his job as General Manager/Club Manager. During this time he has continually expressed his
19 interest in a promotion to District Manager. However, despite his excellent performance, he has
20 never received a promotion to District Manager. On numerous occasions Mr. Fulcher has asked
21 his District Manager and Regional Vice President what he needs to do to receive a promotion. In
22 about 2004 his District Manager told him that he needed to hit revenue goals in order to be
23 considered for a promotion. On one occasion the Regional Vice President told him that in order
24 to be promoted he needed to blow other General Managers out of the water. More recently his
25 District Manager indicated that a person's behavior is considered for purposes of promotions, but
26 exactly what this means was never explained to him. Mr. Fulcher has never heard anything more
27 specific about what criteria are required to receive a promotion to District Manager.

28

1 32. Despite performing well as Club Manager, including consistently hitting
2 revenue goals, in August 2007 Mr. Fulcher's Regional Vice President went to his club and
3 questioned him about the club's performance. During the conversation the Regional Vice
4 President became upset, and he inappropriately physically grabbed and insulted Mr. Fulcher.
5 Several days later Mr. Fulcher complained about the incident to the 24 Hour Fitness Human
6 Resources Department. Within a matter of days he was given a Performance Improvement Plan
7 (a disciplinary write-up) from the District Manager, which inaccurately stated that he had not hit
8 revenue goals or provided adequate leadership for subordinate employees. Before this time, in all
9 of his years with 24 Hour Fitness, Mr. Fulcher had never been given a Performance Improvement
10 Plan or received any other kind of warning or write-up by the Company. The same day that Mr.
11 Fulcher received the write-up, his District Manager also informed him that 24 Hour Fitness
12 wanted to move him to a smaller, less desirable club. Mr. Fulcher believes 24 Hour Fitness gave
13 him the write-up and threatened to move him to a less desirable club in retaliation for raising a
14 complaint against the Regional Vice President.

15 33. In May 2008 Mr. Fulcher filed a charge of discrimination with the
16 California Department of Fair Employment and Housing ("DFEH") and the Equal Employment
17 Opportunity Commission ("EEOC"), attached to this Complaint as Exhibit A, alleging, among
18 other things, discrimination with respect to promotion. Shortly thereafter Mr. Fulcher received a
19 Notice of Right to Sue from DFEH, attached hereto as Exhibit B.

20 34. Before filing the DFEH and EEOC charge, despite Mr. Fulcher having
21 expressing his interest, 24 Hour Fitness had never given him the opportunity to apply for a
22 District Manager position. Around late 2009 or early 2010 he was finally given an interview for a
23 District Manager position in Hawaii, but he did not receive this promotion. Other than this one
24 occasion, in all of the years that Mr. Fulcher has worked at 24 Hour Fitness as a General
25 Manager/Club Manager, he has never been given an opportunity to apply or interview for a
26 District Manager position. In addition, although Mr. Fulcher regularly checks the "Jobs at a
27 Glance" intranet site where 24 Hour Fitness supposedly posts all job openings, he has only seen a
28

1 District Manager job posted on one occasion. He has seen many white males get promotions over
2 him, and only a small number of minorities receive District Manager positions

3 35. On June 28, 2010, Mr. Fulcher filed an amended charge of discrimination
4 with the DFEH and the EEOC, attached to this Complaint as Exhibit C.

5 **Kenneth King, Jr.**

6 36. Plaintiff Kenneth King, Jr. is an African American male who has worked at
7 24 Hour Fitness since October 2006 at the San Mateo, Concord, Moraga and Oakland club
8 locations.

9 37. Mr. King began working at 24 Hour Fitness as an entry-level Fitness
10 Counselor (now called a Membership Counselor). He performed well, and quickly became the
11 top sales performer in his district. Based on his excellent performance, Mr. King was promoted
12 to Assistant Membership Manager in June 2007, and again became a top producing Assistant
13 Membership Manager in the district. In June 2008 he was promoted to Membership Manager,
14 and he was a top performer among Membership Managers in the district as well.

15 38. In November 2008, Mr. King was transferred to a different club, and
16 became the Acting Club Manager until February 2009. Although he performed all of the duties
17 of Club Manager well, he was paid as a Membership Manager. He sought a promotion to become
18 the Club Manager at his club or at another club. However, even though there was a Club
19 Manager vacancy at his club and he had performed well as the Acting Club Manager, he was
20 denied a promotion. The Regional Vice President told Mr. King that he was looking to promote
21 him to a Club Manager position at a club closer to Mr. King's home. Mr. King told the Regional
22 Vice President that if he was promoted to Club Manager and compensated as such, he had no
23 problem continuing the long commute to that club. Nevertheless, Mr. King was denied the
24 promotion. He was also denied a promotion to Club Manager at any other club.

25 39. In February 2009, Mr. King was transferred to a Membership Manager
26 position at another club. The Regional Vice President told Mr. King this would be a good fit for
27 him because the majority of club members at that club are African American, and he would fit the
28 demographics of the club. The club was problematic because the Club Manager recently had

1 been fired for misreporting membership sales figures. In addition, there was no Club Manager,
2 and so Mr. King performed the job duties of both a Membership Manager and a Club Manager.
3 Nevertheless, Mr. King performed well in difficult circumstances.

4 40. 24 Hour Fitness nevertheless denied Mr. King a promotion to Club
5 Manager at that club. Instead, in May 2009, 24 Hour Fitness brought in a new Club Manager
6 who gave Mr. King a Performance Improvement Plan indicating that he had failed to hit sales
7 goals for the past several months, and that he was inadequately leading the sales team. Mr. King
8 was then told by management that he would be fired if he could not improve the sales
9 performance of his team, or he could accept a demotion to an entry-level Membership Counselor
10 position in order to avoid termination. Mr. King transferred to a Membership Counselor position
11 at a different club.

12 41. From July to August 2009, Mr. King had the title and was paid as a
13 Membership Counselor while performing the duties of a Membership Manager because there was
14 no Membership Manager or Assistant Membership Manager in place. In September 2009, Mr.
15 King was promoted to Assistant Membership Manager, and has become the top sales person in
16 the entire region. He continues to seek a promotion.

17 42. While Mr. King held the position of Membership Manager, his hourly pay
18 rate was \$11.00 per hour, and later \$12.50 per hour. Those rates of pay fall below the minimum
19 on the 24 Hour Fitness pay scale for clubs of that size and are lower than what other Membership
20 Managers make at other clubs of the same size.

21 43. Mr. King was discriminated against by 24 Hour Fitness by being denied
22 promotions and equal compensation on the basis of his race or color.

23 44. On March 19, 2010, Mr. King filed a charge of discrimination with the
24 DFEH and the EEOC, attached to this Complaint as Exhibit D. Shortly thereafter Mr. King
25 received a Notice of Right to Sue from DFEH, attached hereto as Exhibit E.

26 **Richard Lopez**

27 45. Plaintiff Richard Lopez is a Latino male who has worked at 24 Hour
28 Fitness since January 2006 at the Concord and Antioch club locations.

1 46. In January 2006, Mr. Lopez began working at the Company as an entry-
2 level Sales Counselor (now called a Membership Counselor). He performed very well in that
3 position, and for a period of time he was one of the top performers in sales in the region. He
4 inquired about a promotion to Assistant Sales Manager (now called Assistant Membership
5 Manager), and was told that if he continued to hit his production goals for the month of February
6 2006, then he would be promoted to Assistant Sales Manager at that club. However, even though
7 Mr. Lopez hit his production goals that month, he was denied a promotion. Thereafter,
8 management raised his production goals, and on several occasions told Mr. Lopez that he needed
9 to hit the new goals in order to be eligible for a promotion. Despite the increased production
10 goals, Mr. Lopez continued to hit his goals every month; nevertheless, 24 Hour Fitness continued
11 to deny him a promotion for more than six months.

12 47. In September 2006 Mr. Lopez was promoted to Assistant Sales Manager.
13 Although there was a vacancy for the Assistant Sales Manager position at his club, he was not
14 given that position. Instead, he was given an Assistant Sales Manager position at a smaller and
15 less desirable club. Nevertheless, Mr. Lopez accepted the position, and immediately began
16 performing well, quickly becoming a top producing Assistant Sales Manager in the district. He
17 did everything that his managers told him was necessary in order to obtain a promotion to
18 Membership Manager, but was repeatedly denied a promotion.

19 48. In August 2008, the Membership Manager position became vacant at Mr.
20 Lopez's club and remained open through the end of the year. As an Assistant Membership
21 Manager, he performed the job of Membership Manager well. Nevertheless, 24 Hour Fitness
22 denied Mr. Lopez a promotion to Membership Manager. Finally, in December 2008, 24 Hour
23 Fitness offered him a promotion to Membership Manager, and he accepted.

24 49. Mr. Lopez was told by higher-level management that upon becoming
25 Membership Manager, his hourly pay rate would be raised to \$12.00 per hour immediately.
26 However, the Company continued to pay him at his Assistant Membership Manager pay rate for
27 several months and then at \$11.00 per hour, which is lower than the minimum for a club of his
28 size.

1 50. Mr. Lopez was discriminated against by 24 Hour Fitness by being denied
2 promotions and equal compensation on the basis of his national origin.

3 51. On March 19, 2010, Mr. Lopez filed a charge of discrimination with the
4 DFEH and the EEOC, attached to this Complaint as Exhibit F. Shortly thereafter Mr. Lopez
5 received a Notice of Right to Sue from DFEH, attached hereto as Exhibit G.

6 **Rebecca Mason**

7 52. Plaintiff Rebecca Mason is a woman who worked at 24 Hour Fitness
8 between June 2007 and March 2009 at the Vallejo, Berkeley and Concord club locations.

9 53. Ms. Mason began working at 24 Hour Fitness as an entry-level Sales
10 Counselor (now called a Membership Counselor) in Vallejo. She performed well, and in
11 December 2007 was promoted by the Regional Vice President to Assistant Membership Manager.
12 In April 2008, Ms. Mason was transferred to an Assistant Membership Manager position at the 24
13 Hour Fitness club in Berkeley. Between April and October 2008, Ms. Mason performed the
14 duties of a Membership Manager while her title and compensation were that of an Assistant
15 Membership Manager in the absence of a Membership Manager in her club. She was told that the
16 Berkeley club had no Membership Manager position.

17 54. In late 2007 or early 2008, Ms. Mason was told by her District Manager
18 that she would be promoted to Membership Manager in three months if she performed well and
19 hit specified sales goals. He told her that either a Membership Manager position would be
20 created at her club, or that she would be promoted to Membership Manager at a different club.
21 Over the next few months Ms. Mason performed extremely well, exceeding her sales goals, and
22 out-performing several of the bigger clubs in her district. Nevertheless, she was not promoted to
23 Membership Manager at her club after the three months, or at any other time. Ms. Mason later
24 found out that 24 Hour Fitness did create a Membership Manager position in the Berkeley club,
25 and promoted into that position a male employee who was much younger and had been with the
26 Company for just several months.

27 55. In June 2008, Ms. Mason's District Manager told her that there would
28 likely be an opening for the Membership Manager position at the club in Petaluma soon, and that

1 he was thinking of promoting her to that club. However, when that position became available, 24
2 Hour Fitness gave it to a male employee.

3 56. In October 2008, Ms. Mason's District Manager told her that he was
4 transferring her to an Assistant Membership Manager position in Concord. He told her that the
5 Membership Manager would be leaving that club soon, and at that time she would be promoted to
6 Membership Manager. However, despite the fact that when she was transferred the Membership
7 Manager at that club had already left, Ms. Mason was not given that position. Instead, she was
8 told that there was another Assistant Membership Manager at that club, and the two of them had
9 to compete for the Membership Manager position. Ms. Mason and the other Assistant
10 Membership Manager were told that whoever performed better over the course of several months
11 would be given the Membership Manager position.

12 57. After transferring to the Concord club, Ms. Mason found it was a difficult
13 club in which to do sales. Although several other fitness clubs had just opened in the area, the
14 sales goals of the club were not adjusted, which made it impossible to hit sales goals. 24 Hour
15 Fitness was also allowing Costco to sell memberships to that club at a fraction of the price that
16 the employees were authorized to sell memberships for, making it even harder to sell
17 memberships. Ms. Mason performed well as Assistant Membership Manager given the difficult
18 circumstances, but was not promoted to Membership Manager at that club. A male employee was
19 given that position in early 2009. Ms. Mason also found out that 24 Hour Fitness had promoted a
20 male employee who had formerly worked under her as a Membership Counselor into a vacant
21 Membership Manager position in the Vallejo club where she had previously worked, even though
22 that employee was accused of stealing from the Company. Ms. Mason finally left the Company
23 at the end of March 2009 because she felt that there was no opportunity for her to advance.

24 58. Ms. Mason was discriminated against by 24 Hour Fitness by being denied
25 promotions and equal compensation on the basis of her gender.

26 59. On March 18, 2010, Ms. Mason filed a charge of discrimination with the
27 DFEH, attached to this Complaint as Exhibit H. Shortly thereafter Ms. Mason requested and
28 received a Notice of Right to Sue from DFEH, attached hereto as Exhibit I.

1 **Leslie Thornhill**

2 60. Plaintiff Leslie Thornhill is an African American man who began working
3 at 24 Hour Fitness in February 2000, and has worked at the Concord and San Ramon club
4 locations.

5 61. Shortly after he began working for 24 Hour Fitness as an entry-level Sales
6 Counselor (now called a Membership Counselor), Mr. Thornhill became a top performer in sales
7 at the Company, and was promoted to Assistant General Manager in 2002. However, he was then
8 demoted to Sales Counselor in January 2003 without an explanation. In April 2003, Mr.
9 Thornhill filed a discrimination claim with the DFEH and EEOC. Shortly thereafter 24 Hour
10 Fitness agreed to make him Assistant General Manager again. He resigned from the Company in
11 July 2004.

12 62. In November 2005 Mr. Thornhill again applied for work at 24 Hour
13 Fitness, and despite his experience, was again hired as an entry-level Sales Counselor. The
14 District Manager told Mr. Thornhill that he would be promoted to Assistant General Manager
15 when he was ready. Mr. Thornhill again quickly became one of the top sales performers
16 company-wide. In 2007 and 2008 Mr. Thornhill told his District Manager that he believed he
17 was ready and well qualified for a promotion to Assistant General Manager or Assistant
18 Membership Manager. However, he was not given a promotion. The District Manager told him
19 that he would get the Assistant General Manager position when it became available at the club
20 where Mr. Thornhill worked; however, when the position became available, it was given to a
21 white male employee.

22 63. Mr. Thornhill has been discriminated against by 24 Hour Fitness by being
23 denied promotions and equal compensation on the basis of his race or color.

24 64. On March 19, 2010, Mr. Thornhill filed another charge of discrimination
25 with the DFEH and the EEOC, attached to this Complaint as Exhibit J. Shortly thereafter Mr.
26 Thornhill received a Notice of Right to Sue from DFEH, attached hereto as Exhibit K.

27
28

1 **Thomas Weeks**

2 65. Plaintiff Thomas Weeks is an Asian-American male who worked at 24
3 Hour Fitness between March 2006 and July 2009 at the Concord, Pleasanton, and Richmond club
4 locations.

5 66. In or around February 2006, Mr. Weeks applied for a position in the Sales
6 Management Training Program at 24 Hour Fitness. Although a Regional Vice President told him
7 that he would be a perfect fit for Management Training, he was told that the Program was no
8 longer open. In or around March 2006, he was offered and accepted an Assistant Sales Manager
9 (now called Assistant Membership Manager) position at 24 Hour Fitness. Mr. Weeks later
10 learned that the Sales Management Training Program was still open and that a white male was put
11 in the Program after Mr. Weeks was denied the position. Most of the individuals in the Sales
12 Management Training Program were white males.

13 67. Mr. Weeks performed well as an Assistant Sales Manager, and in June
14 2007 he was promoted to Sales Manager (now called Membership Manager). He performed well,
15 and the Regional Vice President congratulated him on his excellent performance. Nevertheless,
16 within a few days he received a Performance Improvement Plan disciplinary write-up because the
17 club purportedly should be performing even better.

18 68. From April to June 2008 there was no Club Manager in Mr. Weeks's club.
19 Although his title and compensation were that of a Membership Manager, he performed the job of
20 a Club Manager. He did well, but was nevertheless discouraged from applying for a Club
21 Manager position.

22 69. Mr. Weeks continually asked what he needed to do in order to become a
23 Club Manager. In 2007, he asked the Regional Vice President, who told him that the Company
24 was looking for a particular image, and that Mr. Weeks did not fit that image. In 2008, Mr.
25 Weeks met and exceeded the criteria that a District Manager had told him to meet for promotion,
26 but he was not promoted. In March 2009, the Regional Vice President told Mr. Weeks that he
27 would consider him for a promotion if Mr. Weeks hit his sales goal for the month. However,
28

1 after he accomplished this, the Regional Vice President would not discuss a possible promotion
2 with him.

3 70. As Membership Manager, Mr. Weeks's hourly pay rate was initially
4 \$10.50 per hour, and was increased to \$10.92 in March 2008. This hourly rate for a Membership
5 Manager at the club size where he worked fell below the minimum on the 24 Hour Fitness pay
6 scale and what other Membership Managers made at other clubs of the same size.

7 71. Mr. Weeks was discriminated against by 24 Hour Fitness by being denied
8 promotions and equal compensation on the basis of his race or color.

9 72. In May 2009, Mr. Weeks complained that he had not been paid for
10 overtime hours that he had worked. Shortly thereafter he received a Performance Improvement
11 Plan, indicating that he was not performing well, even though that was not the case. Then, in
12 early July 2009, Mr. Weeks complained that white employees in the same position were receiving
13 higher pay. A Human Resources Manager offered Mr. Weeks money in exchange for releasing
14 all of his claims against the Company. Mr. Weeks declined. He was terminated from 24 Hour
15 Fitness on July 25, 2009.

16 73. On August 13, 2009, Mr. Weeks filed a charge of discrimination with the
17 DFEH and the EEOC, attached to this Complaint as Exhibit L. On August 25, 2009, Mr. Weeks
18 received a Notice of Right to Sue from the DFEH, attached hereto as Exhibit M. On March 19,
19 2010, Mr. Weeks filed an amended charge of discrimination with the DFEH and EEOC, attached
20 hereto as Exhibit N. Shortly thereafter Mr. Weeks received another Notice of Right to Sue from
21 DFEH, attached hereto as Exhibit O.

22 **FIRST CLAIM FOR RELIEF**

23 **Race, Color, and National Origin Discrimination (California Fair Employment and Housing**
24 **Act, Government Code § 12940 *et seq.*)**

25 74. Plaintiffs incorporate paragraphs 1 through 73 as alleged above.

26 75. This claim is brought on behalf of Raoul Fulcher, Jr., Kenneth King, Jr.,
27 Richard Lopez, Leslie Thornhill, Thomas Weeks, and the class they represent of similarly
28

1 situated minority employees of 24 Hour Fitness who have been denied promotions or equal
2 compensation at 24 Hour Fitness clubs in California.

3 76. 24 Hour Fitness has maintained an employment system that intentionally
4 discriminates against or disparately treats minority employees on a pattern or practice basis by
5 denying them managerial promotions and equal compensation.

6 77. 24 Hour Fitness's employment policies and practices have an adverse
7 disparate impact on minority employees which results in the denial of managerial promotions and
8 unequal compensation. The policies and practices are not justified by business necessity. Less
9 discriminatory alternatives exist that could equally serve any alleged necessity.

10 78. 24 Hour Fitness's actions as described above constitute unlawful race,
11 color or national origin discrimination prohibited by FEHA, California Government Code Section
12 12940 *et seq.*

13 79. Defendant did the acts alleged herein with oppression, fraud and malice.
14 Representative Plaintiffs and the Class Members are thus entitled to recover punitive damages in
15 an amount to be determined according to proof.

16 80. Plaintiffs request relief as hereinafter provided.

17 **SECOND CLAIM FOR RELIEF**

18 **Gender Discrimination (California Fair Employment and Housing Act, Government Code §**
19 **12940 *et seq.*)**

20 81. Plaintiffs incorporate paragraphs 1 through 73 as alleged above.

21 82. This claim is brought on behalf of Rebecca Mason and the class she
22 represents of similarly situated female employees of 24 Hour Fitness who have been denied
23 managerial promotions or equal compensation at 24 Hour Fitness clubs in California.

24 83. 24 Hour Fitness has maintained an employment system that intentionally
25 discriminates against or disparately treats female employees on a pattern or practice basis by
26 denying them managerial promotions and equal compensation.

27 84. 24 Hour Fitness's employment policies and practices have an adverse
28 disparate impact on female employees which results in denial of managerial promotions and

1 unequal compensation. The policies and practices are not justified by business necessity. Less
2 discriminatory alternatives exist that could equally serve any alleged necessity.

3 85. 24 Hour Fitness's actions as described above constitute unlawful gender
4 discrimination prohibited by FEHA, California Government Code Section 12940 *et seq.*

5 86. Defendant did the acts alleged herein with oppression, fraud and malice.
6 Representative Plaintiffs and the Class Members are thus entitled to recover punitive damages in
7 an amount to be determined according to proof.

8 87. Plaintiffs request relief as hereinafter provided.

9 **THIRD CLAIM FOR RELIEF**

10 **(California Unfair Competition Law, Cal. Bus & Prof. Code §§ 17200 *et seq.*)**

11 88. Plaintiffs incorporate paragraphs 1 through 73 as alleged above.

12 89. This claim is brought on behalf of Raoul Fulcher, Jr., Kenneth King, Jr.,
13 Richard Lopez,, Rebecca Mason, Leslie Thornhill, Thomas Weeks, and the Class they represent
14 of similarly situated minority and female employees of 24 Hour Fitness who have been denied
15 managerial promotions or equal compensation at 24 Hour Fitness clubs in California.

16 90. The foregoing conduct, as alleged, violates the California Unfair
17 Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200 *et seq.* Section 17200 of the Cal.
18 Bus. & Prof. Code prohibits unfair competition by prohibiting, *inter alia*, any unlawful or unfair
19 business acts or practices.

20 91. 24 Hour Fitness committed acts of unfair competition, as defined by the
21 UCL, by engaging in the acts and practices described herein, and therefore are also in violation of
22 the UCL. 24 Hour Fitness has violated said laws by engaging in and continuing to engage in a
23 pattern or practice of intentional race, color, national origin, or gender discrimination which have
24 an unjustified adverse impact on minority and female employees. These unlawful acts violate
25 both the "unlawful" and "unfair" provisions of Section 17200 and public policy, because such
26 acts intentionally discriminate against and have an unjustified adverse impact upon
27 Representative Plaintiffs and other Class Members.

28

1 **FIFTH CLAIM FOR RELIEF**

2 **(California Fair Employment And Housing Act, Govt. Code §§ 12940, et. seq.)**

3 101. Plaintiffs incorporate paragraphs 1 through 73 as alleged above.

4 102. This claim is brought on behalf of Representative Plaintiff Thomas Weeks
5 individually for his retaliation claim.

6 103. Defendant discriminated against Thomas Weeks on the basis of his race,
7 color and/or national origin by retaliating against him for seeking to enforce his legal rights by
8 complaining to 24 Hour Fitness.

9 104. Defendant's discriminatory and retaliatory practices have resulted in the
10 loss of past and future wages and other job benefits, and have caused Plaintiff Tom Weeks to
11 suffer humiliation, embarrassment, and emotional distress.

12 105. Defendant did the acts alleged herein with oppression, fraud and malice.
13 Plaintiff is thus entitled to recover punitive damages in an amount to be determined according to
14 proof. Plaintiff therefore requests relief as provided for below in the Prayer.

15 **ALLEGATIONS REGARDING RELIEF**

16 106. Representative Plaintiffs and the Class they seek to represent have no plain,
17 adequate, or complete remedy at law to redress the wrongs alleged herein, and the injunctive
18 relief sought in this action is the only means of securing complete and adequate relief.
19 Representative Plaintiffs and the Class are now suffering and will continue to suffer irreparable
20 injury from Defendant's discriminatory acts and omissions.

21 107. 24 Hour Fitness performed the acts herein alleged with malice or reckless
22 indifference. Representative Plaintiffs and Class Members are thus entitled to recover punitive
23 damages in an amount according to proof.

24 **PRAAYER FOR RELIEF**

25 WHEREFORE, Representative Plaintiffs and the Class pray for relief as follows:

26 108. Certification of the case as a class action on behalf of the proposed Class;
27
28

1 109. Designation of Representative Plaintiffs Raoul Fulcher, Jr., Kenneth King,
2 Jr., Richard Lopez, Rebecca Mason, Leslie Thornhill, and Thomas Weeks, as representatives of
3 the Class;

4 110. Designation of Representative Plaintiffs' counsel of record as Class
5 counsel;

6 111. A declaratory judgment that the practices complained of herein are
7 unlawful and violate Cal. Gov't Code § 17200 *et seq.*, and Cal. Bus & Prof. Code § 17200 *et seq.*

8 112. A preliminary and permanent injunction against 24 Hour Fitness and its
9 officers, agents, successors, employees, representatives, and any and all persons acting in concert
10 with them, from engaging in each of the unlawful policies, practices, customs, and usages set
11 forth herein;

12 113. An order that 24 Hour Fitness institute and carry out policies and practices
13 that provide equal employment opportunities for all minorities and women, and that it eradicate
14 the effects of its past and present unlawful employment policies and practices;

15 114. An order restoring Representative Plaintiffs and Class Members to their
16 rightful positions at 24 Hour Fitness, or in lieu of reinstatements, an order for front pay benefits;

17 115. Back pay (including interest and benefits) for individual Representative
18 Plaintiffs and Class Members;

19 116. Exemplary and punitive damages in an amount commensurate with 24
20 Hour Fitness's ability to pay and to deter future conduct;

21 117. For Plaintiff Fulcher's individual, non-class retaliation claim, damages for
22 emotional distress, according to proof, and punitive damages;

23 118. For Plaintiff Weeks's individual, non-class retaliation claim, all damages
24 he has sustained as a result of Defendant's conduct, including back pay, front pay, general and
25 specific damages for lost compensation and job benefits they would have received but for the
26 discriminatory practices of Defendant, damages for emotional distress, according to proof, and
27 punitive damages;

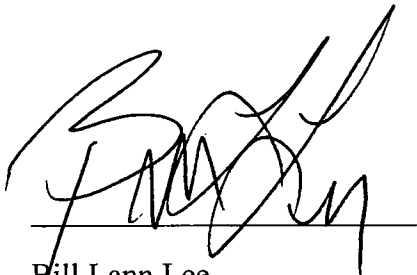
28

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

- 119. Costs incurred herein, including reasonable attorneys' fees to the extent allowable by law;
- 120. Pre-judgment and post-judgment interest, as provided by law; and
- 121. Such other and further legal and equitable relief as this Court deems necessary, just, and proper.

Dated: July 13, 2010

Respectfully submitted,



Bill Lann Lee
Todd F. Jackson
Julia Campins
Kirsten G. Scott
LEWIS, FEINBERG, LEE, RENAHER &
JACKSON, P.C.
1330 Broadway, Suite 1800
Oakland, CA 94612
Telephone: (510) 839-6824
Facsimile: (510) 839-7839
Email: blee@lewisfeinberg.com
tjackson@lewisfeinberg.com
jcampins@lewisfeinberg.com
kscott@lewisfeinberg.com

Thomas Saenz
Victor Viramontes
Shana Ramirez
MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL
634 S. Spring Street, 11th Floor
Los Angeles, CA 90014
Telephone: (213) 629-2512
Facsimile: (213) 629-0266
Email: tsaenz@maldef.org
vviramontes@maldef.org
sramirez@maldef.org

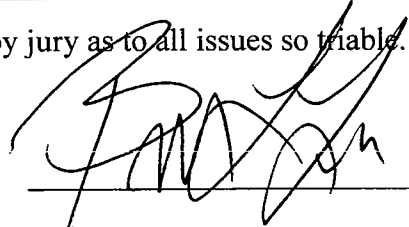
Attorneys for Plaintiffs

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs hereby demand a trial by jury as to all issues so triable.

3 Dated: July 13, 2010

4 Respectfully submitted,



5 Bill Lann Lee
6 Todd F. Jackson
7 Julia Campins
8 Kirsten G. Scott
9 LEWIS, FEINBERG, LEE, RENAKER &
10 JACKSON, P.C.
11 1330 Broadway, Suite 1800
12 Oakland, CA 94612
13 Telephone: (510) 839-6824
14 Facsimile: (510) 839-7839
15 Email: blee@lewisfeinberg.com
16 tjackson@lewisfeinberg.com
17 jcampins@lewisfeinberg.com
18 kscott@lewisfeinberg.com

19 Thomas Saenz
20 Victor Viramontes
21 Shana Ramirez
22 MEXICAN AMERICAN LEGAL DEFENSE
23 AND EDUCATIONAL
24 634 S. Spring Street, 11th Floor
25 Los Angeles, CA 90014
26 Telephone: (213) 629-2512
27 Facsimile: (213) 629-0266
28 Email: tsaenz@maldef.org
vviramontes@maldef.org
sramirez@maldef.org

Attorneys for Plaintiffs

EXHIBIT A

REDACTED




Print - Close Window



EEOC Form 5 (5/01)		Agency(ies)	
Charge Of Discrimination		Charge No(s):	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act		FEPA	
Statement and other information before completing this form.		EEOC 556-2008-00538	
California Department Of Fair Employment & Housing		and EEOC	
State or local Agency, if any			
Name (indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area Code)	
Mr. Raoul Fulcher Jr.		REDACTED	
Date of Birth		REDACTED	
Street Address City, State and ZIP Code			
REDACTED			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name		No. Employees, Members	
24 HOUR FITNESS		500 or More	
Phone No. (Include Area Code)		(510) 278-9744	
Street Address City, State and ZIP Code			
304 Bayfair Mall, San Leandro, CA 94578			
Name		No. Employees, Members	
Phone No. (Include Area Code)			
Street Address City, State and ZIP Code			
REDACTED			
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE	
		Earliest Latest	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION		MAY 22 2008	
<input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.)		EEOC 510	
		Earliest Latest	
		05-20-2008	
		CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):			
I was hired by Respondent on about June 23, 1993. I was promoted to Club Manager in about 1995. My current position title is Club Manager.			
Since I was hired by Respondent I have been repeatedly denied promotions and advancement to higher positions. Most recently, although I am one of the most experienced Club Managers in all of Northern California, I was not afforded the opportunity to compete for the District Manager position in about July 2007. I have not been promoted to a higher position at Respondent since 1995, despite the fact that I have repeatedly made Respondent aware that I was interested in opportunities for advancement. I am also aware that Mark Polli, Regional Vice President, Caucasian, made it known to several co-worker employees that he did not like me. I am aware that Mr. Polli made disparaging remarks to co-worker employees about me and that, he may have participated in obstructing my advancement. Similarly situated employees, not of my protected classes, are/were not subjected to the same or similar treatment by Respondent. Respondent provided no other reason (s) for its action(s) against me.			
I also believe that I am paid less in salary than similarly situated employees. For example, I recently became aware that my salary is far less than co-worker Club Manager employees not of my protected classes. I inquired about the difference in pay to Respondent Officials, but to no avail. Respondent did not provide any reason for its action(s) against me.			

REDACTED

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
		SIGNATURE OF COMPLAINANT
<input checked="" type="checkbox"/> 5/20/08	<input checked="" type="checkbox"/> 	SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)
Date	Charging Party Signature	

EEOC Form 5 (5/01)
Charge Of Discrimination

Charge Presented To:
FEPA

Agency(ies)
Charge No(s):

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act

Statement and other information before completing this form.

X EEOC

556-2008-00538

California Department Of Fair Employment & Housing
State or local Agency, if any

and EEOC

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

Most recently, in December 2007, I was visited by Tom Welter, Regional Vice President, Caucasian at the San Leandro Club when Mr. Welters began to unprofessionally demean me about different aspects of the club's performance. During Mr. Welter's insults and inappropriate comments directed towards me, Mr. Welters became so upset that he inappropriately physically grabbed me and then proceeded to further insulted me. Mr. Welter stated that he did not like my manner of stance and that, I should never stand in front of him with my arms folded again. A few days later I informed Respondent's Human Resource Department that I believed that I was subjected to unwelcome and severe touching by Mr. Welter, but to no avail. However, subsequent to my complaint, on December 31, 2007, I was given a write up by Chris Maggi, District Manager, Caucasian. Respondent's reason for writing me up was because I had not provided adequate leadership for subordinate employees to move up into higher positions within Respondent. However, I believe that I was written up in retaliation for raising a complaint against Mr. Welter. To the best of my knowledge, Respondent did not take any action to resolve the matter with Mr. Welter.

That same day, December 31, 2007, I was also informed by Mr. Maggi that Respondent wanted to move me to the Berkeley Club location because according to Respondent, the club was better suited to fit my performance production. I informed Mr. Maggi that I disagreed with Respondent's assertion and that, I could not understand why it was considering moving me when my club was performing well. Respondent did not provide any other reason(s) for its actions against me.

I believe I was retaliated against for engaging in protected activities. I also believe that I was discriminated against because of my race, African American, in violation of my rights under Title VII of the Civil Rights Act of 1964, as amended.

RECEIVED
MAY 22 2008
EEOC SULO

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and

REDACTED

X 5/20/08 X *Paul*

Date Charging Party Signature

belief.
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS
DATE
(month, day, year)

CP Enclosure with EEOC Form 5 (5/01)

Privacy Act Statement: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. Form Number/Title/Date. EEOC Form 5, Charge of Discrimination (5/01).

2. Authority. 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117.

3. Principal Purposes. The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.

4. Routine Uses. This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.

5. Whether Disclosure is Mandatory; Effect of Not Giving Information. Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII or the ADA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

Notice of Right to Request Substantial Weight Review

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

Notice of Non-Retaliation Requirements

Please notify EEOC or the state or local agency where you filed your charge if retaliation is taken against you or others who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, and Section 503(a) of the ADA, it is unlawful for an employer to discriminate against present or former employees or job applicants, for an employment agency to discriminate against anyone, or for a union to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

RECEIVED
MAY 22 2008
EEOC BULO

EXHIBIT B

STATE OF CALIFORNIA - State and Consumer Services Agency

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

EEOC Charge No.: 556-2008-00538

Case Name: Raoul Fulcher Jr. vs. 24 Hour Fitness

Date: May 28, 2008

H 4800 Stockdale Hwy., Suite 215
Bakersfield, CA 93309
(881) 395-2729

C 1320 E. Shaw Avenue, Suite 150
Fresno, CA 93710
(559) 244-4760

R/S/T 611 West Sixth Street, Suite 1500
Los Angeles, CA 90017
(213) 439-8799

M 1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2941

E 2000 "O" Street, Suite 120
Sacramento, CA 95814
(916) 445-5523

D 1350 Front Street, Suite 3006
San Diego, CA 92101
(619) 645-2881

A San Francisco District Office
1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 822-2973

G 2570 North First Street, Suite 480
San Jose, CA 95131
(408) 325-0344

K 2101 East Fourth Street, Suite 256-B
Santa Ana, CA 92705
(714) 658-4266

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action 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 lawsuit may be filed in a State of California Superior or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

WANDA J. KIRBY
Acting Director

EXHIBIT C

U.S. Equal Employment Opportunity Commission

PERSON FILING CHARGE

24 HOUR FITNESS
 12647 Alcosta Blvd.
 San Ramon, CA 94583

Raoul Fulcher Jr.

THIS PERSON (check one or both)

Claims To Be Aggrieved

Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

556-2008-00538

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

Title VII of the Civil Rights Act (Title VII) The Equal Pay Act (EPA) The Americans with Disabilities Act (ADA)

The Age Discrimination in Employment Act (ADEA) The Genetic Information Nondiscrimination Act (GINA)

The boxes checked below apply to our handling of this charge:

1. No action is required by you at this time.
2. Please call the EEOC Representative listed below concerning the further handling of this charge.
3. Please provide by _____ a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. Please respond fully by _____ to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by _____ to _____
 If you **DO NOT** wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Martin J. Olson, Jr.,
Investigator Support Asst

EEOC Representative

Telephone (408) 291-2625

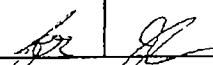
San Jose Local Office
96 North Third Street
Suite 250
San Jose, CA 95112

Enclosure(s): Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

Race Color Sex Religion National Origin Age Disability Retaliation Genetic Information Other

See enclosed copy of charge of discrimination.

Date	Name / Title of Authorized Official	Signature
July 9, 2010	Michael Baldonado, District Director	

[AMENDED] CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	AMENDED 556-2008-00538
CA DEPT FAIR EMPLOYMENT AND HOUSING <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.)		HOME TELEPHONE (include area code)	
Mr. Raoul Fulcher, Jr.		REDACTED	
STREET ADDRESS		CITY, STATE AND ZIP CODE	DATE OF BIRTH
REDACTED			REDACTED
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY THAT I BELIEVE DISCRIMINATED AGAINST ME OR OTHERS. (If more than one, list under PARTICULARS below.)			
NAME	NUMBER OF EMPLOYEES, MEMBERS		TELEPHONE (include area code)
24 Hour Fitness	Approx. 21,000		(925) 543-3100
STREET ADDRESS		CITY, STATE AND ZIP CODE	COUNTY
12647 Alcosta Blvd.		San Ramon, CA 94583	Contra Costa County
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))			DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST
<input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)			8/2003 6/28/2010 <input checked="" type="checkbox"/> CONTINUING ACTION
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I filed a charge on May 22, 2008, and I am filing this as an Amended Charge of Discrimination.</p> <p>I am an African-American male. I started working for 24 Hour Fitness in 1993 as a Sales Counselor. I performed well in the job, and in 1994 I was promoted to a Sales Manager position. I continued to perform well, and in 1995 I was promoted first to Assistant General Manager and then to General Manager.</p> <p>In 1999 I left 24 Hour Fitness for several years, but returned in August 2003. I was told I needed to prove my dedication, and so was a Fitness Counselor for 90 days before becoming General Manager again. In 2007 the company was reorganized and my title changed to Club Manager, but I have otherwise performed the same work.</p> <p>Since 2003 (and during the 1990s as well) I have performed very well at my job as General Manager/Club Manager. During this time I have continually expressed my interest in a promotion to District Manager. However, despite my excellent performance, I have never received a promotion to District Manager. On numerous occasions I have asked my District Manager and Regional Vice President what I need to do in order to receive a promotion. In about 2004 my District Manager told me that I needed to hit goals in order to be considered for a promotion. On one occasion the Regional Vice President told me that in order to be promoted I needed to blow other General Managers out of the water. More recently my District Manager indicated that a person's behavior is considered for purposes of promotions, but exactly what this means was never explained to me. I have never heard anything more specific about what criteria are required to receive a promotion to District Manager.</p> <p>Despite performing well as Club Manager, including consistently hitting revenue goals, in August 2007 my Regional Vice President came to my club and questioned me about the club's performance. During the conversation he became upset, and he inappropriately physically grabbed me and insulted me. Several days later I complained about the incident to the 24 Hour Fitness Human Resources Department. Shortly thereafter, in December 2007 I was given a Performance Improvement Plan (a disciplinary write-up) from the District Manager, which inaccurately stated that I had not hit goals or provided adequate leadership for subordinate employees. Before this</p>			

time in all of my years with 24 Hour Fitness I had never been given a Performance Improvement Plan or received any other kind of warning or write-up by the company. That same day that I received the write-up my District Manager informed me that 24 Hour Fitness wanted to move me to a smaller, less desirable club. I believe 24 Hour Fitness gave me the write-up and threatened to move me to a less desirable club in retaliation for my raising a complaint against the Regional Vice President.

In May 2008 I filed the charge with the EEOC/DFEH (to which this Amended Charge applies), alleging, among other things, discrimination with respect to promotion. Before that time, despite expressing my interest, 24 Hour Fitness had never given me the opportunity to apply for a District Manager position. Around late 2009 or early 2010 I was finally given an interview for a District Manager position in Hawaii, but I did not receive this promotion. Other than this one occasion, in all of the years that I have worked at 24 Hour Fitness as a General Manager/Club Manager, I have never been given an opportunity to apply or interview for a District Manager position. In addition, although I regularly check the "Jobs at a Glance" intranet site where 24 Hour Fitness supposedly posts all jobs, I have only seen a District Manager job posted on one occasion. I have seen many white males get promotions over me, and only a small number of minorities receive District Manager positions.

On September 30, 2008, the EEOC issued a determination that I was assaulted by my manager and retaliated against for complaining about my manager in violation of Title VII. The EEOC also determined that it was unable to determine if 24 Hour Fitness's denial of promotions to me as of that date violated or complied with Title VII.

During my employment with 24 Hour Fitness I worked at the San Leandro, San Jose, Vallejo, Antioch, Fairfield, San Francisco, and Daly City 24 Hour Fitness locations in California. I also worked at several 24 Hour Fitness locations in Hawaii between 1996 and 1999.

I believe that I was discriminated against with respect to promotion, advancement, compensation and terms and conditions of my employment on the basis of my race and/or color. 24 Hour Fitness treats Caucasian males more favorably. I believe this discrimination occurs because 24 Hour Fitness uses inappropriate job criteria and selection procedures that exclude African American, Asian American, and Latino applicants. In addition, 24 Hour Fitness uses arbitrary and subjective procedures for making decisions regarding promotion, advancement, compensation, and terms and conditions of employment for District Managers in which the Regional Vice Presidents, Presidents and CEO, who are virtually all Caucasian males, make these decisions irrespective of a person's job experience or performance.

I bring this charge of discrimination on behalf of myself and similarly situated minorities, including African American, Asian American, and Latino individuals subject to discrimination in promotion, advancement, compensation and/or terms and conditions of employment at 24 Hour Fitness to supervisory and management level positions as a result of their race, color, and/or national origin. I also believe that females and minorities have encountered the same discrimination on the basis of their gender and national origin.

In addition, I believe that I, as an individual, was retaliated against for seeking to enforce my legal rights.

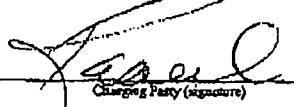
<p><input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.</p>	<p>NOTARY - (When necessary for State and Local Requirements)</p> <p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information, and belief.</p>
<p>I declare under penalty of perjury that the foregoing is true and correct.</p> <p>6/25/10 Date</p> <p> Charge Party (signature)</p>	<p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)</p>

EXHIBIT D

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.	AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 550-2010-00977
---	---	-------------------------------------

CA DEPT FAIR EMPLOYMENT AND HOUSING
State or local Agency, if any

NAME (indicate Mr., Ms. or Mrs.) Mr. Kenneth Leon King, Jr.	HOME TELEPHONE (include area code) REDACTED
STREET ADDRESS CITY, STATE AND ZIP CODE REDACTED	DATE OF BIRTH REDACTED

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY THAT I BELIEVE DISCRIMINATED AGAINST ME OR OTHERS. (If more than one, list under PARTICULARS below.)

NAME 24 Hour Fitness	NUMBER OF EMPLOYEES, MEMBERS Approx. 21,000	TELEPHONE (include area code) (925) 543-3100
STREET ADDRESS CITY, STATE AND ZIP CODE 12647 Alcosta Blvd. San Ramon, CA 94583	COUNTY Contra Costa County	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST 11/2008 3/17/10 <input checked="" type="checkbox"/> CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

I am an African American male. I began working at 24 Hour Fitness as a Fitness Counselor (now called a Membership Counselor), an entry level position, in October 2006. I performed well in that position, and quickly became the top sales performer in my district. Based on my excellent performance, I was promoted to Assistant Membership Manager in June 2007, and again became a top producing Assistant Membership Manager in the district. In June 2008 I was promoted to Membership Manager, and for a period of time I was the top performer amongst Membership Managers in the district.

In November 2008 I was transferred to a different club, and became the Acting Club Manager until February 2009. Although I performed all of the duties of Club Manager, my pay was that of a Membership Manager. I performed very well in this position. During that time I sought a promotion to become the Club Manager at my club, or to be given a Club Manager position at another club. However, even though there was a Club Manager vacancy at my club and I had performed well as the Acting Club Manager, I was denied a promotion into that position. The Regional Vice President told me that he was looking to promote me to a Club Manager position at a club closer to my home. I told him I was willing to continue doing the long commute to that club if I was promoted to Club Manager and compensated as such, but I was nevertheless denied the promotion. I was also denied a promotion to Club Manager at any other club.

In February 2009, I was transferred to a Membership Manager position at another club. The Regional Vice President said this would be a good fit for me because the majority of club members at that club are African American, and I would fit the demographics of the club. However, after I was transferred to this club, I realized that the club was in a difficult situation. First, the Club Manager had recently been fired. For this reason, although my title and pay were that of a Membership Manager, I was performing the job duties of both a Membership Manager and a Club Manager. Second, there had been a lot of fraud with membership sales at the club in a way which caused the sales goals to be severely inflated. For these reasons, our club did not hit our sales goals. However, given the

difficult circumstances, I performed well.

24 Hour Fitness denied me a promotion to Club Manager at that club as well. Instead, in or around May 2009, 24 Hour Fitness brought in a new Club Manager. Then, two weeks later, the Club Manager gave me a Performance Improvement Plan (a disciplinary write-up) indicating that I had failed to hit sales goals for the past several months, and that I was inadequately leading the sales team. I was then told by management that I would be fired if I could not improve the sales performance of my team, or that I could accept a demotion to a Membership Counselor position in order to avoid termination. For this reason, in June 2009 I transferred to a Membership Counselor position at a different club. From July to August 2009 I had the title and pay of a Membership Counselor, but because there was no Membership Manager or Assistant Membership Manager in place, I was performing the job duties of Membership Manager. In or around September 2009 I was promoted to Assistant Membership Manager, and have become the top sales person in the entire region. I continue to seek a promotion.

While I held the position of Membership Manager, my hourly pay rate was \$11.00 per hour, and later was \$12.50 per hour. \$11.00 and \$12.50 per hour for a Membership Manager at the club size where I worked falls below the minimum on the 24 Hour Fitness pay scale. Additionally, this is lower than what other Membership Managers make at other clubs of the same size. When I asked the Regional Vice President about it, he said that the pay rate was based on a person's level of experience. However, this does not seem to be the case, seeing that when I was Membership Manager I had had over seven years of experience in sales and management at 24 Hour Fitness and other companies. I have worked at the San Mateo, Concord, Moraga and Oakland 24 Hour Fitness locations.

I believe that I was denied advancement on the basis of my race and/or color because 24 Hour Fitness uses inappropriate job criteria and selection procedures that exclude African Americans, Latino and Asian applicants. 24 Hour Fitness treats Caucasian males more favorably. In particular, 24 Hour Fitness uses arbitrary and subjective selection procedures in which the Regional Vice Presidents and District Managers, who are virtually all Caucasian males, decide whether or not to promote an individual irrespective of job experience or performance.

I bring this charge of discrimination on behalf of myself and similarly situated minorities, including African American, Latino and Asian individuals subject to discrimination in promotion, advancement, compensation and/or terms and conditions of employment at 24 Hour Fitness to supervisory and management level positions as a result of their race, color, and/or national origin. I also believe that females and minorities have encountered the same discrimination on the basis of their gender and national origin.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

3/17/2010 
Date Complainant's Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

RECEIVED
MAR 19 2010
EEOC-SFDO

EXHIBIT E

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

March 23, 2010

KENNETH LEON KING, JR. VS. 24 HOUR FITNESS
550-2010-00977
 H
4800 Stockdale Hwy., Suite 215
Bakersfield, CA 93309
(661) 395-2729

 C
1320 E. Shaw Avenue, Suite 150
Fresno, CA 93710
(559) 244-4760

NOTICE TO COMPLAINANT AND RESPONDENT

 R/S
1055 West Seventh Street,
Suite 1400
Los Angeles, CA 90017
(213) 439-6799

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

 M
1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2941

No response to the DFEH is required by the respondent.

 E
Sacramento District Office
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
(916) 478-7230

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

 D
1350 Front Street, Suite 1063
San Diego, CA 92101
(619) 645-2681

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

 A
San Francisco District Office
1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2973

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action 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 lawsuit may be filed in a State of California Superior Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

 G
2570 North First Street, Suite 480
San Jose, CA 95131
(408) 325-0344

 K
2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 558-4266

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

JENNIFER L. HARLAN
Deputy Director, Employment

EXHIBIT F

CHARGE OF DISCRIMINATION	AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.	<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	550-2010-00976

CA DEPT FAIR EMPLOYMENT AND HOUSING
State or local Agency, if any

NAME (indicate Mr., Ms. or Mrs.) Mr. Richard Lopez	HOME TELEPHONE (include area code) REDACTED
--	--

STREET ADDRESS REDACTED	CITY, STATE AND ZIP CODE	DATE OF BIRTH REDACTED
----------------------------	--------------------------	---------------------------

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY THAT I BELIEVE DISCRIMINATED AGAINST ME OR OTHERS. (If more than one, list under PARTICULARS below.)

NAME 24 Hour Fitness	NUMBER OF EMPLOYEES, MEMBERS Approx. 21,000	TELEPHONE (include area code) (925) 543-3100
--------------------------------	--	---

STREET ADDRESS 12647 Alcosta Blvd.	CITY, STATE AND ZIP CODE San Ramon, CA 94583	COUNTY Contra Costa County
--	--	--------------------------------------

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))	DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST
<input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)	3/2006 3/17/10 <input checked="" type="checkbox"/> CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

I am a Latino male. I began working at 24 Hour Fitness as a Sales Counselor (now called a Membership Counselor), an entry level position, in January 2006. I performed very well in that position, and for a period of time I was one of the top performers in sales in the region. I inquired to management about a promotion to Assistant Sales Manager (now called Assistant Membership Manager), and was told that if I continued to hit my production goals for the month of February 2006, then I would be promoted to Assistant Sales Manager at that club in March 2006. I hit my production goals for February, and yet despite my performance, was denied a promotion. Thereafter management raised my production goal every month and told me that I needed to hit the new goal in order to get a promotion. Even with the increased production goals, I continued to hit my goals every month. Nevertheless, 24 Hour Fitness continued to deny me a promotion.

In September 2006 I was finally promoted to Assistant Sales Manager. However, despite the fact that there was a vacancy for the Assistant Sales Manager position at my club, I was not given that position. Instead, I was given an Assistant Sales Manager position at a smaller and less desirable club.

I immediately began performing well in that position too, and I quickly became a top producing Assistant Sales Manager in the district. I did everything that my managers at 24 Hour Fitness told me was necessary to do in order to obtain a promotion to Membership Manager. Nevertheless, I was repeatedly denied a promotion, despite my excellent job performance and sales experience at 24 Hour Fitness and previous management experience.

In August 2008, the Membership Manager position became vacant at my club and remained open through the end of the year. For this reason, although my job title and compensation were that of an Assistant Membership Manager, I was performing the job of a Membership Manager. In this position I continued to perform well. Nevertheless, 24 Hour Fitness denied me a promotion to Membership Manager. Finally, in December 2008, 24 Hour Fitness offered me a promotion to Membership Manager, and I accepted. 24 Hour Fitness treats white males more favorably with respect to advancement and promotions.

RECEIVED

MAR 19 2010

EEOC-SFDO

I was told by management that upon becoming Membership Manager, my hourly pay rate would be raised to \$12.00 per hour immediately. However, the company continued to pay me at my Assistant Membership Manager pay rate for several months. In addition, when 24 Hour Fitness finally began paying me at a higher rate, I was told that in fact my pay rate would only be \$11.00 per hour. I was paid retroactively at this rate for some, but not all, of the time since my promotion. In addition, \$11.00 per hour for a Membership Manager at the club size where I work falls below the minimum on the 24 Hour Fitness pay scale. Additionally, \$11.00 is lower than what the previous Membership Manager made at my club, and is also lower than what other Membership Managers at other clubs of the same size are making. I continue to receive \$11.00 per hour. During my employment with 24 Hour Fitness I have worked at the Concord and Antioch 24 Hour Fitness locations.

I believe that I was discriminated against with respect to promotion, advancement, compensation and terms and conditions of my employment on the basis of my race, color and/or national origin. 24 Hour Fitness treats Caucasian males more favorably. I believe this discrimination occurs because 24 Hour Fitness uses inappropriate job criteria and selection procedures that exclude Latino, African American, and Asian applicants. In addition, 24 Hour Fitness uses arbitrary and subjective procedures for making decisions regarding promotion, advancement, compensation, and terms and conditions of employment in which the Regional Vice Presidents and District Managers, who are virtually all Caucasian males, make these decisions irrespective of a person's job experience or performance.

I bring this charge of discrimination on behalf of myself and similarly situated minorities, including Latino, African American, and Asian individuals subject to discrimination in promotion, advancement, compensation and/or terms and conditions of employment at 24 Hour Fitness to supervisory and management level positions as a result of their race, color, and/or national origin. I also believe that females have encountered the same discrimination on the basis of gender.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

2/12/2010
Date

Richard Grey
Charging Party (signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

EXHIBIT G

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

March 23, 2010

RICHARD LOPEZ VS. 24 HOUR FITNESS

550-2010-00976

H

4800 Stockdale Hwy., Suite 215
Bakersfield, CA 93309
(661) 395-2729

C

1320 E. Shaw Avenue, Suite 150
Fresno, CA 93710
(559) 244-4760

R/S

1055 West Seventh Street,
Suite 1400
Los Angeles, CA 90017
(213) 439-6799

JM

1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2941

E

Sacramento District Office
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
(916) 478-7230

D

1350 Front Street, Suite 1063
San Diego, CA 92101
(619) 645-2681

A

San Francisco District Office
1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2973

G

2570 North First Street, Suite 480
San Jose, CA 95131
(408) 325-0344

K

2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 558-4266

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action 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 lawsuit may be filed in a State of California Superior Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

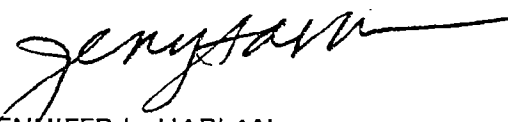

JENNIFER L. HARLAN
Deputy Director, Employment

EXHIBIT H

* * * **EMPLOYMENT** * * *

**COMPLAINT OF DISCRIMINATION UNDER
THE PROVISIONS OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING ACT**

DFEH # _____

EEOC # N/A

If dual-filed with EEOC, this form may be affected by the Privacy Act of 1974.

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING and EEOC

COMPLAINANT'S NAME (indicate Mr. or Ms.)

MASON, REBECCA (MS.)

ADDRESS
REDACTED

TELEPHONE NUMBER (INCLUDE AREA CODE)
REDACTED

CITY
REDACTED

STATE

ZIP

COUNTY
Alameda

COUNTY CODE
001

**NAMED IS THE EMPLOYER, PERSON, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP
COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME:**

NAME

24 HOUR FITNESS

ADDRESS

12647 Alcosta Boulevard

TELEPHONE NUMBER (INCLUDE AREA CODE)
(925) 543-3100

CITY
San Ramon, CA 94583

STATE

ZIP

COUNTY
Contra Costa

COUNTY CODE
013

CAUSE OF DISCRIMINATION BASED ON (CHECK APPROPRIATE BOX(ES))

RACE SEX DISABILITY RELIGION NATIONAL ORIGIN/ANCESTRY DENIAL OF FAMILY/MEDICAL LEAVE SEXUAL ORIENTATION
 COLOR AGE MARITAL STATUS MEDICAL CONDITION (cancer or genetic characteristics) OTHER (SPECIFY)

NO. OF EMPLOYEES/MEMBERS

1,000

DATE MOST RECENT OR CONTINUING DISCRIMINATION

TOOK PLACE (month, day, and year) **March 31, 2009**

RESPONDENT CODE

73

THE PARTICULARS ARE:

SEE ATTACHED

~~I also want this charge filed with the Federal Equal Employment Opportunity Commission (EEOC).~~

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge except as to matters stated on my information and belief, and as to those matters I believe it to be true.

Dated _____

COMPLAINANT'S SIGNATURE

At _____

City

DFEH-300-01 (12/99) O:CT:gmt
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

DATE FILED: March 18, 2009

STATE OF CALIFORNIA

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input type="checkbox"/> EEOC	
CA DEPT FAIR EMPLOYMENT AND HOUSING <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.)		HOME TELEPHONE (include area code)	
Ms. Rebecca Mason		REDACTED	
STREET ADDRESS		DATE OF BIRTH	
CITY, STATE AND ZIP CODE		REDACTED	
REDACTED			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY THAT I BELIEVE DISCRIMINATED AGAINST ME OR OTHERS. (If more than one, list under PARTICULARS below.)			
NAME	NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (include area code)	
24 Hour Fitness (USA, Inc. or Worldwide, Inc.?)	Approx. 21,000	(925) 543-3100	
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY	
12647 Alcosta Blvd.	San Ramon, CA 94583	Contra Costa County	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN		EARLIEST LATEST	
<input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)		6/2008 3/31/2009	
		<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)).			
<p>I am a female. I began working at 24 Hour Fitness as a Sales Counselor (now called a Membership Counselor) in Vallejo, which is an entry level position, in June 2007. I performed well, and in December 2007 I was promoted by the Regional Vice President to Assistant Membership Manager. Between April and October 2008 there was no Membership Manager in my club, and so although my title and compensation were that of an Assistant Membership Manager, I was performing the duties of a Membership Manager. I was told that my club had no Membership Manager position.</p> <p>Upon becoming Assistant Membership Manager in December 2007, I was told by my District Manager that I would be promoted to Membership Manager in three months if I performed well and hit specified sales goals. He told me that either a Membership Manager position would be created at my club in Berkeley, or that I would be promoted to Membership Manager in a different club. Over the next few months I performed extremely well and exceeded the sales goals, and in fact was even out performing several of the bigger clubs in my district. However, I was not promoted after the three months. In June 2008, my District Manager told me that there would likely be an opening for the Membership Manager position at the club in Petaluma shortly, and that he was thinking of promoting me to that club. However, when that position became available, it was given to another individual, who was male. 24 Hour Fitness continued to deny me a promotion to Membership Manager in Berkeley, Petaluma, or any other club.</p> <p>In October 2008, my District Manager told me that he was transferring me to an Assistant Membership Manager position in Concord. He told me that the Membership Manager would be leaving that club soon, and that at that time I would be promoted to Membership Manager. However, although by the time I was transferred to Concord the Membership Manager at that club had already left, I was not given that position. Instead, when I got to the Concord club, I was told that there was another Assistant Membership Manager at that club, and that the two of us would have to compete for the Membership Manager position. We were told that whoever performed better over the next few months would be given the Membership Manager position.</p>			

After transferring to the Concord club, I realized that it was a very difficult club in which to do sales at that time, for several reasons. First, several other fitness clubs had just opened in the area, which led to decreased membership interest in the 24 Hour Fitness club, and which caused the club to significantly reduce the membership price. However, the sales goals of the club were not adjusted accordingly, which made it impossible to hit sales goals. Second, I found out that 24 Hour Fitness was allowing Costco to sell memberships to our club at a fraction of the price that we were authorized to sell memberships for, making it even harder for us to make membership sales. For these reasons our club was not reaching its inflated sales goals. Several months after I began working at the Concord club, the District Manager gave a Performance Improvement Plan (a disciplinary write-up) to everyone doing sales at my club.

Considering the difficult sales situation in Concord and the inflated sales goals, I performed well as Assistant Membership Manager. Nevertheless, I was not promoted to Membership Manager at that club. Another individual, who was a male, was given that position in early 2009. I finally left the company at the end of March 2009 because I felt that there was no opportunity for advancement for me. Males were treated much more favorably. After leaving the company, I found out that 24 Hour Fitness created a Membership Manager position in the Berkeley club, and a male who was only 18 or 19 years old and had only been with the company for several months was given that position. In addition, I found out that 24 Hour Fitness had promoted a male, who had worked under me as a Membership Counselor when I was the Assistant Membership Manager in Concord, into a vacant Membership Manager position in Vallejo. This surprised me because while I was at the Concord club I found out that this individual was engaged in fraudulent behavior and was stealing from the company, and I informed my District Manager of this. Nevertheless, he was given the promotion to the Vallejo club over me. While at 24 Hour Fitness, I worked at the Vallejo, Berkeley and Concord locations.

I believe that I was denied advancement on the basis of my gender because 24 Hour Fitness uses inappropriate job criteria and selection procedures that exclude female applicants. In particular, 24 Hour Fitness uses arbitrary and subjective selection procedures in which the Regional Vice Presidents and District Managers, virtually all males, decide whether or not to promote an individual irrespective of job experience or performance.

I bring this charge of discrimination on behalf of myself and similarly situated females who have been subject to continuing discrimination in promotion, advancement, compensation and/or terms and conditions of employment at 24 Hour Fitness to supervisory and management level positions as a result of their gender. I also believe that minorities have encountered the same discrimination on the basis of their race, color, and/or national origin.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Date: 3/14/2010

[Handwritten Signature]
Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)

[Handwritten Signature]
3/14/10

EXHIBIT I

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

1515 Clay Street, Suite 701, Oakland, CA 94612
(510) 622-2941 TTY (800) 700-2320 Fax (510) 622-2951
www.dfeh.ca.gov



April 19, 2010

REBECCA MASON
REDACTED

RE: E200910M0961-00-s
MASON/24 HOUR FITNESS

Dear REBECCA MASON:

NOTICE OF CASE CLOSURE

The consultant assigned to handle the above-referenced discrimination complaint that was filed with the Department of Fair Employment and Housing (DFEH) has recommended that the case be closed on the basis of: Complainant Elected Court Action.

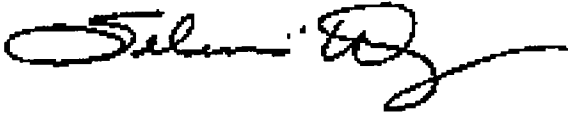
Please be advised that this recommendation has been accepted and the case has been closed effective April 19, 2010.

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. 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. If a settlement agreement has been signed resolving the complaint, it is likely that your right to file a private lawsuit may have been waived.

Notice of Case Closure
Page Two

DFEH does not retain case files beyond three years after a complaint is filed, unless the case is still open at the end of the three-year period.

Sincerely,

A handwritten signature in black ink, appearing to read "Selena Wong", with a long, sweeping flourish extending to the right.

Selena Wong
Regional Administrator

cc: Case File

CSC LAWYERS INCORPORATING SVC
Agent for Service for
24 HOUR FITNESS USA, INC.
2730 Gateway Oaks Dr Ste 100
Sacramento, CA 95833

DFEH-200-08 (06/06)
MTORREL

EXHIBIT J

CHARGE OF DISCRIMINATION	AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.	<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	550-200-00974

CA DEPT FAIR EMPLOYMENT AND HOUSING

State or local Agency, if any

NAME (indicate Mr., Ms. or Mrs.) Mr. Leslie Thornhill	HOME TELEPHONE (include area code) REDACTED
STREET ADDRESS REDACTED	CITY, STATE AND ZIP CODE
DATE OF BIRTH REDACTED	

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY THAT I BELIEVE DISCRIMINATED AGAINST ME OR OTHERS. (If more than one, list under PARTICULARS below.)

NAME 24 Hour Fitness	NUMBER OF EMPLOYEES, MEMBERS Approx. 21,000	TELEPHONE (include area code) (925) 543-3100
STREET ADDRESS 12647 Alcosta Blvd.	CITY, STATE AND ZIP CODE San Ramon, CA 94583	COUNTY Contra Costa County

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))	DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST
<input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)	11/2002 3/17/10 <input checked="" type="checkbox"/> CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

I am an African American male. I began working at 24 Hour Fitness as a Sales Counselor (now called a Membership Counselor), an entry level position, in February 2000. I was a top performer in sales at the company, and was promoted to Assistant General Manager in 2002. However, I was demoted back to Sales Counselor in January 2003. 24 Hour Fitness never provided an explanation for this demotion. In April 2003, I filed a claim with the DFEH (and it was cross-filed with the EEOC), alleging discrimination on the basis of race, age, national origin and disability. Shortly thereafter 24 Hour Fitness agreed to make me Assistant General Manager again. I did not pursue the claim in a lawsuit. I resigned from the company in July 2004.

In November 2005 I again applied for work at 24 Hour Fitness. I was hired as a Sales Counselor, and the District Manager told me that I would be promoted to Assistant General Manager when I was ready. I again quickly became one of the company's top sales performers across the company. Between early 2007 and early 2008 I told my District Manager that I believed I was ready and well qualified for a promotion to Assistant General Manager or Assistant Membership Manager, but I was not given a promotion at that point or any time thereafter. The District Manager told me that I would get the Assistant General Manager position when it became available at my club; however, when the position became available, I was not given the promotion. I have continuously been denied a promotion despite my excellent job performance and my almost nine years of experience in sales at 24 Hour Fitness. I have worked at the Concord and San Ramon 24 Hour Fitness locations.

I believe that I was denied advancement on the basis of my race, color, and national origin because 24 Hour Fitness uses inappropriate job criteria and selection procedures that exclude African Americans, Latino and Asian applicants. 24 Hour Fitness treats white males more favorably. In particular, 24 Hour Fitness uses arbitrary and subjective selection procedures in which the Regional Vice Presidents and District Managers, who are virtually all Caucasian males, decide whether or not to promote an individual irrespective of job experience or performance. In addition, I believe that I was denied advancement on the basis of my disability and/or age.

RECEIVED

MAR 19 2010

EEOC-SFDO

I bring this charge of discrimination on behalf of myself and similarly situated minorities, including African American, Latino and Asian individuals subject to discrimination in promotion, advancement, compensation and/or terms and conditions of employment at 24 Hour Fitness to supervisory and management level positions as a result of their race, color, and/or national origin. I also believe that females have encountered the same discrimination on the basis of their gender. In addition, I bring this charge of disability discrimination because of my sarcoidosis, age discrimination due to the fact that I am age 63, and national origin discrimination as a result of my Trinidadian accent, on behalf of myself as an individual.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

02-26-10
Date


Charging Party (signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

EXHIBIT K

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

March 23, 2010

LESLIE THORNHILL VS. 24 HOUR FITNESS

550-2010-00974

H

4800 Stockdale Hwy., Suite 215
Bakersfield, CA 93309
(661) 395-2729

C

1320 E. Shaw Avenue, Suite 150
Fresno, CA 93710
(559) 244-4760

R/S

1055 West Seventh Street,
Suite 1400
Los Angeles, CA 90017
(213) 439-6799

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

E

Sacramento District Office
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
(916) 478-7230

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

D

1350 Front Street, Suite 1063
San Diego, CA 92101
(619) 645-2681

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action 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 lawsuit may be filed in a State of California Superior Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

A

San Francisco District Office
1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2973

G

2570 North First Street, Suite 480
San Jose, CA 95131
(408) 325-0344

K

2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 558-4266

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

JENNIFER L. HARLAN
Deputy Director, Employment

EXHIBIT L

EXHIBIT M

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

Date: August 25, 2009

Case Name: THOMAS WEEKS vs. 24 HOUR FITNESS

EEOC No: 555-2009-01094

H 4800 Stockdale Hwy., Suite 215
Bakersfield, CA 93309
(661) 395-2729

C 1320 E. Shaw Avenue, Suite 160
Fresno, CA 93710
(559) 244-4760

R/S 1055 West Seventh Street,
Suite 1400
Los Angeles, CA 90017
(213) 439-6799

M 1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2941

E 2000 "O" Street, Suite 120
Sacramento, CA 95811
(916) 445-5523

D 1350 Front Street, Suite 1063
San Diego, CA 92101
(619) 645-2681

A San Francisco District Office
1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2973

G 2570 North First Street, Suite 480
San Jose, CA 95131
(408) 325-0344

K 2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 558-4286

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action 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 lawsuit may be filed in a State of California Superior Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

JENNIFER L. HARLAN
Deputy Director, Employment

EXHIBIT N

[AMENDED] CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	550-2010-00975
CA DEPT FAIR EMPLOYMENT AND HOUSING <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.) Mr. Thomas Weeks		HOME TELEPHONE (include area code) REDACTED	
STREET ADDRESS REDACTED		CITY, STATE AND ZIP CODE REDACTED	
DATE OF BIRTH REDACTED			
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, OR STATE OR LOCAL GOVERNMENT AGENCY THAT I BELIEVE DISCRIMINATED AGAINST ME OR OTHERS. (If more than one, list under PARTICULARS below.)			
NAME	NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (include area code)	
24 Hour Fitness	Approx. 21,000	(925) 543-3100	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
12647 Alcosta Blvd.		San Ramon, CA 94583	
COUNTY		Contra Costa County	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE	<input checked="" type="checkbox"/> COLOR	<input type="checkbox"/> SEX	<input type="checkbox"/> RELIGION
<input checked="" type="checkbox"/> RETALIATION	<input type="checkbox"/> AGE	<input type="checkbox"/> DISABILITY	<input type="checkbox"/> OTHER (specify)
		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST	
		2/2006 7/25/2009	
		<input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I filed a charge on August 13, 2009, and I am filing this as an Amended Charge of Discrimination.</p> <p>I am an Asian-American male. In or around February 2006, I applied for a position in the Sales Management Training Program at 24 Hour Fitness. During a phone interview, the Regional Vice President told me I would be a perfect fit for the program. However, after two later in-person interviews, I was told that the Sales Management Training Program was no longer open. In or around March 2006, I was offered and accepted an Assistant Sales Manager (now called Assistant Membership Manager) position at 24 Hour Fitness. After that I learned that the Sales Management Training Program had been and was still open, and I know of at least one individual who was given a spot several months after I was denied the position. A position in the Sales Management Training Program was much more desirable than an Assistant Sales Manager position. Most of the individuals in the Sales Management Training Program were white males.</p> <p>I performed well as an Assistant Sales Manager, and in June 2007 was promoted to Sales Manager (now called Membership Manager). I performed well in that position, and the Regional Vice President congratulated me on my excellent performance. In March 2008, my club threw a party for the sales and fitness teams for our solid performance, but within a few days I received a Performance Improvement Plan (a disciplinary write-up) from the District Manager, who told me that the club should be performing even better.</p> <p>From approximately April to June 2008 there was no Club Manager in my club. Although my title and compensation were that of a Membership Manager, I was performing the job of a Club Manager during that time. I did well in that role. At that time I expressed to management my interest in a promotion to Club Manager, but I was discouraged from applying for a Club Manager position.</p> <p>Throughout my time at 24 Hour Fitness I asked what I needed to do in order to become a Club Manager. In 2007, I asked this of the Regional Vice President. He told me that the company was looking for particular image, and that I did not fit that image. In mid-2008, I asked my District Manager the same thing, and he specified two</p>			

criteria. However, despite my efforts to meet and exceed the criteria, my District Manager told me that I was not ready for a promotion. During my time at 24 Hour Fitness, I was repeatedly denied the opportunity to seek a promotion to Club Manager. In or around March 2009 I again asked the Regional Vice President what it took to become Club Manager, and he told me that he would consider me for a promotion if I hit my sales goal for the month. However, after I accomplished this, he would not discuss a possible promotion with me.

As Membership Manager, my hourly pay rate was initially \$10.50, and was increased to \$10.92 per hour in or around March 2008. This hourly rate for a Membership Manager at the club size where I worked falls below the minimum on the 24 Hour Fitness pay scale. Additionally, \$10.50-\$10.92 is lower than what other Membership Managers made at other clubs of the same size.

On or about May 21, 2009, I complained to my District Manager and to Human Resources that I had not been paid for overtime hours that I had worked. Shortly thereafter I received a Performance Improvement Plan, indicating that I was not performing well, even though that was not the case. Then, on or about July 7, 2009, I complained to Bill Dawson, HR Manager, that Caucasians in the same position were receiving a higher hourly compensation. On or about July 21, 2009, Mr. Dawson offered me \$5,000 in exchange for a release of all claims against the company. I declined. On or about July 25, 2009, I was terminated from the company. During my employment with 24 Hour Fitness I worked at the Concord, Pleasanton, and Richmond 24 Hour Fitness locations.

I believe that I was discriminated against with respect to promotion, advancement, compensation and terms and conditions of my employment on the basis of my race, color and/or national origin. 24 Hour Fitness treats Caucasian males more favorably. I believe this discrimination occurs because 24 Hour Fitness uses inappropriate job criteria and selection procedures that exclude Asian, Latino, and African American applicants. In addition, 24 Hour Fitness uses arbitrary and subjective procedures for making decisions regarding promotion, advancement, compensation, and terms and conditions of employment in which the Regional Vice Presidents and District Managers, who are virtually all Caucasian males, make these decisions irrespective of a person's job experience or performance.

I bring this charge of discrimination on behalf of myself and similarly situated minorities, including Asian, Latino, and African American individuals subject to discrimination in promotion, advancement, compensation and/or terms and conditions of employment at 24 Hour Fitness to supervisory and management level positions as a result of their race, color, and/or national origin. I also believe that females have encountered the same discrimination on the basis of gender.

In addition, I believe that I, as an individual, was retaliated against for seeking to enforce my legal rights.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

02/24/10
Date


Charging Party (signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

RECEIVED
MAR 19 2010
EEOC-SFDO

EXHIBIT O

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

March 23, 2010

THOMAS WEEKS VS. 24 HOUR FITNESS
550-2010-00975

H

4800 Stockdale Hwy., Suite 215
Bakersfield, CA 93309
(661) 395-2729

C

1320 E. Shaw Avenue, Suite 150
Fresno, CA 93710
(559) 244-4760

R/S

1055 West Seventh Street,
Suite 1400
Los Angeles, CA 90017
(213) 439-6799

M

1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2941

E

Sacramento District Office
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758
(916) 478-7230

D

1350 Front Street, Suite 1063
San Diego, CA 92101
(619) 645-2681

A

San Francisco District Office
1515 Clay Street, Suite 701
Oakland, CA 94612
(510) 622-2973

G

2570 North First Street, Suite 480
San Jose, CA 95131
(408) 325-0344

K

2101 East Fourth Street, Suite 255-B
Santa Ana, CA 92705
(714) 558-4266

NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action 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 lawsuit may be filed in a State of California Superior Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one-year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

JENNIFER L. HARLAN
Deputy Director, Employment