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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SHIRLEY "RAE" ELLIS, LEAH
HORSTMAN and ELAINE SASAKI, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

COSTCO WHOLESALE CORPORATION,

Defendant.

Case No. C-04-3341 MHP

**DECLARATION OF JESSICA HARRELL
IN SUPPORT OF PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION**

1 I, Jessica Harrell, declare and state as follows:

2 1. I make this statement on the basis of my personal knowledge and, if called as a
3 witness, could and would testify competently to the facts in it. I am female, a former employee of
4 Costco, and a resident of New Jersey. While employed by the Price Club and Costco, I have also
5 used the names Jessica Barbarite and Jessica DePalma.

6 2. I was sixteen years old when I began working for Price Club in 1989. Price Club
7 merged with Costco in 1993. From September 1989 to August 1991, I worked in the Edison,
8 New Jersey Price Club store. I started as a part-time Membership Clerk and was promoted to
9 Seasonal Membership Supervisor in October 1990. I received an outstanding performance
10 review. Attached hereto as Exhibit 1 is a true and correct copy of my evaluation, entitled
11 "Employee Progress Review," dated November 30, 1990.

12 3. Because I had been promoted so quickly at the Edison store, I believed that Costco
13 would continue to reward good performance and hard work with promotions. I believed that, by
14 transferring to and assisting in opening a new warehouse, I would be able to move up in the
15 company even faster, as there would be more open positions. I submitted a transfer request and,
16 in August 1991, I transferred to the Hazlet warehouse, a new store opening in New Jersey. I
17 worked for two months as a Membership Clerk and, in October 1991, I was promoted to
18 Membership Supervisor. In February 1992, I learned that I had been promoted to Membership
19 Manager when the Warehouse Manager passed me in the stairwell and congratulated me. I was
20 told by my Warehouse Manager that, at age 18, I was the youngest manager in the history of the
21 company. I was not aware that the position was available until I was informed that I had been
22 promoted, as there was no job posting or application process.

23 4. In April 1993, Price/Costco eliminated the Membership Manager position and I
24 was forced to take a lower level position as a Membership Supervisor. The company reduced my
25 wages from an annual salary \$32,000 to an hourly wage of \$12.32, significantly reducing my
26 annual income. This was not a disciplinary demotion. Several other management positions
27 within my warehouse were also eliminated at this time; all were held by female employees.

28 5. In September 1993, I was approached by management and asked to fill the

1 position of Inventory Auditor Supervisor. Warehouse Manager Scott Simms gave me an
2 outstanding review, noting “‘accuracy, research and motivation’ ...seems [sic] to have [had]
3 come to her easily.” Attached hereto as Exhibit 2 is a true and correct copy of my evaluation,
4 entitled, “Employee Progress Review,” dated January 24, 1994.

5 6. I worked on the start-up team for the Hackensack, New Jersey store in June 1994.
6 I transferred to the location as an Inventory Auditor Supervisor, hoping to gain additional
7 experience as an Auditor in a newly opened warehouse. I received an excellent evaluation for my
8 work as an Auditor. Attached hereto as Exhibit 3 is a true and correct copy of my evaluation,
9 entitled “Price Costco Yearly Evaluation,” dated September 25, 1995. In 1996, Warehouse
10 Manager Michael Lenetto informed me that the position of Inventory Auditor Supervisor was
11 being eliminated.

12 7. Mr. Lenetto promoted me to Receiving/RTV Supervisor in approximately
13 September 1996. I do not recall bidding for this position or being interviewed for it. This again
14 was an hourly supervisor position.

15 8. In July 1997, Hackensack Assistant Warehouse Manager Mark Shore approached
16 me and offered me the position of Payroll Clerk. I was flattered that an Assistant Warehouse
17 Manager came directly to me out of over 200 employees and thought I was the best person for the
18 position. Even though taking the position meant taking a pay cut of 50 cents per hour and losing
19 my status as a supervisor, I decided to take the position. I wanted to do my part for the Costco
20 team and felt that this was a great opportunity to prove my dedication to the company. At the
21 same time, I made clear my interest in becoming a manager at Costco. In my August 1997
22 evaluation, I stated that my goal was to advance into the management ranks of Costco. Attached
23 hereto as Exhibit 4 is a true and correct copy of my evaluation, entitled “Performance
24 Evaluation,” dated August 4, 1997.

25 9. Seeking to advance my career within Costco, I responded to a general posting for a
26 new store opening in East Hanover, New Jersey. My experience at Costco Wholesale up to this
27 point had been such that whenever I helped open a new warehouse, I saw more opportunities for
28 advancement. I submitted a transfer request and transferred to the East Hanover location as an

1 Assistant Front End Manager on the new store's start-up team in September 1997. I was in
2 charge of employee hiring for the entire warehouse. After more than four years, I had finally
3 worked my way back up to junior level management. In February 1998, I was rotated to
4 Membership Manager as part of a regular rotation schedule. I continued to receive outstanding
5 performance evaluations. Attached hereto as Exhibit 5 is a true and correct copy of my
6 evaluation, entitled "Performance Evaluation," dated October 17, 1998.

7 10. Upon learning of another warehouse opening in New Jersey through a generic
8 posting in the employee break room, I submitted a transfer request. I worked on the start-up team
9 for the Union, New Jersey store and began working as an Assistant Front End Manager in
10 November 1998.

11 11. In March 1999, I approached Assistant Warehouse Manager Adam Self regarding
12 promotion to Front End Manager. The previous Front End Manager, Kathy Despangna, had
13 resigned and, as Assistant Front End Manager, I had been running the front end without the title
14 or pay of a staff level manager. I was simultaneously running the membership department. Mr.
15 Self did not promote me or tell me what I needed to do to be promoted. He did not interview me,
16 nor indicate that the job would be posted. Several weeks passed, and I continued performing the
17 tasks of Front End Manager without the title or pay. Finally, about six weeks later, I was
18 promoted to Front End Manager.

19 12. The practice in the Union store was to rotate managers in September, after the
20 inventory. In September 1999, Warehouse Manager Jeff Stohlmann rotated me to Receiving
21 Manager. Assistant Warehouse Manager Sean Boatwright gave me an exceptional performance
22 review, stating, "Jessica can be trusted to complete any and all assigned tasks promptly,
23 efficiently and without further direction." Attached hereto as Exhibit 6 is a true and correct copy
24 of my evaluation, entitled "3 C's - Capability-Compatibility-Character Performance Review,"
25 dated March 15, 2000.

26 13. In September 2000, I was rotated to Administrative Manager. As Administrative
27 Manager, I received an outstanding evaluation, which stated, "Jessica is well on the path to excel
28 to the next level; my desire is to see her in an Assistant Manager position within the next year."

1 Attached hereto as Exhibit 7 is a true and correct copy of my evaluation, entitled "3 C's –
2 Capability-Compatibility-Character Performance Review," dated April 2, 2001.

3 14. Rick Willey replaced Jeff Stohlmann as Warehouse Manager in September 2000.
4 I wanted to show Mr. Willey that I was ready for a challenge and asked him what I needed to do
5 in order to become an Assistant Manager. By this point, I had worked in three of the four staff
6 level management positions and had consistently received stellar reviews. He told me that I had
7 to work as a Merchandise Manager. Up until my conversation with Mr. Willey, I understood that
8 I needed to work in three out of the four areas of the warehouse (Front End, Receiving,
9 Merchandising and Administration) as a staff level manager before I could become an Assistant
10 Warehouse Manager. Although nowhere was it written in Costco employee literature, I had
11 repeatedly heard this 'three out of four' requirement from my co-workers. In fact, I had
12 personally observed at least one male employee, Eric Myers, get promoted to Assistant Manager
13 having rotated through only two of the four areas, merchandise and front end. In addition, at no
14 point in my career had I heard that Merchandise Manager had to be one of the three managerial
15 positions held.

16 15. Mr. Willey told me that he wanted me to become an Assistant Manager in his
17 store. He said that he wanted to rotate me into Merchandise Manager sooner than the annual
18 September rotations because the sooner I completed a merchandise rotation, the sooner I would
19 become eligible for promotion to Assistant Warehouse Manager.

20 16. I mentioned to Mr. Willey that my husband and I were trying to have a baby. He
21 told me that he did not think having a baby was a good career move and said that the store could
22 not function without me. He said that if I became pregnant, he would not rotate me into the
23 Merchandise Manager position.

24 17. In July 2001, I told Mr. Willey that my husband and I had stopped trying to have a
25 baby. Mr. Willey then rotated me into the Merchandise Manager position in September 2001.

26 18. I excelled in my first few months as Merchandise Manager, as was evident in the
27 outstanding performance of my first floor walk. The 'walk' is the visit by senior regional
28 managers through the warehouse. Mr. Willey informed me that the walk was the best score the

1 Union, New Jersey warehouse had ever received. I was excited that Mr. Willey still seemed
2 intent on helping me succeed in Costco management.

3 19. During my rotation as Merchandise Manager, I met a co-worker outside of the
4 building and he asked me what I was doing at Costco. I told him that I was working as a
5 Merchandise Manager and his reply was, "Are you a dyke?" There were other incidents when I
6 heard co-workers refer to women in management as "dykes." On one occasion, I heard a co-
7 worker remark that a female Assistant Warehouse Manager "was like a man anyway."

8 20. In March 2002, my supervisor Mark Williams informed me that the Bridgewater,
9 New Jersey warehouse was looking for a new Assistant Warehouse Manager. I had successfully
10 completed rotations in all four staff-level management positions. I had worked for the company
11 for almost 13 years. I had successfully held many positions, from hourly through junior staff
12 management and now all four senior staff management positions. I had consistently received
13 excellent reviews. My most recent review, during my rotation as Administrative Manager, stated
14 that I was utilizing my assets to exceed all the goals my manager had set for me and that I quickly
15 grasped the requirements of my assignments. I had shown my willingness to be a team player. I
16 had never been told of any shortcomings that would prohibit my promotion to Assistant Manager.
17 I was ready to take the next step towards my goal of becoming a Warehouse Manager.

18 21. I interviewed with the Bridgewater Warehouse Manager Lorry Janus, who had
19 been my supervisor at Price Club in Edison, New Jersey. During the interview, she told me that
20 she was very excited at how far I had come with Costco and she felt that I was ready for the
21 position of Assistant Warehouse Manager.

22 22. I did not hear back from the warehouse for several weeks, so I called Ms. Janus.
23 She informed me that she was not the ultimate decision maker nor had she heard who would be
24 filling the Assistant Warehouse Manager position. A few days later, East Coast Regional
25 Manager Yoram Rubinenko called me and told me that I was not chosen because I was "not
26 ready" for the position. Mr. Rubinenko offered no further details. Neither he nor anyone else
27 told me why I was "not ready" or what I needed to do to become ready for promotion to Assistant
28 Warehouse Manager. I was given no guidelines or goals to meet.

1 23. I continued to serve as Merchandise Manager, although my supervisor changed
2 from Mark Williams to Leonard Wohlgemuth, a Warehouse Manager who had come in to the
3 Union warehouse temporarily to assist with merchandising.

4 24. On two separate occasions, Mr. Wohlegemuth, my supervisor, made sexual
5 comments in reference to my breasts--once, while we were in the back of the bakery and once,
6 while we were on a floor walk. On another occasion, he came into the main office where I was
7 working early in the morning and said, "There's my baby. Daddy's home." After I returned from
8 a sick day, Leonard ran across the warehouse and threw his arms around me. In the midst of a
9 floor walk, he harassed me by asking me if I would go to Las Vegas with him.

10 25. During this time, I informed Assistant Warehouse Manager Honor Delafuente that
11 I was applying for a second job because I was going through a divorce and needed to supplement
12 my income. I decided that it was important that he was aware that I was looking for additional
13 employment in case he was contacted as a reference. Several weeks later, he told me that if I
14 needed money, he would give me \$500 if I agreed to have sex with him. I refused.

15 26. I did not use the Open Door policy to report Mr. Delafuente because I was also
16 being sexually harassed by Leonard W. I did not know to whom to report the sexual harassment
17 because everyone in upper level management (above my supervisor) was male. I had recently
18 been denied the Assistant Warehouse Manager position in Bridgewater and I did not want my
19 actions to be viewed as a response to that. I was aware of at least one female co-worker who was
20 retaliated against for reporting sexual harassment. I felt that, in order to be promoted in the
21 future, and to succeed in an already unsupportive work environment, I was better off not reporting
22 the sexual harassment I had endured.

23 27. In September 2002, I was rotated back into the Receiving Manager position. Two
24 months later, I received my first negative performance appraisal after 13 years as a Costco
25 Wholesale employee. Honor Delafuente completed my performance appraisal for my
26 Merchandise Manager rotation, although he was not my supervisor for most of the time period
27 being evaluated. Attached hereto as Exhibit 8 is a true and correct copy of my evaluation, entitled
28 "Performance Appraisal," dated November 13, 2002.

1 28. During both of my rotations as Receiving Manager, it was common practice at the
2 Union warehouse to leave the bread racks outside while we were receiving merchandise. On
3 Fourth of July weekend, Warehouse Manager Scott Simms approached me on the receiving dock
4 and asked that I move the bread racks inside. I told Mr. Simms that I would move the racks.
5 Because it was a holiday weekend, there was an overstock of seasonal type merchandise on the
6 dock. I was unable to move the bread racks at that time. When we were finished receiving for
7 the day, I cleaned the dock and moved the bread racks inside the warehouse. Several hours later,
8 as I was preparing to leave for the day, Mr. Simms informed me that the bread racks were
9 supposed to be moved urgently and that the City of Union, New Jersey had previously fined
10 Costco for leaving the bread racks outside. For this, I received an Employee Counseling Notice.
11 I was surprised by this disciplinary action, as Mr. Simms had not told me that Costco faced more
12 fines if the racks were not moved immediately.

13 29. In September 2003, Mr. Simms asked me if I would be willing to return to the
14 administrative department because he heard that I did an outstanding job as Administrative
15 Manager and the current male Administrative Manager was failing to perform to standards.
16 Though I still wanted a promotion to Assistant Warehouse Manager and had already served as
17 Administrative Manager, I accepted the rotation. While working as Administrative Manager, I
18 restructured the Costco Safety Committee on my own initiative, which was responsible for raising
19 company morale. It also lowered workers' compensation, which saved the company money. Co-
20 workers and managers repeatedly complimented me on my success in getting the program up and
21 running.

22 30. In the fall 2003, I requested three days of vacation in November. I knew that there
23 was generally a vacation blackout period after November 1, but I thought it might be acceptable.
24 I waited and received no response to my request. I observed three men, all managers, receive
25 permission to take vacation during the blackout period. Approximately three days before I was to
26 leave on vacation, my Warehouse Manager approached me and told me I could not take my
27 vacation. For the first time in the 15 years of my employment, I used the Open Door policy and
28 called senior managers, the Senior Vice President and the Executive Vice President. These senior

1 managers yelled at me, and asked me who I thought I was to make such a request. Only when
2 they confirmed what I had told them, that three male managers had been allowed vacation after
3 the blackout, was I allowed my three days. I was told this would never happen again. My
4 Warehouse Manager expressed anger at me for going over his head.

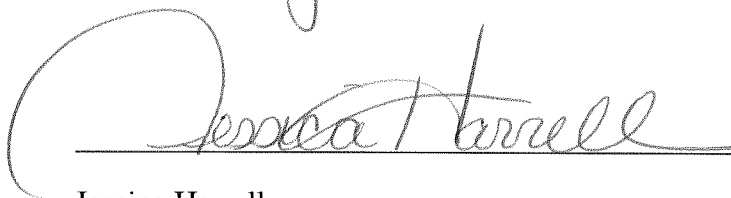
5 31. Several months later, I was told that \$3000 was missing from the vault, and that it
6 had disappeared on the very day that I had used the Open Door. This was the first I had heard of
7 any missing funds, although it apparently occurred month before. I asked for the opportunity to
8 view the video footage of the vault, and was denied the chance to view this video.

9 32. In March 2004, Costco terminated my employment and claimed dishonesty to be
10 the reason for my termination. I did not take any money, and did not engage in any dishonest
11 acts. I have filed a state court case disputing my discharge.

12 33. I chose to participate in this case because I feel that as a woman I was overlooked
13 for promotion into management positions and was not given the tools to succeed in Costco
14 management. I was not given the same opportunities as my male co-workers. My main objective
15 as a class member is to ensure that women coming up in the ranks of Costco have equal access to
16 promotion opportunities.

17 34. I declare under penalty of perjury under the laws of the United States that the
18 foregoing is true and correct.

19 Executed this 23rd day of 2006, in August, New Jersey.

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22 _____
23 Jessica Harrell

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