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ESTELLE MCGECHIE

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF NEVADA

**AUG 15 2022**

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 IN AND FOR THE COUNTY OF NEVADA

13 ESTELLE MCGECHIE,  
14 Plaintiff,  
15 vs.  
16 ATOMOS LIMITED, DOES 1 through 20,  
17 inclusive,  
18 Defendants.

Case No. CU0000253  
**COMPLAINT FOR DAMAGES**  
**DEMAND FOR JURY TRIAL**

20 \_\_\_\_\_ /

1 ESTELLE MCGECHIE, complains and alleges as follows:

2 **NATURE OF THE CASE**

3 1. Plaintiff Estelle McGechie (“Plaintiff” or “Ms. McGechie”) was the Chief  
4 Executive Officer of Atomos Limited (“Defendant” or “Atomos”). She dared to speak up about  
5 rampant illegal conduct at Atomos and she suffered the consequences. Following  
6 Ms. McGechie’s investigation into and reports about Atomos’ securities fraud and revenue  
7 manipulation, including falsely reporting material sales forecast information to shareholders,  
8 “channel stuffing” (shipping excessive product to distributors to prematurely record sales and  
9 fraudulently inflate revenue), knowingly shipping defective and inoperable merchandise to  
10 prematurely record sales, and insider trading, Atomos terminated her.

11 2. Atomos recruited Ms. McGechie based on her prestigious career, her unique  
12 product and domain experience, and her work with leading film studios and broadcasters.  
13 Although Ms. McGechie was a high-performing executive who was working to turn the  
14 organization around, her male colleagues were resistant to her pleas to bring the company into  
15 compliance. This attitude toward Ms. McGechie was indicative of the insidious “boys’ club”  
16 culture at the company. Indeed, Ms. McGechie was the only female leader at Atomos. While  
17 men are frequently touted and supported despite their relative lack of experience and  
18 inappropriate conduct, she was micromanaged, more harshly criticized for her “management  
19 style,” and targeted when she spoke up. As a woman, Ms. McGechie was expected to be a  
20 subservient “yes” leader and, when she did not comply, her days were numbered.

21 3. Instead of taking her complaints regarding unlawful conduct seriously, Atomos  
22 terminated Ms. McGechie to avoid addressing fraud at the company and scapegoat  
23 Ms. McGechie for the aftermath of years of illegal conduct perpetrated by its male executives.

24 4. After notifying Ms. McGechie of her termination, the company immediately tried  
25 to rehire her, in an apparent *mea culpa*. Atomos then terminated her again after Ms. McGechie  
26 made it clear that she would not turn a blind eye to multiple compliance issues at the company.  
27 After hearing her final complaint regarding the illegal activity, and her plans to address it,  
28 Atomos terminated her. Atomos continued its pattern of deception to shareholders by falsifying

1 the reason for Ms. McGechie’s termination in its public announcements and repeatedly  
2 misleading shareholders regarding its financial forecast.

3 5. Ms. McGechie brings this lawsuit to address Atomos’ unlawful retaliation and  
4 toxic culture of gender bias and to hold the company accountable for discrimination, retaliation,  
5 and wrongful termination in violation of California’s Fair Employment and Housing Act and the  
6 California Labor Code.

7 **PARTIES**

8 6. Plaintiff Estelle McGechie was employed by Defendant Atomos Limited from  
9 June 2021 until her termination in April 2022. She also consulted for the company from March  
10 through May 2021. During all relevant time periods herein, Plaintiff resided and worked in  
11 Truckee, California.

12 7. Upon information and belief, Defendant Atomos Limited is an Australian  
13 company which has its headquarters in Melbourne, Australia and maintains eight offices  
14 worldwide, including in the United States, Japan, China, United Kingdom, and Germany.  
15 Defendant primarily sells professional video monitor-recorder hardware products. The majority  
16 of Defendant’s worldwide sales are made in the United States.

17 8. The true names and capacities of Defendants named herein as Does 1 through 20,  
18 whether individual, corporate, associate or otherwise, and the true involvement of Defendants  
19 sued herein as Does 1 through 20, are unknown to Plaintiff who therefore sues said Defendants  
20 by such fictitious names. Plaintiff will amend this Complaint to show the true names, capacities,  
21 and involvement of Does 1 through 20 when ascertained. Plaintiff is informed and believes and  
22 thereon alleges that each of the Defendants designated as a “Doe” is responsible in some manner  
23 for the events and happenings referred to herein, and that Plaintiff’s injuries and damages as  
24 hereinafter set forth were proximately caused by said Defendants.

25 9. Plaintiff is informed and believes and thereon alleges that each of the Defendants  
26 sued herein is or was the agent, employee, partner and/or representative of one or more of the  
27 remaining Defendants, and each of them was at all times acting within the purpose and scope of  
28 such agency and employment. Plaintiff is further informed and believes that each of the

1 Defendants herein gave consent to, ratified, and authorized the acts alleged herein to each of the  
2 remaining Defendants.

3 **JURISDICTION AND VENUE**

4 10. Venue is proper in this judicial district pursuant to California Code of Civil  
5 Procedure § 395(a) and California Government Code § 12965. Defendant entered an  
6 employment contract with Plaintiff and contracted to perform an obligation to Plaintiff in the  
7 County of Nevada.

8 11. Plaintiff was employed in, and significant events material to this case occurred  
9 within, Nevada County, California. The obligations and liability complained of herein arose in  
10 Nevada County, California, and Plaintiff suffered injury in Nevada County, California.

11 12. Defendant recruited Plaintiff through meetings with Plaintiff in California.  
12 Defendant entered into an employment contract with and employed Ms. McGechie in Truckee,  
13 Nevada County, California.

14 13. During her tenure with Atomos, Plaintiff met with Atomos' suppliers, developer  
15 partners, distributors, and channel partners located in California.

16 14. Defendant is present in the United States through its extensive business  
17 operations, including in maintaining physical facilities and offices, retaining U.S. employees,  
18 contracting with U.S. suppliers, and conducting significant sales and marketing efforts in the U.S.

19 15. Atomos maintains offices and facilities in the U.S. Atomos publicly represents  
20 that it has offices in Los Angeles, California and in Brooklyn, New York. It further maintains a  
21 distribution center in New Jersey from which it ships products for processing and shipment to  
22 distributors in the U.S. and over 30 other countries in the Americas.

23 16. The majority of Atomos' sales are in the U.S. Atomos contracts with over 100  
24 resellers in the U.S. to sell its products. More than 35 of its major resellers and distributors are  
25 located in the U.S., including but not limited to Global Distributors, located in Glendale,  
26 California, B&H, Adorama, and Broadfield. Further, Atomos sells its products in over 30  
27 reseller locations in California.

28 ///

1 17. Atomos executives regularly traveled to California for events, as well as for  
2 meetings with distributors, channel sales companies, and suppliers, many of which are  
3 headquartered in California.

4 18. Atomos applied for and received a loan from the U.S. government via the  
5 Paycheck Protection Program, through which the federal government provided billions of dollars  
6 to make low-interest, and in some cases forgivable, loans to companies employing workers in the  
7 U.S. in response to the COVID-19 pandemic. Atomos reported in its loan application that  
8 Atomos, Inc. is a corporation located in the U.S. and that the loan was to be used for payroll  
9 expenses.

10 19. Atomos directs the majority of its promotional activities to the U.S., including  
11 attendance at conferences, events, and tradeshows such as the Apple Worldwide Developer  
12 Conference (Cupertino), Final Cut Pro Global Summit (Cupertino), CineGear (Los Angeles),  
13 Hollywood Professional Association (Los Angeles), Key Code Media Post NAB Roadshow (Los  
14 Angeles), Sports Video Group Summit (Los Angeles, New York), National Association of  
15 Broadcasting Show (Los Angeles, Las Vegas, New York), and Consumer Electronic Show (Las  
16 Vegas), among others. Atomos publicly reported that 75% of the U.S. tradeshows it participated  
17 in are located in California. Atomos uses these tradeshows for marketing and sales as well as to  
18 hold sales meetings with U.S.-based distributors and suppliers. The company devotes substantial  
19 time and resources to these shows, including hiring U.S.-based consultants and tradespeople to  
20 build booths and displays and to create and distribute marketing and promotional materials. The  
21 Executive Team and Board members often attend to promote the brand, entertain analysts,  
22 investors, and shareholders, and to build local relationships.

23 20. Atomos employs more than twelve employees located in Los Angeles, California,  
24 Brooklyn, New York, and Seattle, Washington. In addition to employing Plaintiff, Atomos  
25 employs key sales managers and a research and development team in California. Plaintiff was  
26 “onboarded” to her role by Atomos’ General Manager in the U.S.

27 21. Defendant is subject to the personal jurisdiction of this Court because Defendant  
28 maintains extensive business operations in California, including maintaining an office in

1 California, employing a workforce of California employees, selling merchandise to over 30 major  
2 resellers located in California, contracting with a large distributor in California, contracting with  
3 suppliers in California to provide key technology and enablement for its products, partnering with  
4 developers in California, and directing substantial marketing and sales efforts to California.

5 **PROCEDURAL ALLEGATIONS**

6 22. On August 15, 2022, prior to filing this complaint, Ms. McGechie filed a  
7 complaint with the California Civil Rights Department (formerly known as the Department of  
8 Fair Employment and Housing) against Atomos, alleging gender discrimination and retaliation,  
9 and obtained a Right-to-Sue notice the same day.

10 **FACTS COMMON TO ALL CAUSES OF ACTION**

11 **A. Ms. McGechie’s Experience in Video Production, Marketing, and Product**  
12 **Development.**

13 23. Ms. McGechie has built an impressive career in all aspects of video production,  
14 including producing and editing. Ms. McGechie is also an experienced leader in technology  
15 companies and has held senior positions developing video, motion graphics, and a variety of  
16 technologies including software, hardware, and cloud services at tech companies such as Apple,  
17 Logitech, and Frame.io.

18 24. Atomos first met Ms. McGechie when she was working for Apple in 2013 at in-  
19 person meetings at Apple’s offices in Cupertino, California. While working on the development  
20 of Apple ProRes and ProRes RAW integration of Apple technology with Atomos products, she  
21 became more involved with Atomos on a regular basis. Atomos met with Ms. McGechie several  
22 times in California, as well as by video, to persuade her to join Atomos.

23 25. In March through May 2021, Ms. McGechie joined Atomos as an independent  
24 contractor. In June 2021, following years of familiarity with Ms. McGechie’s management style  
25 and skillset, Atomos hired Ms. McGechie as Chief Product Officer. In the company’s public  
26 announcement, Atomos’ former CEO and Founder Jeromy Young stated, “We are very lucky to  
27 have Estelle joining Atomos .... The Silicon Valley product experience Estelle brings will  
28 complement our product team to drive growth in software revenue, generated off the back of our

1 large hardware install base.” Atomos’ Executive Chairman Chris Tait stated, “I am thrilled that  
 2 we have someone of Estelle’s experience joining Atomos, her breadth of knowledge, particularly  
 3 in bringing leading software solutions to market, will be invaluable for us.”

4 **B. Atomos’ Male-Dominated “Boys’ Club” Culture.**

5 26. When Ms. McGechie joined Atomos as a full-time employee, she was the only  
 6 woman in senior management out of eleven positions. As of July 2021, out of 35 total middle-  
 7 level managers, only three were women. The company’s leadership is male dominated, and  
 8 gender-biased attitudes are prevalent. Prior to her hire, the company’s Board and Executive  
 9 Team were composed of only men, as depicted in Atomos’ investor presentation on February 14,  
 10 2021:

**Atomos Board & Senior Management**

Board	Executive Team
<p><b>Chris Tait</b> Executive Chairman Appointed: 2017 Shares: 1,597k</p>	<p><b>Mark Harland</b> Chief Operating Officer Appointed: 2020 Shares: nil</p>
<p><b>Jeremy Young</b> Co-Founder Founded Atomos 2010 Shares: 17,827k</p>	<p><b>Trevor Elbourne</b> Chief Technology Officer Appointed: 2012 Shares: 482k</p>
<p><b>Sir Hossein Yassaie</b> Non-Executive Director Appointed: 2016 Shares: 1,739k</p>	<p><b>James Cody</b> Chief Financial Officer Appointed: 2016 Shares: 410k</p>
<p><b>Stephen Stanley</b> Non-Executive Director Appointed: 2019 Shares: 401k</p>	<p><b>Stephan Kewel</b> Global Sales Director Appointed: 2012 Shares: 42k</p>
<p>Average tenure of the Board and senior management team is 5 years. Together they hold 10.9% of shares in the company (11.6% with all staff)</p>	
	<p><b>Rodney Block</b> Head of Global Business Development Appointed: 2020 Shares: nil</p>
	<p><b>Paul Scurrell</b> Head of Product Development Appointed: 2019 Shares: 1,278k</p>
	<p><b>Richard Salib</b> Head of Engineering Appointed: 2012 Shares: 117k</p>

22 Officer was announced, that Atomos added two female directors, Lauren Williams, and Megan  
 23 Brownlow, for the first time in the company’s history.

24 28. Atomos is known as having a “boys’ club” culture where men severely outnumber  
 25 women at all levels of the company and where women are sidelined. Especially in leadership  
 26 positions, senior women are excluded from meetings, their expert opinions are not sought, and  
 27 women are expected to adhere to stereotypical gender roles. When female leaders express their  
 28 opinions, they are trivialized and marginalized.

1 29. Indeed, Atomos has a spotted history with its treatment of women in the  
2 workplace that goes to the very top of the company. Several female employees have reported  
3 experiencing discrimination and abusive behavior. In response to employee reports of gender  
4 discrimination and sexual harassment, the company failed to take any remedial action and, in one  
5 instance, terminated the employee.

6 30. As one example, a former employee was sexually harassed and assaulted by a  
7 male executive on multiple occasions between 2016 and 2017. A male colleague witnessed this  
8 abusive behavior and enviously said to the employee, “wow, you’re getting so much attention.”  
9 The former employee reported these incidents of the executive forcibly trying to kiss and touch  
10 her to Tony Trent, Atomos’ Chief Operating Officer at the time, and Chief Financial Officer  
11 James Cody. Both Mr. Trent and Mr. Cody informed the harasser of the report. In response, the  
12 harasser escalated his conduct, culminating in him physically and verbally assaulting the  
13 employee at a work event. In front of customers and employees, he threatened that if she ever  
14 talked to anyone about his conduct, he would tell people that she came on to him. The employee  
15 fled the event and resigned. The incident was so disturbing that a male colleague, who had  
16 witnessed the conduct and attempted to protect the employee, also resigned.

17 31. In or around April 2021, a former marketing employee filed a Victorian Equal  
18 Opportunity and Human Rights Commission<sup>1</sup> complaint against Atomos naming Mr. Young and  
19 Chief Operating Officer Mark Harland. Among other claims, she alleged gender discrimination  
20 and retaliation. The complaint alleged that Mr. Harland told her that there was no question that  
21 she was capable of doing her job, but that she had not gained the confidence of Mr. Young and  
22 other executives. She stated that when she complained to Mr. Harland of abusive behavior by  
23 Mr. Young, he told her that she needed to take Mr. Young “out for lunch and get drunk with  
24 him.” When Ms. McGechie was sent the complaint in March 2022, she asked for an immediate  
25 remedy for the employee. Mr. Cody’s response was that the employee was “difficult.” Later, in  
26 an executive meeting, Ms. McGechie asked multiple times to remedy the complaint. The all-

27 \_\_\_\_\_  
28 <sup>1</sup> The Victorian Equal Opportunity and Human Rights Commission is the Australian state  
of Victoria’s equivalent to the Equal Employment Opportunity Commission (EEOC) or the  
California Civil Rights Department (formerly Department of Fair Employment and Housing).



1 male Executive Team claimed that the employee was “difficult,” “useless,” and that she was  
2 covering up her “poor performance.”

3 32. Atomos ignored these complaints. Indeed, Atomos accepted and ratified  
4 egregious conduct by its male executives for years, which was well-known within the company  
5 and by the Board of Directors. In addition to claims of sexual harassment of women, Atomos  
6 tolerated inappropriate conduct by its leadership, including drug and alcohol abuse, aggressive  
7 public outbursts, offensive public statements, and failure to disclose material information to  
8 shareholders, among other indiscretions.

9 33. In February 2020, Mr. Young took a leave of absence. However, Atomos did not  
10 publicly disclose Mr. Young’s absence until May 2020. Mr. Tait stepped in as interim CEO from  
11 March 2020 through September 2021.

12 34. In July 2021, Mr. Young made headlines for being fined by police after using his  
13 yacht to travel from a then-COVID hotspot, Sydney, Australia, to the Gold Coast. Mr. Young  
14 and his crew allegedly provided false information on their declaration cards to access the Gold  
15 Coast in violation of Australian law. The fallout was immediate and damaging to Atomos.  
16 During this time, Atomos was considering whether and in what capacity to keep Mr. Young  
17 employed, despite his many prior transgressions. Even after this incident, Atomos did not  
18 announce Mr. Young’s retirement from his position as Co-Founder and director on the Board  
19 until November 2021, several months later.

20 **C. Atomos Subjects Ms. McGechie to Gender Discrimination.**

21 35. In September 2021, in recognition of her strong business record, industry  
22 experience, and valuable contributions to the company, Atomos promoted Ms. McGechie to  
23 CEO.

24 36. Although she had worked amicably with the all-male Executive Team for months  
25 as a consultant and as Chief Product Officer (CPO), soon after she took on the CEO role,  
26 Ms. McGechie began receiving pushback from the Board and the all-male Executive Team,  
27 including Chief Financial Officer James Cody, Chief Technology Officer Trevor Elbourne, Chief  
28 Sales Officer Stephan Kexel, and Chief Operating Officer Mark Harland. Their actions made it

1 abundantly clear that they were not comfortable reporting to a powerful woman who was taking  
2 real action to right the ship.

3 37. For example, under Mr. Young’s leadership, Mr. Kexel had agreed to follow a  
4 process whereby he was required to obtain 100% agreement from the Executive Team, including  
5 Mr. Young, prior to finalizing a sales promotion and making it public. Under Ms. McGechie’s  
6 leadership, despite her request for the same visibility and authorization, Mr. Kexel made sales  
7 promotion decisions without full executive approval, sometimes bypassing Ms. McGechie.

8 38. Ms. McGechie was talked down to or treated dismissively by Board members in a  
9 manner that was in stark contrast to the treatment received by the company’s male CEOs. For  
10 example, on August 14, 2021, Ms. McGechie met with Board member Stephen Stanley.  
11 Mr. Stanley told Ms. McGechie that she needed to be cognizant of “saying Apple too much,”  
12 despite the fact that Ms. McGechie was specifically brought into the business for her experience  
13 working at Apple and other U.S. tech companies. Mr. Stanley warned her that she was “acting  
14 like a CEO without being a CEO,” that Atomos is “not Apple” and Ms. McGechie was  
15 “unproven.” Ms. McGechie was taken aback. At the time of their conversation, Ms. McGechie  
16 was already being slotted as the next CEO and Mr. Stanley’s tone with her was gendered,  
17 dismissive and condescending.

18 39. On August 30, 2021, Ms. McGechie met with Mr. Stanley and Mr. Tait regarding  
19 her promotion to CEO. Mr. Stanley advised Ms. McGechie to “resist answers” but instead to  
20 respond to the Executive Team when they raised ideas by saying, “I’ll take that on board.” He  
21 told her to “take everyone on the journey, don’t say it’s wrong or right.” Again, Ms. McGechie  
22 found Mr. Stanley’s “advice” to water down her authority to be patronizing and concerning.

23 40. Often during meetings, Board members Mr. Stanley and Sir Hossein Yassaie  
24 would express, non-verbally and verbally, for Ms. McGechie to keep quiet or to only speak when  
25 she was invited to and agreed with them. On one occasion, Sir Yassaie explicitly told her not to  
26 speak. She was humiliatingly forced to raise her hand for twelve minutes waiting to be called on.  
27 When she was finally acknowledged, male Board members continued to interrupt her, and she  
28 was forced to wait another fifteen minutes before she could talk.

1           41.     Although Ms. McGechie was ostensibly hired to implement change, she faced  
2 staunch resistance from the Board, which resulted in Atomos losing business opportunities. For  
3 example, Ms. McGechie led two acquisitions: Acquisition “A” and Acquisition “B”. At each  
4 step, the Board questioned Ms. McGechie’s actions, even explicitly telling her to stay out of the  
5 negotiations, which unnecessarily stalled these time sensitive business transactions.

6           42.     Ms. McGechie reported to the Board that Atomos was in jeopardy of losing  
7 Acquisition “A” due to the negotiation tactics of Board members Stanley and Yassaie, but the  
8 Board did not listen. The Board of Acquisition “A” then recommended against the acquisition,  
9 saying that the negotiation tactics proved to them that the Atomos Board was unsupportive and  
10 harsh. Ms. McGechie spent many hours intervening to try to save the deal. At the time of her  
11 termination, Atomos still had not secured the transaction.

12           43.     Similarly, Acquisition “B” began working with other market opportunities  
13 because of the negotiation tactics employed by the Board. Ms. McGechie authored multiple  
14 presentations and acquisition documents, authored an analysis in the Atomos video vertical,  
15 completed nearly all of the post-signing due diligence, and completed multiple tested and verified  
16 financial projections of Acquisition “B.” Even still, the Board did not credit her opinions or  
17 research. Ultimately, Acquisition “B” pulled out of negotiations, despite Ms. McGechie’s  
18 efforts.

19           44.     The comments and treatment Ms. McGechie received are archetypal examples of  
20 gender discrimination. Men are encouraged to be assertive in the workplace, but assertiveness is  
21 a liability for women, even for executives. Whereas male executives are viewed as bold,  
22 thoughtful, and engaged leaders when they challenge and critique proposed strategy decisions,  
23 female executives are viewed as uncooperative, and their opinions are challenged or ignored.  
24 Criticism such as that which Ms. McGechie received are commonly experienced by women in  
25 tech.<sup>2</sup>

26 ///

27 \_\_\_\_\_  
28 <sup>2</sup> See Snyder, Kieran, *The abrasiveness trap: High-achieving men and women are described differently in reviews.* <https://web.stanford.edu/dept/radiology/cgi-bin/raddiversity/wp-content/uploads/2017/12/TheAbrasivenessTrap.pdf>.

1           45.     In a one-on-one meeting with Mr. Tait around October 21, 2021, Ms. McGechie  
2 reported her concerns that the Board treated her differently than former CEO Young, expressing  
3 that she did not think that a man with her background and experience would be treated with such  
4 doubt and disrespect. She further raised concerns with Mr. Stanley and Sir Yassaie about the  
5 sexist treatment she experienced. Her concerns were treated dismissively, and the conduct  
6 continued until her termination.

7           46.     Additionally, around March 15, 2022, Ms. McGechie raised concerns to Mr. Tait  
8 and Mr. Stanley that her compensation was less than that paid to former CEO Young and to  
9 Mr. Tait when he served as interim CEO. She also noted that Mr. Young’s employment  
10 agreement provided for 12 months of salary as severance upon separation, whereas  
11 Ms. McGechie’s agreement provided for 6 months – despite the fact that they performed the  
12 same role. Again, her concerns about unequal pay based on her gender were dismissed and  
13 ignored.

14           **D.     Ms. McGechie Reports Channel Stuffing, Insider Trading, and other Illegal**  
15           **Conduct to Atomos.**

16           47.     As a publicly traded company, Atomos is subject to securities and fraud laws,  
17 including prohibitions on market manipulation, making false or misleading statements, and  
18 engaging in insider trading.

19           48.     On information and belief, Atomos’ securities are purchased and sold in the  
20 United States, including through over the counter trading. Atomos securities are owned and  
21 traded by U.S. shareholders, including those owned by Atomos’ investors, employees, and  
22 contractors.

23           49.     Atomos has a history of engaging in “channel stuffing” to fraudulently recognize  
24 increased sales revenue and manipulate its performance numbers. Channel stuffing refers to the  
25 practice of inflating sales figures by forcing more products through a distribution channel than  
26 the channel is capable of selling through. The company can then record inflated sales even when  
27 it is aware that the distributor or retailer will be unable to sell through the excess merchandise to  
28 end users. Atomos engaged in channel stuffing to meet analyst forecasts of financial

1 performance and maintain an artificially inflated share price. Channel stuffing is prohibited by  
2 laws that regulate mail fraud, wire fraud, accounting fraud, and securities fraud, including  
3 Section 10(b) of the Securities and Exchange Act of 1933.

4 50. Channel stuffing to meet financial or sales goals often results in downstream  
5 effects, as it did at Atomos. In order to obtain the distributor or retailer's agreement to receive  
6 shipments of products in excess of what it could reasonably sell through, Atomos offered extreme  
7 discounts on its products and agreed to other unfavorable terms. This included allowing the  
8 distributor an extended payment term or return period outside of industry standards, as well as  
9 write-offs of distributor invoices. Another consequence and indicator of channel stuffing is that  
10 for the following financial period, new orders are low. Moreover, the practice of channel stuffing  
11 leads to cashflow issues and wildly fluctuating distributor demand.

12 51. Ms. McGechie began looking into Atomos' irregular sales patterns in late 2021  
13 and discovered over the course of several months that Atomos was engaging in channel stuffing  
14 to manipulate sales revenue. She was later informed that Atomos had been channel stuffing for  
15 years, a practice which continued while Mr. Tait was interim CEO.

16 52. Ms. McGechie was informed by a former Atomos Director of Business  
17 Development that he witnessed unlawful behavior by executives at Atomos that was known by  
18 both Mr. Tait and Mr. Cody, including channel stuffing, "extended payment terms that went well  
19 beyond the quarter," and "disappearing distributor invoices/complete write offs." He further told  
20 Ms. McGechie that the Board and Executive Team were party to and aware of much of this  
21 behavior. When he raised issues about what he believed was unlawful conduct, he was told to  
22 just accept it.

23 53. Ms. McGechie discovered that in June 2021, Atomos knowingly shipped AtomX  
24 CAST units (an accessory for the Ninja, a switcher, multi-view monitor and broadcast quality  
25 recorder) that did not have any software installed and were, for all intents and purposes, paper  
26 weights.<sup>3</sup> Atomos' executives and Board members were aware that the CAST units were not  
27

28 <sup>3</sup> <https://www.cined.com/shipped-atomos-atomx-cast-units-not-working-yet-atomos-apologizes-offers-free-accessories-to-early-buyers/>.

1 functional, and that the software was still under development. Nevertheless, Atomos shipped the  
2 CAST to distributors with the explicit intent to stuff the channel and record sales to achieve the  
3 full year forecast for the fiscal year ending in June 2021. As a result, the company appeared to  
4 achieve its projected sales numbers in FY2020 – three months before the CAST software was  
5 functional – allowing Atomos executives and Board members to receive bonuses for hitting sales  
6 numbers. Customers who purchased the non-functional product reported: “To state [the CAST]  
7 were accidentally shipped is disingenuous...[Atomos] simply defrauded the customers.”<sup>4</sup> In  
8 fact, the CAST software was not ready until late September, months after the inoperable units  
9 had been shipped to the channel for sale to customers.

10 54. Ms. McGeachie also learned that in November 2020, Atomos shipped a new  
11 product, a professional color grading monitor recorder sold as the “Neon.” The company again  
12 shipped the product prematurely to record sales for FY2021 and misled shareholders about the  
13 success and traction of the Neon.

14 55. The Executive Team and Board were advised against the premature launch of the  
15 Neon by the Atomos Product Team and leading industry advisors. Prior to shipping the Neon,  
16 Atomos was aware that it had deficiencies and performance issues that were contrary to the  
17 capabilities promoted in its marketing materials. The product packaging included false and  
18 misleading statements, including that the product had Android support (it did not) and inaccurate  
19 monitor sizes. The Neon packaging also listed Dolby Vision, implying that it was an integrated  
20 feature; however, the company did not have legal clearance to use the Dolby Vision trademark  
21 and the Neon did not function with the full Dolby feature set advertised. In addition to software  
22 issues, the Neon had several hardware deficiencies.

23 56. However, because of the immense pressure to meet sales numbers, the Neon  
24 product was shipped with full knowledge of its failures. Following the launch, Atomos falsely  
25 announced to shareholders that the defective Neon product had garnered “very positive” feedback  
26 from customers.

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28 \_\_\_\_\_  
<sup>4</sup> *Id.*

1           57.     On or around October 8, 2021, Mr. Kexel informed Ms. McGechie that  
2 distributors had been returning stock. Mr. Harland also acknowledged that he was aware of – and  
3 had discussed with Mr. Kexel – merchandise that had been returned to Atomos by distributors.  
4 This was a result of Atomos’ practice of shipping inventory ahead of schedule and filling its  
5 distribution channels with far more product than they could possibly sell.

6           58.     Atomos knew or should have known that such conduct was unlawful. In late  
7 2021, with Ms. McGechie’s input and support, the Senior Vice President of Sales presented a  
8 sales analysis and plan to Mr. Harland, Mr. Cody, and Mr. Elbourne that noted concerns about  
9 historical channel stuffing by Atomos. Ms. McGechie presented the same sales analysis and plan  
10 to the Board. The presentation included a chart of actual sales through April 2021 and stated  
11 that, as a result of channel stuffing, the sales forecast was off for subsequent periods.

12 Additionally, the presentation provided information on channel stuffing and why it was illegal,  
13 along with a proposal to disincentivize the Sales Team from engaging in channel stuffing.

14           59.     However, the push to manipulate sales revenue through channel stuffing came  
15 from the very top of the company. Atomos’ executives and Board were not deterred by this  
16 report of illegal channel stuffing. Executive Chairman Tait pushed the Executive Team to hit the  
17 sales forecast for the first half of the fiscal year ending on December 30, 2021. In December  
18 2021, Mr. Tait called Mr. Kexel and told him to do anything he could to meet numbers that  
19 month. Accordingly, Mr. Kexel stuffed the channel with quantities of products that were well  
20 beyond what could be sold through. Ms. McGechie was not aware of Mr. Tait’s directive until  
21 Mr. Kexel informed her in February 2022.

22           60.     As an example of Mr. Kexel’s commitment to hitting sales goals at any costs,  
23 Mr. Kexel caused Atomos to ship two hundred Sumo 19s, a product which retails for  
24 approximately \$2,000, to a distributor in China to make sales goals for December 2021.  
25 Mr. Kexel shipped the Sumos to China in order to record revenue immediately, even though he  
26 knew or should have known that the distributor could not sell the products through to customers.  
27 Moreover, Mr. Kexel knew that there were backorders for the Sumo 19 devices in the U.S.  
28 Predictably, the Chinese distributor returned the Sumo 19s, which were then shipped to the U.S.

1 in January 2022. The only reason for this fraudulent transaction was to artificially hit sales  
2 numbers for December. Ms. McGechie was not aware of the fraudulent nature of this transaction  
3 until months later.

4 61. On February 10, 2022, Mr. Cody provided a report to the Board regarding  
5 “Receivables and Payables”, which showed that Atomos had multiple distributor invoices ageing  
6 at 60-90 days and over 90 days. These ageing invoices were indicative of the company’s pattern  
7 of channel stuffing, including making agreements with distributors to receive a large amount of  
8 product in return for unusually favorable payment terms. The former Director of Business  
9 Development informed Ms. McGechie that it was common for entire invoices to “fall off the  
10 register,” implying that the distributor’s invoice was completely written off.

11 62. During the same Board meeting, Mr. Kexel reported to the Board that Atomos did  
12 not expect further orders for products for the next few months because it had filled the channels  
13 so thoroughly in December 2021. Mr. Kexel later wrote to Ms. McGechie, the Board, the  
14 Executive Team, sales, and finance employees that Atomos had overstocked the channel in  
15 December with one to two times more product than the regular rate of previous months.

16 63. On February 15, 2022, Atomos reported its results for the first half of fiscal year  
17 2022, ending on December 30, 2021. Atomos highlighted “record revenue of \$40.9m, up 25% on  
18 pcp (previous corresponding period).”

19 64. By March 2022, Ms. McGechie’s investigation led her to raise concerns more  
20 directly and explicitly regarding channel stuffing and potential revenue manipulation.

21 65. For example, following an Executive Team meeting on March 17, 2022,  
22 Ms. McGechie shared with the Board screenshots of charts showing artificially high sales around  
23 certain financial reporting dates, followed by low sales in the subsequent months. Ms. McGechie  
24 informed Board members that the data evidenced a pattern of channel stuffing, and that it must be  
25 addressed.

26 66. At the March 17 Executive meeting, Ms. McGechie also announced that she  
27 wanted to be transparent to shareholders about the reasons why sales were low, which would  
28 affect the previously announced sales forecast. In response, the Executive Team told



1 Ms. McGechie that a revenue downgrade would be detrimental to the share price and asked her to  
2 meet with Executive Chairman Tait.

3 67. On March 20, 2022, Ms. McGechie met with Mr. Cody and an external consultant  
4 for corporate strategy and investment to draft an announcement to shareholders. The draft  
5 disclosed the company's revision of the sales forecast downward to \$79 million, instead of \$95  
6 million plus. It also described the effects of channel stuffing on Atomos' sales, which resulted in  
7 slow sales in the following period.

8 68. The following day, Mr. Cody reported that Mr. Tait instructed him not to share  
9 any of those materials with the Board. Mr. Tait then cancelled meetings he had previously set  
10 with Ms. McGechie to discuss the announcement revising the forecast. Despite Ms. McGechie  
11 raising this material information in March 2022, no announcement was made until months later,  
12 when Atomos finally announced a revision to its forecast on May 6, 2022. The Board and  
13 Executive Team thus intentionally withheld material, price-sensitive information from the public.

14 69. On March 22, 2022, Ms. McGechie requested from Mr. Cody a full accounting of  
15 executive spending for prior years. Ms. McGechie was aware of recent reports that executives  
16 had access to a "Director's fund" that was used for personal expenditures. A full disclosure of  
17 these funds was never reported to shareholders or audited. Ms. McGechie also raised the  
18 unaccounted-for funds with Board members Tait and Stanley.

19 70. On several occasions in late 2021 and again after receiving an investor report on  
20 March 22, 2022, Ms. McGechie raised concerns that Executive Director Mr. Tait and Director  
21 Yassaie had engaged in insider trading by selling millions of dollars of their stock holdings while  
22 simultaneously negotiating the exit of founder and former CEO Young from the company. Both  
23 Mr. Tait and Mr. Yassaie were aware that Mr. Young was planning to sell millions of his shares  
24 as part of his departure. Both Mr. Tait and Mr. Yassaie sold their shares mere weeks before  
25 Mr. Young sold 7 million shares, which drove down Atomos' share price drastically.  
26 Ms. McGechie discussed the impropriety of these transactions with Mr. Tait, who insisted that he  
27 had previously planned the sale of his shares. However, no documentation of the plan to sell was  
28 ever provided.

1           **E.     Atomos Retaliates Against Ms. McGechie for Whistleblowing.**  
2           71.     On April 10, 2022, Mr. Tait and Mr. Stanley held a meeting with Ms. McGechie  
3 and terminated her. Ms. McGechie was shocked, as no one at Atomos had raised performance  
4 concerns with her.  
5           72.     On April 11, 2022, Director Yassaie requested a meeting with Ms. McGechie to  
6 discuss “salvaging” the situation. During the meeting, Ms. McGechie asked why the Board had  
7 not done any investigation or interviewed employees or external partners. Mr. Yassaie responded  
8 that he “trusted” the all-male Executive Team and asked why the men would mislead the Board.  
9 Ms. McGechie responded that the Executive Team did not like being asked to do work differently  
10 and they wanted to use Ms. McGechie as a scapegoat for their own conduct. Moreover, the  
11 Board had informed Ms. McGechie at various times that it had serious performance concerns  
12 with each of the men, such that it made no logical sense that the Board would blindly trust them.  
13           73.     That evening, Ms. McGechie spoke with Mr. Tait and Mr. Stanley. Mr. Stanley  
14 conceded that, while he had received feedback from the Executive Team about Ms. McGechie,  
15 the four men had not provided examples and he did not have examples to share with her. He also  
16 said that the Executive Team had not complained until recently, which made it even more  
17 unbelievable that Atomos would base Ms. McGechie’s termination on these unsubstantiated  
18 complaints. Mr. Stanley told Ms. McGechie that the termination was because of a “style and  
19 character issue.”  
20           74.     During the call, Mr. Tait stated several times that the Executives and the Board  
21 had reconsidered and wanted to “give it a second chance” to have Ms. McGechie continue at  
22 Atomos as CEO.  
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1           75.     On April 13, 2022, Ms. McGechie spoke with Mr. Tait and Mr. Stanley. She  
2 stated that she accepted the offer to return as CEO and requested their support in resolving the  
3 issues she had raised in the past, including channel stuffing and transparency to shareholders.  
4 Ms. McGechie told them that Atomos’ unlawful channel stuffing was so blatant that the market  
5 was beginning to take note.<sup>5</sup> She stated that she had raised this issue multiple times and  
6 recommended that the Board request an audit.

7           76.     Just minutes later, after a sidebar conversation, Mr. Tait and Mr. Stanley followed  
8 up with Ms. McGechie by terminating her.

9           77.     On April 14, 2022, Atomos announced Ms. McGechie’s termination. Contrary to  
10 what it told Ms. McGechie, Atomos stated in its public announcement that her termination was  
11 due to her failure to relocate from California to Australia by January 2022. Ms. McGechie was  
12 hired in the middle of the pandemic while COVID travel restrictions were in effect in Australia.  
13 Atomos was aware of and supportive of Ms. McGechie’s efforts to work through Australia’s  
14 travel restrictions. Its public statements regarding Ms. McGechie’s termination are plainly false.

15           78.     The April 14 announcement contained further false and misleading statements  
16 regarding Atomos’ revenue forecast. The company stated, “Atomos reconfirms its FY22  
17 guidance for revenue of \$95m+ as well as an EBITDA margin of 12-15%.” As discussed above,  
18 Atomos was aware that low sales numbers in the first quarter of the year would affect its revenue  
19 forecasts, an issue which Ms. McGechie raised and prepared to announce to the market as early  
20 as March 17, 2022. However, she was prevented from doing so by Mr. Tait, with the  
21 acquiescence of the Board and Executive Team.

22           79.     Atomos continued to knowingly make false and misleading statements regarding  
23 its revenue forecast. On April 22, 2022, Atomos again stated that it “reconfirms its FY22  
24 guidance for revenue of \$95m+ as well as an EBITDA margin of 12-15%”, the exact same  
25 revenue forecast and margin.  
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28           <sup>5</sup> For example, an analyst reported on discrepancies in Atomos’ financial statements  
noting unusual items boosting profits. See <https://simplywall.st/stocks/au/consumer-durables/asx-ams/atomos-shares/news/we-think-that-there-are-issues-underlying-atomos-asxams-earn>

1 80. It was not until May 6, 2022, that Atomos finally publicly disclosed that it was not  
2 projected to meet the revenue forecast and reduced the forecast for fiscal year 2022 to \$80-90  
3 million and EBITDA margin of 6-8%. As a result, the stock tumbled over 40% in one day. The  
4 company placed the blame for slow sales on Ms. McGechie by stating that “slower than expected  
5 sales occurred in the first four months of the 2022 calendar year” and that the cause of those  
6 problems had been “corrected mid-April.”

7 81. Atomos continued to repeatedly falsely denigrate Ms. McGechie to burnish its  
8 own image. At a publicly accessible shareholder webinar held on April 14th, Mr. Tate and  
9 Mr. Elbourne falsely stated that Ms. McGechie did none of the work related to the development  
10 of the Cloud studio, and that it had been under development for two years. In fact,  
11 Ms. McGechie was the primary leader who developed the Cloud studio and strategy, including  
12 the naming, product positioning, revenue, subscription tiers, pricing modeling, technology  
13 partnerships, marketing and launch strategy, and securing key engineering and technology  
14 resources such as Mavis.

15 82. Atomos’ unlawful conduct cost Ms. McGechie millions of dollars in lost earnings  
16 and other out of pocket loss, as well as non-economic damages.

17 **LEGAL CLAIMS**

18 **FIRST CAUSE OF ACTION**

19 **(Gender Discrimination: Violation of Government Code § 12940(a))**

20 83. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
21 of paragraphs 1 through 82 as though fully set forth herein.

22 84. At all times herein mentioned, California’s Fair Employment and Housing Act  
23 (“FEHA”), Cal. Gov. Code §§ 12900, *et seq.*, was in full force and effect and was fully binding  
24 upon Defendant. Specifically, Section 12940(a) prohibits an employer from discriminating  
25 against an employee because of their gender.

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1 85. Ms. McGechie was treated less favorably than her male peers because of her  
2 gender. The male Board members and Executive Team undermined Ms. McGechie by working  
3 around her rather than including her in important business discussions. They made derogatory  
4 comments such as telling her to be quiet during meetings, that she should go along with what the  
5 male executives said without pushing back, that she was acting beyond her authority, that she  
6 was “unproven,” and that while her skills and value to the company were not in question, she was  
7 terminated for her purported “style and character issues” in managing the all-male Executive  
8 Team.

9 86. While Atomos tolerated and ratified the abusive and illegal conduct perpetrated by  
10 former and current male Executives for years, Ms. McGechie, who has a strong business record  
11 and was working around the clock to turn the company around, was micromanaged, isolated, and  
12 ultimately terminated.

13 87. As a direct, foreseeable, and proximate result of the Defendant’s unlawful actions,  
14 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment  
15 benefits and has incurred other economic losses.

16 88. As a direct, foreseeable, and proximate result of Defendant’s unlawful actions,  
17 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to  
18 the Plaintiff’s damage in an amount to be proven at the time of trial.

19 89. Defendant committed the acts herein despicably, maliciously, fraudulently, and  
20 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive  
21 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.  
22 Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to  
23 proof.

**SECOND CAUSE OF ACTION**

**(Retaliation: Violation of Government Code § 12940(h))**

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26 90. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
27 of paragraphs 1 through 82 as though fully set forth herein.

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1           91.     At all times herein mentioned, the FEHA was in full force and effect and was fully  
2 binding upon Defendant. Specifically, Section 12940(h) prohibits an employer from  
3 discriminating against an employee because the person has opposed any practices forbidden  
4 under the Act.

5           92.     Plaintiff engaged in protected activity by reporting the sexist conduct she  
6 experienced to Mr. Tait, Mr. Stanley, and Mr. Yassaie, as well as complaining to Mr. Tait and  
7 Mr. Stanley about unequal compensation terms provided to her as compared to Atomos' male  
8 CEOs. In response to Plaintiff's complaints, Atomos terminated her.

9           93.     As a direct, foreseeable, and proximate result of the Defendant's unlawful actions,  
10 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment  
11 benefits and has incurred other economic losses.

12           94.     As a direct, foreseeable, and proximate result of Defendant's unlawful actions,  
13 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to  
14 the Plaintiff's damage in an amount to be proven at the time of trial.

15           95.     Defendant committed the acts herein despicably, maliciously, fraudulently, and  
16 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive  
17 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.  
18 Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to  
19 proof.

20                                       **THIRD CAUSE OF ACTION**

21                                       **(Retaliation: Violation of Labor Code § 1102.5)**

22           96.     Plaintiff re-alleges and incorporates herein by reference each and every allegation  
23 of paragraphs 1 through 82 as though fully set forth herein.

24           97.     At all relevant times, Defendant has been subject to the requirements of California  
25 Labor Code § 1102.5, which applied to Plaintiff as an employee of Defendant.

26           98.     Defendant violated section 1102.5 by abruptly terminating Plaintiff's employment  
27 in retaliation for her reports of channel stuffing, insider trading, failure to report material price  
28 sensitive information, and Defendant's intentional sale of defective merchandise.

1 99. Plaintiff had a reasonable belief that Defendant was violating state and federal  
 2 laws by engaging in channel stuffing, which Defendant then used to make false reports to  
 3 investors in violation of Section 10(b) of the Securities and Exchange Act at 15 U.S.C. § 78j and  
 4 California Civil Code sections 1572 and 1710. Plaintiff also had a reasonable belief that  
 5 Defendant violated state and federal laws by making false statements to investors regarding its  
 6 revenue forecasts and failing to prevent its directors from engaging in insider trading using  
 7 confidential corporate information. Plaintiff also had a reasonable belief that Defendant violated  
 8 the law by knowingly selling defective products in violation of California Business and  
 9 Professions Code § 17500 and California Commercial Code § 2101 *et seq.*

10 100. As a direct, foreseeable, and proximate result of the Defendant's unlawful actions,  
 11 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment  
 12 benefits and has incurred other economic losses.

13 101. As a direct, foreseeable, and proximate result of Defendant's unlawful actions,  
 14 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to  
 15 the Plaintiff's damage in an amount to be proven at the time of trial.

16 102. Defendant committed the acts herein despicably, maliciously, fraudulently, and  
 17 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive  
 18 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.  
 19 Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to  
 20 proof.

21 **FOURTH CAUSE OF ACTION**  
 22 **(Wrongful Termination in Violation of Public Policy)**

23 103. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
 24 of paragraphs 1 through 82 as though fully set forth herein.

25 104. Defendant's termination of Ms. McGechie employment violated the fundamental  
 26 public policy of the State of California embodied by the FEHA that employers shall not  
 27 discriminate against or harass employees on the basis of gender or retaliate against employees for  
 28 reporting discrimination or harassment.

1 105. Defendant’s termination of Ms. McGechie’s employment also violated the  
2 fundamental public policy of the State of California embodied by Labor Code section 1102.5 that  
3 employers shall not retaliate against employees for reporting or objecting to what they believe is  
4 illegal conduct.

5 106. As a direct, foreseeable, and proximate result of the Defendant’s unlawful actions,  
6 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment  
7 benefits and has incurred other economic losses.

8 107. As a direct, foreseeable, and proximate result of Defendant’s unlawful actions,  
9 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to  
10 the Plaintiff’s damage in an amount to be proven at the time of trial.

11 108. Defendant committed the acts herein despicably, maliciously, fraudulently, and  
12 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive  
13 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.  
14 Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to  
15 proof.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff Estelle McGechie prays for judgment and the following specific  
18 relief against Defendant Atomos Limited as follows:

- 19 1. For compensatory damages, including but not limited to, lost equity, lost back
- 20 earnings and fringe benefits (including, but not limited to, salary and bonus wages
- 21 and equity), future lost earnings and fringe benefits, emotional distress damages,
- 22 and out-of-pocket loss, according to proof as allowed by law;
- 23 2. For injunctive relief to prevent future violations of Government Code § 12940;
- 24 3. For punitive damages as allowed by law;
- 25 4. For prejudgment interest and post-judgment interest as allowed by law;
- 26 5. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney’s
- 27 fees; and

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6. For an award of such other and further relief as the Court deems just and proper.

DATED: August 15, 2022

Respectfully submitted,  
RUDY, EXELROD, ZIEFF & LOWE, LLP

By: 

DAVID LOWE  
MICHELLE G. LEE  
ZOË R. DEGEER

*Attorneys for Plaintiff*  
ESTELLE MCGECHIE

**DEMAND FOR JURY TRIAL**

Plaintiff hereby requests trial by jury.

DATED: August 15, 2022

Respectfully submitted,  
RUDY, EXELROD, ZIEFF & LOWE, LLP

By: 

DAVID LOWE  
MICHELLE G. LEE  
ZOË R. DEGEER

*Attorneys for Plaintiff*  
ESTELLE MCGECHIE