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By: Isaac Lovo, Deputy

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(Fee Exempt, Gov. Code, § 6103)

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10 MELANIE MCCRACKEN, an individual;
11 JESSICA NEGRON, an individual; and
12 GABRIELA DOWNIE, an individual,
13 Plaintiffs,

vs.

14 RIOT GAMES, INC., a Delaware Corporation;
15 and DOES 1 through 10, inclusive,
16 Defendants.

Case No. 18STCV03957

**CIVIL RIGHTS COMPLAINT IN
INTERVENTION FOR DAMAGES AND
INJUNCTIVE RELIEF**

Complaint Filed: November 6, 2018
Trial Date: None Set
Department: 6
Judge: Hon. Elihu M. Berle

17 DIVISION OF LABOR STANDARDS AND
18 ENFORCEMENT, DEPARTMENT OF
INDUSTRIAL RELATIONS, an agency of the
19 State of California,

20 Plaintiff-Intervenor,

21 vs.

22 RIOT GAMES, INC., a Delaware Corporation;
23 and DOES 1 through 10, inclusive,
24 Defendants.

JURY TRIAL DEMANDED

1 DEPARTMENT OF FAIR EMPLOYMENT
2 AND HOUSING, an agency of the State of
3 California,

4 Plaintiff-Intervenor,

5 vs.

6 RIOT GAMES, INC., a Delaware Corporation;
7 RIOT GAMES DIRECT, INC., a Delaware
8 Corporation; RIOT GAMES MERCHANDISE,
9 INC., a Delaware Corporation; RIOT GAMES
10 PRODUCTIONS, INC., a Delaware
11 Corporation; and DOES 1 through 10, inclusive,

12 Defendants.

13 By leave of Court, the California Department of Fair Employment and Housing (DFEH or
14 Plaintiff-Intervenor) files this Civil Rights Complaint in Intervention and thereby intervenes in this
15 Action. DFEH claims adversely to Defendants Riot Games, Inc.; Riot Games Direct, Inc.; Riot Games
16 Merchandise, Inc.; Riot Games Productions, Inc.; and Does One through Ten, inclusive (collectively,
17 Riot or Defendants), alleging as follows:

18 I. INTRODUCTION

19 1. Riot, a video game developer with over 2,500 employees in over 20 offices worldwide,
20 is well-known for its flagship product, *League of Legends*, but unfortunately equally so for its
21 discrimination against women. Riot’s gender bias stems from its “hardcore gamer” brand and work
22 culture. More so than any other established gaming company, Riot institutionalized the “male hardcore
23 gamer” stereotype across its workplace.¹ It has, and continues to, infect every employment decision at
24 the company.

25 ¹ Benjamin Paaßen, Thekla Morgenroth, & Michelle Stratemeyer, Sex Roles 76, 421-435 (doi:
26 10.1007/s11199-016-0678-y), *What is a True Gamer? The Male Gamer Stereotype and the*
27 *Marginalization of Women in Video Game Culture* (April 2017) [***“the effects of the male gamer***
28 ***stereotype can be harmful to women”***]; Evan Urquhart, Slate, *Gamergate Never Died* (Aug. 23, 2019)
[“But although the last five years have seen increasing diversity in who plays games—and who can
identify as a ‘gamer’—***the community of hardcore gamers who are male, sexist, and anti-PC is as***
lively as ever.”] (available at <<https://slate.com/technology/2019/08/gamergate-video-games-five-years-later.html>>).

1 2. At Riot, “gamers” and particularly “hardcore gamers” are titles reserved for men. While
2 women might play games, they are rarely considered real “gamers.”² Like some in the gaming
3 industry, Riot embraces the stereotypical belief that “. . . [women] should *not* be considered ‘true’ or
4 ‘hardcore’ gamers because they play more *casually*” – a term of scorn in “hardcore” circles – and
5 therefore “. . . *less skillfully* compared to their male counterparts.”³ This explains how male gamers,
6 regardless of skill, are celebrated at the company, while women are rendered invisible or marginalized.
7 And it continues largely unabated. Speaking-up against the “male hardcore gamer” stereotype is
8 known to be risky, particularly for women.⁴

9 3. Riot and the “male hardcore gamer” stereotype are essentially synonymous. It is the
10 employment policy Riot etched in stone from the outset that continues to harm female Rioters today. It
11 has effectively solidified a gender hierarchy into Riot’s workforce where women are automatically
12 placed at the bottom and segregated from real opportunities.⁵ Riot’s decisions reflect this pattern
13 across the employment spectrum.

14 4. *First*, Riot engaged in hiring discrimination against women. By offering only “hardcore
15 gamers” the rite of passage into its workforce for years, Riot denied equal employment opportunities to
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18 ² Adrienne Shaw, Ada: A Journal of Gender, New Media, and Technology, No. 2 (doi:
19 10.7264/N33N21B3), *On Not Becoming Gamers: Moving Beyond the Constructed Audience* (2013)
20 [“***the gamer market***, at least in Europe and the North America, ***is constructed as primarily young,***
21 ***heterosexual, white and male*** [cit. omitted].”]; Maeve Duggan, Pew Research Center, *2. Public debates*
22 *about gaming and gamers* (Dec. 15, 2015) [“Most Americans . . . believe that most video game players
23 are men.”] (available at <<https://www.pewresearch.org/internet/2015/12/15/public-debates-about-gaming-and-gamers/>>).

24 ³ See footnote 1; Mike McPhate, New York Times, *Women Who Play Games Shun ‘Gamer’ Label* (Dec.
25 16, 2015) [“Video game experts said it was no surprise that women are shunning an association with
26 gaming culture as ***the community of hard-core players has become increasingly identified with sexist***
27 ***attitudes . . .***”].

28 ⁴ Nathan Rott, NPR, *#Gamergate Controversy Fuels Debate On Women And Video Games* (Sept. 24,
2014) (available at <<https://www.npr.org/sections/alltechconsidered/2014/09/24/349835297/-gamergate-controversy-fuels-debate-on-women-and-video-games>>); Andreas Zecher, Medium, *Open letter to the gaming community* (Sept. 1, 2014) (available at <<https://medium.com/@andreaszecher/open-letter-to-the-gaming-community-df4511032e8a>>).

⁵ Adrienne Shaw, Ada: A Journal of Gender, New Media, and Technology, No. 2 (doi:
10.7264/N33N21B3), *On Not Becoming Gamers: Moving Beyond the Constructed Audience* (2013)
[“The ‘girl games’ movement, for example, did not result in the creation of a place for female gamers in
the mainstream video game market, but rather the active marking of content designed to be ‘for girls’
[cit. omitted].”].

1 hundreds of qualified female applicants since opening its doors. Far fewer female employees have
2 been, and continue to be, a part of Riot’s workforce compared to its competitors in the industry.

3 5. *Second*, Riot engaged in pay, assignment, and promotion discrimination against women.
4 The few women who secured “Rioter” status have not fared well at the company. Within Riot’s
5 unquestioned “male gamers-first” work environment, female Rioters are not only significantly
6 outnumbered, but also systemically underpaid, underpromoted, and undervalued relative to their male
7 peers. Female Rioters have been and, upon information and belief, continue to be steered into lower
8 paid and lower opportunity roles compared to male peers internally, and across the industry.

9 6. *Third*, Riot engaged in sexual harassment. The well-known “bro culture” of Riot posed
10 a challenging work environment for women. Women had to endure pervasive sexual and vulgar
11 language in the workplace, as well as constantly fight off their male colleagues’ and even their
12 managers’ sexual advances. Female Rioters have been and, upon information and belief, continue to be
13 subjected to unlawful sexual harassment in the workplace.

14 7. *Fourth*, Riot retaliates against Rioters who engage in protected activity. Those who voice
15 concern or lodge complaints of discrimination and harassment are ignored, chastised, or subjected to
16 adverse employment action, such as losing work assignments and promotion opportunities.

17 8. *Fifth*, Riot failed to prevent workplace discrimination and harassment against women.
18 Riot’s lack of basic workplace protections has exacerbated these problems. Its “male gamers-first”
19 culture – elevating predominantly male “hardcore gamers” above everything else, including human
20 resources and legal standards – went unabated for years. And, it continues. Unwanted sexual
21 harassment and gender inequities in the workplace remain commonplace. Worse, women who report or
22 complain were reminded to “default to trust” – a value that was baked into the Riot culture. For
23 hundreds of women affected by Riot’s discriminatory practices, their experience at this male gamer-
24 only company has been anything but a meritocracy.

25 9. *Sixth*, Riot failed to maintain and provide employment records. Riot is “. . . required to
26 maintain certain relevant records of personnel actions” and “make them available upon request” to

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1 DFEH. (See, e.g., Gov. Code, § 12946; Cal. Code Regs., tit. 2, § 11013; see also, Lab. Code, § 1197.5,
2 subd. (e).)⁶ Riot did not.

3 10. To end such widespread and continuing employment discrimination and harassment in
4 the workplace, DFEH brings this government enforcement action against Riot and its related entities to
5 remedy violations of the Fair Employment and Housing Act (FEHA), Government Code section 12900
6 et seq. and related laws. Specifically, on behalf of itself and all aggrieved female applicants and
7 employees, DFEH alleges that Riot and its related entities violated laws by engaging in: (1) hiring
8 discrimination; (2) pay, assignment, promotion and related discrimination; (3) sexual harassment; (4)
9 retaliation; (5) a failure to take all reasonable steps necessary to prevent discrimination and harassment
10 from occurring (for the class of women and the DFEH); and (6) recordkeeping violations.

11 II. PARTIES

12 11. Plaintiff-Intervenor DFEH is a state department with prosecutorial authority to
13 investigate, mediate, and litigate civil rights actions. (Gov. Code, § 12930 et seq.) Among other
14 authorities, DFEH is empowered to enforce the Fair Employment and Housing Act (FEHA),
15 Government Code section 12900 et. seq., by issuing civil complaints on behalf of itself and persons
16 aggrieved by discriminatory employment practices. DFEH’s enforcement of the FEHA is an exercise
17 of the public policy of the State of California to protect the civil rights of all Californians to seek,
18 obtain, and hold employment without discrimination based on sex. (Gov. Code, §§ 12920; 12926,
19 subds. (l), (o) & (r); 12940, subds. (a), (h), (j) & (k); and 12965.)

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21 _____
22 ⁶ (See, e.g., Gov. Code, § 12946 [“It shall be an unlawful practice for employers . . . to fail to maintain
23 and preserve . . . records”]; Cal. Code Regs., tit. 2, § 11013 [“Employers . . . shall make [records]
24 available upon request to . . . [the] Department. . . . [E]very employer or other covered entity shall
25 maintain data regarding the race, sex, and national origin of each applicant and for the job for which he
26 or she applied. . . . Any personnel or other employment records made or kept by any employer or other
27 covered entity dealing with any employment practice and affecting any employment benefit of any
28 applicant or employee (including all applications, personnel, membership or employment referral
records or files) shall be preserved by the employer or other covered entity for a period of two years
from the date of the making of the record or the date of the personnel action involved, whichever occurs
later.”]; Lab. Code, § 1197.5, subd. (e) [“Every employer shall maintain records of the wages and wage
rates, job classifications, and other terms and conditions of employment of the persons employed by the
employer. All of the records shall be kept on file for a period of three years.”].)

1 12. Defendant Riot is an “employer” subject to the FEHA and all other applicable statutes,
2 headquartered at 12333 West Olympic Boulevard, Los Angeles, CA 90064. Founded in 2006, Riot is a
3 video game developer, publisher, and esports tournament organizer. The single video game *League of*
4 *Legends* reportedly made over 1.6 billion dollars in revenue in 2015 and boasted over 100 million
5 monthly players in 2016. Upon information and belief, Riot currently has over 2,500 employees in
6 over 20 offices worldwide.

7 13. Does One through Ten, inclusive, unknown to DFEH at this time, are sued herein
8 pursuant to Code of Civil Procedure section 474. DFEH will amend this complaint to allege their true
9 names and capacities when determined. Each of the Doe Defendants is legally responsible for the
10 injuries and damages alleged in this complaint.

11 III. JURISDICTION AND VENUE

12 14. DFEH files this action under Government Code section 12965.

13 15. This court has jurisdiction over the matter because Riot is a corporation that maintains
14 its headquarters in California, is licensed to do business in California, regularly conducts business in
15 California, and committed and continues to commit the unlawful acts alleged herein in California.

16 16. Venue is proper in this county under Government Code section 12965, subdivision (a),
17 because Los Angeles County is the county in which unlawful practices are alleged to have been
18 committed, in which relevant records are maintained and administered, and in which the aggrieved
19 female applicants and employees worked. Additionally, Riot is headquartered in Los Angeles.

20 17. DFEH satisfied the statutory requirements prior to filing this civil complaint.

21 18. The amount of damages sought by this Complaint exceeds the minimum jurisdictional
22 limits of this court.

23 IV. PROCEDURAL HISTORY

24 19. On October 25, 2018, the director of the DFEH issued an administrative complaint
25 against Defendants (Director’s Complaint), alleging gender discrimination in terms and conditions of
26 employment including unequal pay, unequal hiring, selection and promotional opportunities, sexual
27 harassment, sexual assault, retaliation, and failure to prevent unlawful acts, in violation of Government
28 Code section 12940 and Civil Code section 51.7.

1 20. DFEH properly and timely served the Director’s Complaint on Defendants.

2 21. On June 5, 2019, DFEH dual-filed the Director’s Complaint with the U.S. Equal
3 Employment Opportunity Commission (EEOC). On June 10, 2019, DFEH served an amended
4 Director’s Complaint on Defendants (First Amended Director’s Complaint), alleging gender
5 discrimination in the terms and conditions of employment including unequal pay, sexual harassment,
6 sexual assault, retaliation, and failure to prevent unlawful acts, in violation of Government Code
7 section 12940, Labor Code section 1197.5, Government Code section 11180, Civil Code section 51.7,
8 and 42 U.S.C. § 2000e et seq.

9 22. DFEH properly and timely served the First Amended Director’s Complaint on
10 Defendants.

11 23. Upon the filing of the Director’s Complaint and the First Amended Director’s
12 Complaint, DFEH promptly initiated an investigation into allegations that Riot and its related entities
13 committed civil rights violations against female employees and female job applicants on the basis of
14 sex, pursuant to Government Code section 12963.

15 24. At the conclusion of the investigation, DFEH found cause in this matter. DFEH met the
16 statutory requirements for filing this Complaint under Government Code section 12965.

17 **V. SYSTEMIC RELIEF ALLEGATIONS**

18 25. Plaintiff-Intervenor DFEH brings this government enforcement action for systemic
19 group relief on behalf of itself and aggrieved female applicants and employees pursuant to its authority
20 under Government Code sections 12961 and 12965. As the case is not a class action, class certification
21 under Code of Civil Procedure sections 378 and 382 is not required. (*Dep’t Fair Emp’t & Hous. v. Law*
22 *School Admission Council, Inc.* (N.D. Cal. 2013) 941 F.Supp.2d 1159, 1168-1170; *General Telephone*
23 *Co. of the Nw., Inc. v. EEOC* (1980) 446 U.S. 318, 323 [“Rule 23 is not applicable to an enforcement
24 action brought by the EEOC in its own name and pursuant to its authority . . . to prevent unlawful
25 employment practices.”]; *EEOC v. Waffle House Inc.* (2002) 534 U.S. 279, 291 [“The statute clearly
26 makes the EEOC the master of its own case and confers on the agency the authority to evaluate the
27 strength of the public interest at stake.”]; *Occidental Life Ins. Co. of Cal. v. EEOC* (1977) 432 U.S. 355,
28 368 [“[T]he EEOC does not function simply as a vehicle for conducting litigation on behalf of private

1 parties”]; *NLRB v. Plumbers & Pipefitters Local Union No. 403* (9th Cir. 1983) 710 F.2d 1418,
2 1420 [“[T]he *General Telephone* rationale is equally applicable to enforcement actions brought by the
3 Board under the NLRA” because the action is “not a civil proceeding brought by a group of individual
4 claimants to vindicate the wrongs they have suffered.”].)

5 **VI. FACTUAL ALLEGATIONS**

6 ***Male Gamers-First, Subjective Decision-Making, and Discriminatory Culture***

7 26. Plaintiff-Intervenor incorporates the preceding paragraphs as alleged above.

8 27. Riot’s employment practices share one common theme: “male gamers-first.” Under the
9 “male gamers-first” mandate, certain male “leads” or managers – the head of each group in Riot –
10 along with the male executive team, decide the terms and conditions of employment, including, without
11 limitation, hiring, compensation, assignment, and promotional opportunities through highly subjective
12 decision-making processes, and flawed or absent standards. This resulted in discrimination against
13 women across employment decisions.

14 ***Hiring Discrimination***

15 28. Riot prefers self-identified “hardcore gamers” and therefore favors men in the
16 workplace. With respect to “gamers” generally, men are more than twice as likely as women to
17 identify as a “gamer.” Similarly, most of the United States population – including video game players
18 – believe that “gamers” are men.⁷ A preference for “gamers” is essentially a preference for men. This
19 is evident in Riot’s hiring decisions.

20 29. “Hardcore gamers” take the preference to another level. An ideal “Rioter” – a term used
21 to describe people who work at Riot – is a male “hardcore gamer,” irrespective of whether the job was
22 in finance, art, or human resources. At conferences and meetings, Riot’s leadership often stressed their
23 passion about hiring hardcore gamers. Women interviewees often heard concerns that they were not
24 enough of a gamer to be hired. Riot’s single-minded focus on its hardcore gamer-first “culture fit” in

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27 ⁷ Maeve Duggan, Pew Research Center, *I. Who plays video games and identifies as a “gamer”* (Dec.
28 15, 2015) [“Most Americans . . . believe that most video game players are men.”] (available at
<<https://www.pewresearch.org/internet/2015/12/15/who-plays-video-games-and-identifies-as-a-gamer/>>).

1 every hiring decision, as well as its subjective decision-making processes by male leadership, resulted
2 in hiring discrimination against qualified female applicants across the company.

3 30. Over a four-year period, between 2014 and 2018, more than 80% of Riot's over 1,300
4 hires were male across the company. Riot's workforce similarly is – and has always been – about 80%
5 male. This is significantly more male employees than Riot's competitors employ in the relevant
6 industry, where male employees are typically about 55% of the workforce.⁸

7 31. Riot's own hiring records and labor market availability data further confirm Riot's
8 hiring preference for male gamers. A comparison between the gender of Riot's hires to the gender of
9 qualified persons available for hire into comparable roles in the available labor market shows Riot
10 denied employment opportunities to qualified women at a significant rate in major job categories across
11 the company.⁹

12 32. Riot, in short, discriminates against women in its hiring decisions. No evidence exists
13 that Riot has adequately corrected its discriminatory hiring practices as of the date of this Complaint.
14 Riot's discriminatory practices continue.

15 *Pay, Assignment, and Promotion Discrimination*

16 33. Once women land a position within Riot, the male leadership team offers female
17 employees lower compensation and less opportunities than their male counterparts. Viewed as inferior
18 within Riot's predominantly male workforce, women have been, and continue to be, disfavored in
19 employment decisions. Such decisions, whether related to pay, assignment, or promotions, were made
20 in a highly subjective decision-making process where male leadership, male gamer stereotypes, and
21 male preferences reign supreme.

22 34. It starts at hire. Riot pays women less than their male counterparts by setting their
23 starting pay significantly lower than males. Riot's reliance on an applicant's prior pay or salary history
24 to set compensation at hire has, and continues to, result in pay discrimination against women. This

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26 ⁸ See, e.g., EEOC, *2015 EEO-1 National Aggregate Report by NAICS-6 Code, All Other Amusement
and Recreation Industries* (2015) <<https://www1.eeoc.gov/eeoc/statistics/employment/jobpat-eeo1/2015/index.cfm#centercol>>.

27 ⁹ See also, U.S. Census, *American Fact Finder* <<https://factfinder.census.gov>>; EEOC, *2015 EEO-1
28 National Aggregate Report by NAICS-6 Code, All Other Amusement and Recreation Industries* (2015)
<<https://www1.eeoc.gov/eeoc/statistics/employment/jobpat-eeo1/2015/index.cfm#centercol>>.

1 practice is also unlawful under California law. Over time, Riot’s female employees’ lower starting pay
2 has only worsened over the course of their careers.

3 35. DFEH’s analysis, based on the data and information obtained thus far, reveals
4 significant disparities in starting pay between female and male employees *at hire*. In 2015, 2016, 2017
5 and 2018, for example, female employees were paid over *twenty percent* less, on average, than male
6 employees at hire. This pattern continued during the relevant period.

7 36. One year after hire, the gender pay disparities continue. DFEH’s analysis, based on the
8 data and information obtained thus far, reveals significant disparities in total compensation between
9 female and male employees one year after hire. In 2015, female employees who were hired in 2014
10 were paid over thirty percent less, on average, in total compensation than male employees who were also
11 hired the same year. This pattern continued during the relevant period.

12 37. Women are also afforded less stock and incentive pay opportunities at Riot. They
13 receive less stock units and value, on average, than men. One example occurred in 2015. Male hires in
14 2015 received more stock units with higher value, on average, than female employees hired the same
15 year. Moreover, although approximately the same ratio of male and female employees exercised stock
16 options through a company-initiated acquisition in 2015, male employees received a much higher
17 amount, on average, than female employees.

18 38. Similarly, when Riot introduced its incentive pay levels for the first time in 2017, the
19 company’s gender inequality was further formalized. Riot systematically assigned women to lower
20 levels and therefore lower opportunities than men. This further contributed to significant gender
21 disparities in total compensation and other opportunities.

22 39. Women are also concentrated at the lowest levels at Riot. Steered to the bottom of the
23 hierarchy without the potential for advancement, women received, and continue to receive, less
24 opportunities than their male counterparts over their careers. Riot’s recent public announcement, in
25 mid-2019, and effective concession that its work structure lacks “... *logic and consistency in job*

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1 *titles and expectations by role...*” is telling.¹⁰ With such a highly subjective assignment scheme within
2 a male dominant company, widespread discrimination could thrive.

3 40. As a result of these discriminatory pay, assignment, and promotion practices, Riot’s
4 overall gender pay gap is staggering. DFEH’s analysis, based on the data and information obtained
5 thus far, reveals significant disparities in total compensation between female and male employees at
6 Riot. In 2015 and 2016, female employees were paid over *sixty percent* less, on average, in total
7 compensation than male employees. This pattern continued during the relevant period.

8 41. When women voice concerns and complaints about compensation, Riot’s Talent team –
9 or human resources department – silenced them. Human resources professionals advised women to
10 stop focusing on the numbers, and instead to care for Riot. Such rebuffs are only aimed at chilling any
11 future criticisms.

12 42. Riot, in short, discriminates against women in its hiring as well as in its compensation,
13 assignment, and promotions. No evidence exists that Riot has adequately corrected its compensation
14 disparities and other discriminatory practices as of the date of this Complaint. Riot’s discriminatory
15 practices continue.

16 *Sexual Harassment and Retaliation*

17 43. Women at Riot describe a fraternity-like “bro culture” pervasive in their work
18 environment that is both stressful and exhausting, and in some instances, dangerous. Rioters describe a
19 “toxic” workplace that disrespects women and insulates and enables the predators.

20 44. Women are often talked over by men, have their ideas dismissed until repeated by a
21 male colleague, and are targeted by supervisors for belittlement. Women are subjected to frequent
22 vulgar comments about their bodies and sexual attractiveness of other women.

23 45. The hostile work environment at Riot is well-known. Women, including younger
24 interns, are constantly asked out at work by their male co-workers or managers, and sometimes have to
25 fight off male Rioters who tried to kiss them in the workplace.

26
27
28 ¹⁰ *Our Commitments on Arbitration and Next Steps for D&I* (May 3, 2019) post on Riot’s website, found
at <https://www.riotgames.com/en/news/commitments-on-arbitration-and-culturaltransformation>.

1 46. Male employees sometimes treat “one-on-ones” – informal meetings between Rioters,
2 often in an unofficial mentor-mentee relationship – as a cover to romantically pursue younger female
3 Rioters. Some women have attempted to protect themselves from such unwanted contact that they
4 uploaded pictures with boyfriends on their social media platforms. This improper conduct was so
5 prevalent that Riot specifically addressed it as a part of its recent “Diversity and Inclusion” initiative:
6 “For example, it’s extremely inappropriate to treat your work 1:1s as a way to try to get closer to
7 someone in pursuit of a romantic relationship.”

8 47. Male Rioters engaged in various forms of harassment at work, such as commenting on
9 female co-workers’ bodies or the appearance of female video game characters, and at times, even
10 exposing themselves. Additional examples include male Rioter making dirty and sexual jokes, using
11 words like “bitch” and “cunt” in the workplace to describe some women, and circulating pictures of
12 male genitalia. At one point, there was a “bang-able” list of female Rioters with whom the male
13 Rioters would like to have sex.

14 48. Riot encouraged “default[ing] to trust,” which meant that when a male Rioter said or did
15 something that a female Rioter considered inappropriate, the female Rioter should always believe that
16 the male Rioter did not mean what he said or did. What this principle accomplished, in fact, was to
17 effectively silence women while at the same time shield sexual harassers from repercussions.

18 49. When some women brave this cultural climate to lodge complaints, their charges of sex
19 discrimination and harassment are unaddressed or inadequately addressed. Riot has thereby allowed
20 repeat offenders to continue their behavior with no meaningful consequences. Male employees who
21 create discriminatory or hostile work conditions are not adequately held accountable. Those who make
22 complaints are often retaliated against, hushed, ignored, and told that they “should not have gone to HR
23 behind [their] backs.” Retaliation comes in various forms, including but not limited to reassignments,
24 denial of promotions and/or work opportunities, and terminations.

25 50. Worse, Riot has a pattern of protecting the top leadership for the worst offenses. This
26 hypocrisy also serves to deter women from lodging grievances because accountability is inconsistently
27 and unfairly administered.

28

1 51. Riot’s flawed policies and practices effectively allowed, and continues to allow, sexual
2 harassment to run rampant at the company. The women at Riot have suffered, and will continue to
3 suffer, harm from Riot’s ongoing, unlawful policies and practices unless they are enjoined by this court.

4 ***Recordkeeping Violations and Failure to Maintain and Produce Relevant Records***

5 52. During its 16-month investigation, DFEH requested employment records from Riot
6 relevant to its determination of whether Riot had violated FEHA and related authorities.

7 53. California law and regulations require employers like Riot to maintain applicant,
8 personnel, and employment records and supply such records to DFEH upon request. (See Gov. Code,
9 §§ 12946, 12976; Cal. Code Regs., tit. 2, § 11013; see also Lab. Code, § 1197.5, subd. (e).) Despite its
10 obligations, Riot failed to produce records requested by DFEH. Specifically, Riot refused to produce:
11 applicant and hiring records; personnel records related to compensation, assignment, and promotion
12 decisions; and complaint information.

13 54. Riot’s failure to maintain and produce the records, despite being required to preserve
14 and produce this information, constitutes a violation of Government Code section 12946 and related
15 authorities.

16 **FIRST CAUSE OF ACTION**
17 **Unlawful Discrimination Based on Sex - Hiring**
18 **(Gov. Code, § 12940, subd. (a))**

19 55. Plaintiff-Intervenor incorporates the preceding paragraphs as alleged above.

20 56. Government Code section 12940, subdivision (a), declares it an unlawful employment
21 practice for an employer “to refuse to hire or employ the person” because of sex.

22 57. Riot has discriminated against female applicants by treating them differently from and
23 less preferably than comparable male applicants.

24 58. Riot’s policies, practices, and/or procedures have resulted an unlawful disparate impact
25 on women with respect to hiring opportunities. Among other practices, Riot’s strong preference to hire
26 “hardcore gamers” throughout the company – regardless of the actual job function – disproportionately
27 denied qualified female applicants employment opportunities.
28

1 59. As a result of Riot’s conduct alleged in this complaint, female employees have suffered
2 and continue to suffer harm, including but not limited to, lost earning, lost benefits, lost future
3 employment opportunities, and other financial loss, as well as non-economic damages.

4 60. Riot’s actions demonstrate Defendants will continue to engage in the pattern or practice
5 of unlawful employment discrimination and unlawful disparate impact discrimination prohibited by the
6 FEHA unless they are enjoined pursuant to the police power granted by Government Code sections
7 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA, Government
8 Code section 12900 et seq.

9 61. Riot’s actions were willful, malicious, fraudulent, and oppressive, and were committed
10 with the wrongful intent to injure female Rioters in conscious disregard of their rights.

11 62. Unless Defendants are enjoined from failing or refusing to comply with the mandates of
12 the FEHA, female employees’ right to seek or hold employment free of unlawful employment action
13 will continue to be violated.

14 63. By reason of the continuous nature of Riot’s discriminatory conduct, DFEH is entitled to
15 application of the continuing violations doctrine to all violations alleged herein.

16 64. Plaintiff-Intervenor DFEH requests relief as hereinafter described.

17 **SECOND CAUSE OF ACTION**
18 **Unlawful Discrimination Based on Sex - Compensation**
19 **(Gov. Code, § 12940, subd. (a))**

20 65. Plaintiff-Intervenor incorporates the preceding paragraphs as alleged above.

21 66. Government Code section 12940, subdivision (a), declares it an unlawful employment
22 practice, for an employer “to discriminate against the person in compensation or in terms, conditions, or
23 privileges of employment” because of sex.

24 67. Riot has intentionally discriminated against women in compensation by *inter alia*
25 offering them lower compensation at hire, assigning them to lower paid and less opportunity roles,
26 awarding them less incentive pay and/or equity opportunities, and affording them less advancement and
27 other opportunities than their male counterparts.

28 68. Riot’s policies, practices, and/or procedures have resulted in unlawful disparate impact
discrimination against women with respect to compensation opportunities. Among other practices, Riot

1 relied upon prior pay to set pay for new employees, offered women lower starting compensation at hire,
2 assigned women to the lowest opportunity roles, and afforded them less incentive and/or equity pay
3 opportunities than their male counterparts.

4 69. As a result of Riot's conduct alleged in this complaint, female employees have suffered
5 and continue to suffer harm, including but not limited to, lost earning, lost benefits, lost future
6 employment opportunities, and other financial loss, as well as non-economic damages.

7 70. Riot's actions demonstrate Defendants will continue to engage in the pattern or practice
8 of unlawful employment discrimination and unlawful disparate impact discrimination prohibited by the
9 FEHA unless they are enjoined pursuant to the police power granted by Government Code sections
10 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA, Government
11 Code section 12900 et seq.

12 71. Riot's actions were willful, malicious, fraudulent, and oppressive, and were committed
13 with the wrongful intent to injure female Rioters in conscious disregard of their rights.

14 72. Unless Defendants are enjoined from failing or refusing to comply with the mandates of
15 the FEHA, female employees' right to seek or hold employment free of unlawful employment action
16 will continue to be violated.

17 73. By reason of the continuous nature of Riot's discriminatory conduct, DFEH is entitled to
18 application of the continuing violations doctrine to all violations alleged herein.

19 74. Plaintiff-Intervenor DFEH requests relief as hereinafter described.

20 **THIRD CAUSE OF ACTION**
21 **Unlawful Discrimination Based on Sex - Promotion**
22 **(Gov. Code, § 12940, subd. (a))**

23 75. Plaintiff-Intervenor incorporates the preceding paragraphs as alleged above.

24 76. Government Code section 12940, subdivision (a), declares it an unlawful employment
25 practice, for an employer "to discriminate against the person in compensation or in terms, conditions, or
26 privileges of employment" because of sex.

27 77. Riot failed to promote women in violation of Government Code section 12940,
28 subdivision (a).

1 78. Riot has intentionally discriminated against women in promotional and advancement
2 opportunities by *inter alia* assigning women to the lowest opportunity roles, delaying their career
3 advancement, and denying them promotion opportunities afforded to their male counterparts.

4 79. Riot's policies, practices, and/or procedures have produced a disproportionate adverse
5 effect on women with respect to promotion opportunities. Among other practices, Riot assigned
6 women to the lowest opportunity roles, and afforded them less advancement opportunities than their
7 male counterparts.

8 80. As a result of Riot's conduct alleged in this complaint, female employees have suffered
9 and continue to suffer harm, including but not limited to, lost earning, lost benefits, lost future
10 employment opportunities, and other financial loss, as well as non-economic damages.

11 81. Riot's actions demonstrate Defendants will continue to engage in the pattern or practice
12 of unlawful employment discrimination and unlawful disparate impact discrimination prohibited by the
13 FEHA unless they are enjoined pursuant to the police power granted by Government Code sections
14 12920 and 12920.5, from failing or refusing to comply with the mandates of the FEHA, Government
15 Code section 12900 et seq.

16 82. Riot's actions were willful, malicious, fraudulent, and oppressive, and were committed
17 with the wrongful intent to injure female Rioters in conscious disregard of their rights.

18 83. Unless Defendants are enjoined from failing or refusing to comply with the mandates of
19 the FEHA, female employees' right to seek or hold employment free of unlawful employment action
20 will continue to be violated.

21 84. By reason of the continuous nature of Riot's discriminatory conduct, DFEH is entitled to
22 application of the continuing violations doctrine to all violations alleged herein.

23 85. Plaintiff-Intervenor DFEH requests relief as hereinafter described.

24 **FOURTH CAUSE OF ACTION**
25 **Unlawful Harassment Based on Sex – Hostile Work Environment and Other Harassment**
26 **(Gov. Code, § 12940, subd. (j))**

27 86. Plaintiff-Intervenor incorporates the preceding paragraphs as alleged above.

28 87. Government Code section 12940, subdivision (j), states that it is unlawful for an
employer or any other person to harass employees because of their sex.

1 88. Women at Riot were routinely subjected to unwelcome sexual advances and other
2 misconduct so severe or pervasive that it created a hostile work environment.

3 89. Riot's supervisors engaged in such conduct, and in cases of non-supervisors, Riot knew
4 or should have known of the conduct and failed to take immediate and appropriate corrective action.

5 90. As a result of Riot's conduct alleged in this complaint, female employees have suffered
6 and continue to suffer harm, including but not limited to, emotional pain, humiliation, anxiety,
7 embarrassment, belittlement, sadness, and mental anguish, as well as economic damages.

8 91. Riot's actions demonstrate Defendants will continue to engage in the pattern or practice
9 of unlawful employment practices prohibited by the FEHA unless they are enjoined pursuant to the
10 police power granted by Government Code sections 12920 and 12920.5, from failing or refusing to
11 comply with the mandates of the FEHA, Government Code section 12900, et seq.

12 92. Riot's actions were willful, malicious, fraudulent, and oppressive, and were committed
13 with the wrongful intent to injure female Rioters in conscious disregard of their rights.

14 93. Unless Defendants are enjoined from failing or refusing to comply with the mandates of
15 the FEHA, female employees' right to seek or hold employment free of unlawful harassment will
16 continue to be violated.

17 94. By reason of the continuous nature of Riot's discriminatory conduct, DFEH is entitled to
18 application of the continuing violations doctrine to all violations alleged herein.

19 95. Plaintiff-Intervenor DFEH requests relief as hereinafter described.

20 **FIFTH CAUSE OF ACTION**
21 **Retaliation against Any Person for Opposing Unlawful Employment Practices**
22 **(Gov. Code, § 12940, subd. (h))**

23 96. Plaintiff-Intervenor incorporates the preceding paragraphs as alleged above.

24 97. Government Code section 12940, subdivision (h) declares it an unlawful employment
25 practice for an employer to retaliate against any person for opposing unlawful employment practices.

26 98. Riot took adverse employment actions against women for engaging in protected
27 activities. Such adverse employment actions include, without limitation, denial of professional
28 opportunities, negative performance reviews, discipline, demotions, constructive termination, and
wrongful termination.

1 108. As a result of Riot's conduct alleged in this complaint, female employees have suffered
2 and continue to suffer harm, including but not limited to, lost earning, lost benefits, lost future
3 employment opportunities, and other financial loss, as well as non-economic damages.

4 109. Riot's actions demonstrate Defendants will continue to engage in the pattern or practice
5 of unlawful employment practices prohibited by the FEHA unless they are enjoined pursuant to the
6 police power granted by Government Code sections 12920 and 12920.5, from failing or refusing to
7 comply with the mandates of the FEHA, Government Code section 12900 et seq.

8 110. Riot's actions were willful, malicious, fraudulent, and oppressive, and were committed
9 with the wrongful intent to injure female Rioters in conscious disregard of their rights.

10 111. Unless Defendants are enjoined from failing or refusing to comply with the mandates of
11 the FEHA, female employees' right to seek or hold employment free of unlawful employment action
12 will continue to be violated.

13 112. By reason of the continuous nature of Riot's discriminatory conduct, DFEH is entitled to
14 application of the continuing violations doctrine to all violations alleged herein.

15 113. Plaintiff-Intervenor DFEH requests relief as hereinafter described.

16 **SEVENTH CAUSE OF ACTION**

17 **Failure to Prevent Discrimination and Harassment (on Behalf of DFEH Only)**
18 **(Gov. Code, § 12940, subd. (k))**

19 114. Plaintiff-Intervenor incorporates the preceding paragraphs as alleged above.

20 115. Government Code section 12940, subdivision (k) requires employers to take all
21 reasonable steps necessary to prevent discrimination from occurring. Defendants failed to take all
22 reasonable steps necessary to prevent discrimination and harassment of female applicants and
23 employees.

24 116. Riot's failure to have and/or enforce adequate and consistent anti-discrimination and
25 anti-harassment policies were substantial motivating factors in causing the harm to female applicants
26 and employees. Upon information and belief, and at all relevant times, Riot failed to adequately train
27 its supervisors and managers on the prevention of discrimination and harassment based on sex. Riot
28 also failed to act to adequately and timely discipline harassers or to stop discriminatory or harassing
comments and behavior from occurring in the workplace.

1 117. As a result of Riot’s conduct alleged in this complaint, female employees have suffered
2 and continue to suffer harm, including but not limited to, lost earning, lost benefits, lost future
3 employment opportunities, and other financial loss, as well as non-economic damages.

4 118. Riot’s actions demonstrate Defendants will continue to engage in the pattern or practice
5 of unlawful employment practices prohibited by the FEHA unless they are enjoined pursuant to the
6 police power granted by Government Code sections 12920 and 12920.5, from failing or refusing to
7 comply with the mandates of the FEHA, Government Code section 12900 et seq.

8 119. Riot’s actions were willful, malicious, fraudulent, and oppressive, and were committed
9 with the wrongful intent to injure female Rioters in conscious disregard of their rights.

10 120. Unless Defendants are enjoined from failing or refusing to comply with the mandates of
11 the FEHA, female employees’ right to seek or hold employment free of unlawful employment action
12 will continue to be violated.

13 121. By reason of the continuous nature of Riot’s discriminatory conduct, DFEH is entitled to
14 application of the continuing violations doctrine to all violations alleged herein.

15 122. Plaintiff-Intervenor DFEH requests relief as hereinafter described.

16 **EIGHTH CAUSE OF ACTION**

17 **Failure to Retain and Produce Records (on Behalf of DFEH Only)**
18 **(Gov. Code, § 12946; Cal. Code Regs., tit. 2, § 11013)**

19 123. Plaintiff-Intervenor incorporates the preceding paragraphs as alleged above.

20 124. Government Code section 12946 declares it an unlawful employment practice for an
21 employer to “fail to maintain and preserve any and all applications, personnel, membership, or
22 employment referral records and files for a minimum period of two years after the records and files are
23 initially created or received, or for employers to fail to retain personnel files of applicants or terminated
24 employees for a minimum period of two years after the date of the employment action taken.” State
25 and federal law, including the California Labor Code, Equal Pay Act, and Unemployment Insurance
26 Code (Lab. Code, §§ 226, 1197.5; Unemp. Ins. Code, § 1085; Cal. Code Regs., tit. 22, § 1085-2), the
27 Federal Fair Labor Standards Act and Equal Pay Act (29 C.F.R. § 516 et seq.; 29 U.S.C. § 211), and
28 Title VII of the Civil Rights Act of 1964 (29 C.F.R. § 1602 et seq.), require employers to create and
maintain various personnel records, including compensation records.

1 7. Other relief as the Court deems to be just and proper.
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3 Dated: July 10, 2020
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DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

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6 By:  _____
7 Grace Shim, Senior Staff Counsel
8 Attorneys for Plaintiff-Intervenor DFEH
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