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Proposed Class

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
(SAN FRANCISCO DIVISION)

SHIRLEY "RAE" ELLIS, et al.,  
Plaintiffs,  
v.  
COSTCO WHOLESALE CORPORATION  
Defendant.

Case No. C04 3341 MHP

**DECLARATION OF SHIRLEY  
"RAE" ELLIS IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
CLASS CERTIFICATION**

1 I, Shirley "Rae" Ellis, declare:

2 1. I am a named plaintiff in this action. I was discriminated against by Costco  
3 management who wrongfully denied me promotion to Warehouse Manager and retaliated against  
4 me for complaining about gender discrimination. I left my employment at Costco in December  
5 2004. I am female and live in Arvada, Colorado.

6 2. Prior to working at Costco, I had nearly 20 years of management experience as the  
7 owner of my own business, as manager of a nursery/landscape business, and as General Manager  
8 at a Sam's Club for five years. Sam's Club, a division of Wal-Mart, is a membership-based  
9 retail warehouse, and the chief competitor of Costco. As the General Manager at Sam's Club, I  
10 was responsible for the operation of the entire store, or 'club.' My duties included budget,  
11 payroll, and merchandising. This position is the equivalent of a Warehouse Manager at Costco.

12 3. In Fall 1997 when I was still a General Manager at Sam's Club, another Sam's Club  
13 manager, Vicki Zimmerman, told me that Costco Regional Vice President John Gaherty was  
14 recruiting managers for Costco. I sent him my resume and was granted an interview. In that first  
15 interview and in several others that followed, Mr. Gaherty told me about the financial  
16 opportunities at Costco as well as the possibility of promotion to General Manager and beyond.  
17 During that interview and subsequent ones, I told Mr. Gaherty that, due to my age and extensive  
18 experience, I did not want to come to Costco just to be an Assistant Manager.

19 4. In July 1998 after being actively recruited by Mr. Gaherty, I was offered a position as  
20 an Assistant Manager/MIT in Costco's Madison Heights, Michigan warehouse. Before I  
21 accepted the position, I reiterated to Mr. Gaherty that I would be willing to take the step down in  
22 pay and seniority only if I was to be promoted soon to Warehouse Manager. Mr. Gaherty told  
23 me that there were going to be at least 100 new buildings opening in the middle of the country  
24 and that I would be promoted within a year. He also explained that as a manager hired from  
25 another company, I was given the title "Manager In Training," which meant there would be only  
26 a short waiting period before I was given my own building. He told me that he, too, had been  
27 hired as an MIT and had to wait only eight months before he was promoted to Warehouse  
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1 Manager. Regional Vice President John Portera affirmed that time frame in a separate meeting  
2 that I had with him before I was hired.

3 5. Two weeks after I was hired, I met Costco CEO Jim Sinegal. Mr. Sinegal had called  
4 me to request that I attend a managers' meeting at company headquarters in Issaquah,  
5 Washington. I was introduced to him as an MIT. I told him that I didn't come to Costco to be an  
6 Assistant Manager, but to run my own warehouse.

7 6. In the next year I transferred twice, once to the Roseville, Michigan warehouse, where  
8 I worked for five months, and then to the West Bloomfield Hills, Michigan warehouse, where I  
9 worked for another year and a half. I remained an Assistant Manager/MIT.

10 7. During this time, I continued to express an interest in promotion. I told anyone and  
11 everyone of my desire for a promotion. I used Costco's Open Door process to speak with my  
12 Warehouse Manager Wendy Davis, Vice President of Human Resources Ron Rothman, Vice  
13 President Richard Webb, Director of Personnel Judy Vadney and many other managers about my  
14 interest. I told them I would be willing to relocate anywhere for the promotion, although I  
15 preferred California, Florida or Texas. Despite these frequent conversations, I was not  
16 promoted.

17 8. While an Assistant Manager in Michigan, I became aware of several openings for  
18 Warehouse Manager, but only after the positions were filled. These positions were not posted  
19 and I had no way of knowing when and where there were openings. Despite my clear interest  
20 and qualifications and despite being promised a promotion by many in top levels of  
21 management, I was not made aware of these openings, nor was I offered an interview. Most of  
22 these openings went to men – in several cases to men who had less experience than I did  
23 (including Clay Gloyne, Rafael Reveron and Brian Thomas). Throughout my time at Costco, I  
24 never fully understood the process for becoming a Warehouse Manager. I knew of no written  
25 policies about the process for promotion to Warehouse Manager or the qualifications needed to  
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1 become a Warehouse Manager. In the many discussions I had with executives, no one ever  
2 explained precisely what was required or how the decisions were made.

3 9. In Summer 2000, my mother became ill and I asked to transfer to Colorado to be  
4 closer to her. At the time, I told Regional Vice President Roger Peterson that I would only need  
5 to be in Colorado for a year or so. Before I transferred, I asked Mr. Gaherty whether I would be  
6 hurting my chances for promotion if I moved to Colorado. I had already been an Assistant  
7 Manager for two years. Mr. Gaherty assured me that the transfer would not hurt my chances.  
8 Years later, my Warehouse Manager Jim Lincoln and Mr. Sinegal told me that the transfer to  
9 Colorado had limited my promotional opportunities. I transferred to the Aurora, Colorado  
10 warehouse in August 2000. When I moved to Colorado, I lived in my mother's house. I  
11 continued to work 40-50 hours a week as an Assistant Manager. I did not want to invest in a  
12 home in case I was offered a building outside of the area.

13 10. After I had been in Colorado for six months, my mother recovered from her illness. I  
14 told Mr. Lincoln and Mr. Peterson that my mother was better and I was again able to relocate  
15 anywhere as a Warehouse Manager.

16 11. In early 2002, shortly before he died, I talked with Mr. Rothman about my frustration  
17 at not getting promoted. I told him that I was disappointed in Costco because there seemed to be  
18 no commitment or effort to advance women. I told him I felt there was some kind of club that  
19 women were not given access to and that I was personally upset that I had not yet been  
20 promoted. He told me he would consider what I said and would talk to some other managers.

21 12. Throughout my time at Costco, until 2004, I had received excellent reviews.  
22 Attached as Exhibit 1 is a true and correct copy of my performance review, entitled  
23 "Performance Evaluation," dated July 24, 1999. Attached as Exhibit 2 is a true and correct copy  
24 of my performance review, entitled "Annual Salaried Employee Review," dated April 12, 2001  
25 ("[Rae] is already capable of running a warehouse of her own and is immediately promotable.").  
26 Attached as Exhibit 3 is a true and correct copy of my performance review, entitled

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1 "Performance Appraisal," dated April 15, 2003. In fact, I was selected to be an instructor for  
2 Costco University, which meant that I taught other managers about Leadership, Managing a  
3 Diverse Workforce and other subjects. While I was in Michigan, I was the only Assistant  
4 Manager to teach these courses; generally they were taught by Warehouse Managers. Despite  
5 these qualifications and the many promises from Costco management that I would get my own  
6 building, I was still not promoted nearly four years after I had been hired.

7 13. On or about October 24, 2002, having been an Assistant Manager for more than four  
8 years, I filed a Charge of Discrimination with the Equal Employment Opportunity Commission  
9 (EEOC) through my attorney. Attached as Exhibit 4 is a true and correct copy of the EEOC  
10 charge dated, October 24, 2002. Attached as Exhibit 5 is a true and correct copy of the Notice of  
11 Right to Sue which I received from the EEOC.

12 14. After I filed the charge against Costco, Mr. Peterson called me into his office. With  
13 Mr. Lincoln present, he said to me, "I don't give a shit what you say, they didn't promise you a  
14 fucking thing." When I tried to respond, he said, "I'm not talking about this," and walked out of  
15 the office. Our once cordial relationship changed in other ways. Whenever Mr. Peterson visited  
16 our warehouse for a tour, I would try to talk with him about getting promoted. He would not  
17 respond to my requests for meetings, sometimes ignoring me completely. I sent him several  
18 letters and emails expressing my desire to be promoted. Attached as Exhibit 6 is a true and  
19 correct copy of a letter to Roger Peterson, dated August 29, 2002. He did not respond. Even  
20 when I would call him about work-related issues, he would not return my calls. Instead, he  
21 would respond to my warehouse manager, Jim Lincoln.

22 15. I was invited to attend the annual managers' conference in August 2003. There I  
23 arranged a meeting with Executive Vice President Dennis Zook to speak with him about a  
24 promotion. I had now been an Assistant Manager for five years, and had seen many new  
25 buildings opened and men promoted to the Warehouse Manager positions. Mr. Zook asked me  
26 why I had not spoken with him before I filed a charge with the EEOC. I told him Mr. Peterson  
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1 had forbade us from talking with any managers above him in the hierarchy about our concerns.  
2 Mr. Zook then told me that he understood that I was only interested in working in Colorado. I  
3 explained to him that I was not limited to Colorado, and had not been so limited for two and a  
4 half years. I said that, although I had some preferences for where I would relocate, I had always  
5 made it clear that I would be willing to go anywhere I was needed. He promised he would keep  
6 his ear to the ground for opportunities and recommended that I contact vice presidents in other  
7 states.

8 16. Soon after, I called Bay Area Regional Vice President Dennis Hoover. I left several  
9 phone and email messages but did not hear back from him.

10 17. During this time, Vice President Bob Hicok visited the warehouse for warehouse  
11 tours. On each of those occasions, I would approach him to talk about promotion opportunities.  
12 Though he was cordial before I filed the EEOC charge, he now refused to talk with me. One  
13 time, he refused to shake my hand.

14 18. In January 2004, I received a call from Mr. Zook. He told me that Mr. Sinegal was  
15 coming to the warehouse for a walk and would like to speak with me privately. After the walk,  
16 Mr. Sinegal asked me to sit at the food court with him. He sat down facing out to a large group  
17 of senior managers who had accompanied him on this visit. My back was to them, and they were  
18 close enough to hear and observe the conversation. The warehouse was still open, so there were  
19 co-workers and customers sitting at neighboring tables. I felt embarrassed and intimidated to be  
20 confronted by the CEO under such public circumstances. During this meeting, Mr. Sinegal told  
21 me that he was concerned about my lawsuit. He said that sometimes people "fall through the  
22 cracks." He told me that, for the delay in my promotion and the other problems I had  
23 experienced, he was very sorry and that mistakes were made. He then asked me if I believed in  
24 the Open Door process. I told him I did and that I was still interested in being promoted. I  
25 understood this comment to be an implicit criticism of my filing a charge of discrimination. Mr.  
26 Sinegal then asked me if I would be willing to move to Texas. I told him I would go to work  
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1 anywhere I could get the opportunity to become a Warehouse Manager. He then said, "Well,  
2 then I will have Dennis Zook call you in a short while and we'll take care of that." Mr. Zook  
3 never called.

4 19. On March 8, 2004, soon after I returned from vacation, I met with Regional Vice  
5 President Ron Vachris and Vice President of Operations Mike Mosteller. Mr. Vachris  
6 confronted me with vague "employee complaints" about my conduct, in some cases going back  
7 several years. None of the alleged complaints had ever been brought to my attention before, nor  
8 included in any of my annual written performance reviews. I was surprised by these accusations  
9 and when asked to respond to them, I said I would not admit to things I did not do.

10 20. Based solely on these unfounded and unproven accusations, I was subject to  
11 "disciplinary action." In addition to receiving a written reprimand, I was transferred 40 miles to  
12 the Costco building in Denver that is furthest from my home, requiring a daily round-trip  
13 commute of several hours. I was told that I had to complete "sensitivity training" that could last  
14 as long as six months. Concerned about my prospects for promotion because of this disciplinary  
15 action, I asked Mr. Vachris if I was still being considered for promotion. He told me in no  
16 uncertain terms that I was no longer being considered for promotion. I believe I was disciplined  
17 in retaliation for filing a charge of gender discrimination against the company. On April 23,  
18 2004, I filed a retaliation charge with the EEOC. Attached as Exhibit 7 is a true and correct copy  
19 of that charge. Attached as Exhibit 8 is a true and correct copy of the Notice of Right to Sue  
20 which I received from the EEOC.

21 21. After this incident, I felt I was no longer being treated fairly by management. I once  
22 again attempted to use Costco's Open Door policy to address my concerns. Attached as Exhibit  
23 9 is a true and correct copy of my letter to Mr. Sinegal dated April 13, 2004.

24 22. At this time, a third Assistant Manager, Matt Keersmaker, was brought in to help run  
25 the building. Store Manager Ed Blewitt gave Matt a desk in my office which was already very  
26 small. I could not sit at my desk without bumping into him. I felt this was another example of  
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1 Costco trying to push me out of the company. In addition, Mr. Blewitt began following me  
2 around the store. If I began to do a floor walk, he would suddenly appear. If I went outside to  
3 take a phone call, he would follow me outside. Even when I used the restroom, I would find  
4 him waiting outside the ladies' room with his arms crossed waiting for me.

5 23. Because I had been told I was no longer being considered for promotion and because  
6 I felt I was being subjected to stricter scrutiny and higher standards than other Costco  
7 management, I resigned from Costco in November 2004. Attached as Exhibit 10 is a true and  
8 correct copy of my resignation letter dated November 22, 2004. I now own my own business  
9 where I help with retirement planning and serve as a mortgage loan officer.

10 24. My beliefs about the widespread nature of gender discrimination were reinforced by  
11 conversations I had with other senior female Costco managers. One manager, Jennifer Thurman,  
12 told me that she felt she was not promoted because her Warehouse Manager was concerned  
13 about promoting her because she had children. Wendy Davis, my former Warehouse Manager,  
14 told me that, in her experience, if you're a woman at Costco, you have to work ten times better  
15 than any man to get promoted.

16 25. During my career at Costco, I worked in five buildings in two states (Michigan and  
17 Colorado). From my experience, Costco policies were the same in all five warehouses.  
18 Management structure and schedules were generally the same. In new warehouses, the  
19 merchandise managers generally would arrive at 4:00 a.m. while in established warehouses, they  
20 would arrive at 6:00 a.m. In all the warehouses where I worked, receiving managers started their  
21 shift at 4:00 a.m.

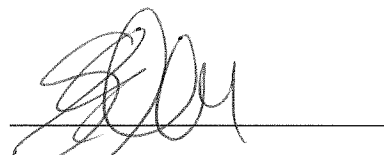
22 26. I decided to become a named plaintiff in this action because I was unfairly denied  
23 promotional opportunities at Costco and because I was unfairly retaliated against for filing a  
24 claim of gender discrimination. My primary goals are to ensure that the employment practices at  
25 Costco that hinder the progress of women wishing to enter management be changed, and to  
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1 ensure fair and equitable treatment of female employees. I understand the responsibilities of a  
2 named plaintiff and I am prepared to fulfill my duties to the women in the class.

3 27. I have personal knowledge of the facts contained in this declaration and, if called as a  
4 witness, am competent to testify to those facts. I declare under penalty of perjury under the laws  
5 of the United States of America that the foregoing is true and correct.

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7 This Declaration was signed by me on August 22, 2006, at  
8 Arvada, Colorado.

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11 Shirley Ellis

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