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16  
17 **UNITED STATES DISTRICT COURT**  
18 **DISTRICT OF ARIZONA**  
19

20 Brian Netzel; Travis Smith; Eric  
21 Langkamp; and Nancy Larson,  
22 individually, and on behalf of others  
23 similarly situated;

24 Plaintiffs,

25 vs.

26 American Express Company; and DOES  
27 1 through 10, inclusive;

28 Defendants.

Case No. CV-22-01423-PHX-SMB

**CLASS ACTION**

FIRST AMENDED COMPLAINT FOR  
INJUNCTIVE/DECLARATORY RELIEF  
AND DAMAGES:

**Violations of Title VII of the Civil Rights  
Act of 1964 (42 U.S.C. 2000e, *et seq.*), 42  
U.S.C. § 1981, and California’s Fair  
Employment and Housing Act,  
Government Code § 12900, *et seq.***

**Jury Trial Demanded**

1 Individual and Representative Plaintiffs, Brian Netzel, Travis Smith, Eric  
2 Langkamp, and Nancy Larson, on behalf of themselves and all others similarly situated,  
3 allege, upon personal knowledge as to themselves and upon information and belief as to  
4 other matters, as follows:

5 **INTRODUCTION**

6 1. This case is a tragic illustration of the universal truth that “racial engineering  
7 does in fact have insidious consequences.” *Fisher v. University of Texas at Austin*, 570 U.S.  
8 297, 331 (2013) (Scalia, J., concurring).

9 2. Defendant American Express is a global, multi-billion dollar financial  
10 services firm with over 60,000 employees. When the company’s Board of Directors and its  
11 CEO, Stephen Squeri, decided that they wanted the percentage of black employees in the  
12 company to match that of the U.S. population, American Express implemented policies to  
13 achieve that numerical goal without any regard for employees in disfavored racial  
14 categories or existing civil rights laws.

15 3. American Express used a carrot-and-stick approach for enforcing its racial  
16 quotas. Executives were given financial incentives that accounted for at least 15% of their  
17 annual bonus to decrease the percentage of white employees in their departments. Those  
18 who were unwilling to make employment decisions based purely on race rather than merit  
19 were lambasted, punished, and even terminated.

20 4. The tactics became exponentially more aggressive after the death of George  
21 Floyd. American Express installed black individuals in executive positions across the  
22 country in unprecedented numbers with the intent that they would help to expedite its  
23 agenda. In many cases, as further described below, the results exceeded expectations.

24 5. Once American Express and Mr. Squeri handed down their racial engineering  
25 marching orders, it gave executives *carte blanche* to ruthlessly implement a racial caste and  
26 quota system in the company. For instance, upon information and belief, one executive  
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1 explicitly told the directors working below him in a meeting that “we are only hiring black  
2 people from now on.” Afterwards, this same executive harshly and severely reprimanded  
3 his underling for hiring someone who was not black.

4 6. This situation and many like it played out throughout the company. In recent  
5 mass layoffs, the burden was disproportionately felt by white employees where, in some  
6 teams, the only individuals who were not let go were black.

7 7. American Express also reiterated its policies through constant race trainings  
8 and messaging to employees. The company repeatedly instructed its workers that black  
9 employees and customers were to be given favorable treatment and there would be “zero  
10 tolerance” for racial incidents of any kind. However, enforcement of the rules only flowed  
11 one way so that black employees and customers became untouchable.

12 8. Like in any society whose authorities enforce rules differently based on  
13 identity group membership, life at American Express became racially toxic—especially for  
14 white employees. The company’s policies incentivized coworkers and supervisors to use  
15 race as a cudgel through which personal grudges and ambitions could be executed. Upon  
16 information and belief, this resulted in hundreds of white employees being terminated or  
17 forced to leave the company because they could not tolerate the racially repressive  
18 environment.

19 9. For those that remained, American Express deducted the difference between  
20 the working conditions promised and those received from their hearts and their self-esteem  
21 and their mental health.

## 22 PARTIES

23 10. Plaintiff Brian Netzel (“Netzel”), who is white, was employed at all relevant  
24 times herein by Defendant and was an “employee” within the meaning of 42 U.S.C. §  
25 2000e(f).  
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1           11. Plaintiff Travis Smith (“Smith”), who is white, was employed at all relevant  
2 times herein by Defendant and was an “employee” within the meaning of 42 U.S.C. §  
3 2000e(f).

4           12. Plaintiff Eric Langkamp (“Langkamp”), who is white, was employed at all  
5 relevant times herein by Defendant and was an “employee” within the meaning of 42  
6 U.S.C. § 2000e(f).

7           13. Plaintiff Nancy Larson (“Larson”), who is white, was employed at all  
8 relevant times herein by Defendant and was an “employee” within the meaning of 42  
9 U.S.C. § 2000e(f).

10           14. Upon information and belief, Defendant American Express Company  
11 (“AmEx”) is a corporation organized under the laws of the State of New York and is  
12 headquartered at 200 Vesey Street, New York City, NY 10285. At all relevant times herein,  
13 AmEx employed more than 500 employees and is an “employer” within the meaning of 42  
14 U.S.C § 2000e(b) and California Government Code § 12926(d).

15           15. Plaintiff is not aware of the true names and capacities of the defendants sued  
16 as DOES 1-10, inclusive, and therefore sue these defendants by such fictitious names. Each  
17 of these fictitiously named defendants is responsible in some manner for the activities  
18 alleged in this complaint. Plaintiff will amend this complaint to add the true names of the  
19 fictitiously named defendants once they are discovered.

20           16. Plaintiff alleges, on information and belief, that at all times relevant hereto  
21 each of the defendants, including each DOE, was the agent, principal, servant, master,  
22 employee, employer, joint-venturer, partner, successor-in-interest, and/or coconspirator of  
23 each other defendant and was at all said times acting in the full course and scope of said  
24 agency, service, employment, joint venture, concert of action, partnership, successorship, or  
25 conspiracy, and that each defendant committed the acts, caused or directed others to  
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1 commit the acts, or permitted others to commit the acts alleged in this complaint and is  
2 itself liable for the conduct of the named defendants herein.

3 **JURISDICTION AND VENUE**

4 17. This Court has original subject matter jurisdiction over this case pursuant to  
5 28 U.S.C. §§ 1331 and 1343 because it arises under the laws of the United States and is  
6 brought to recover damages for deprivation of equal rights.

7 18. In addition, this Court has supplemental jurisdiction over the California state  
8 law claims under 28 U.S.C § 1367 because they arise from a common nucleus of operative  
9 facts with the federal claims and are so related to the federal claims as to form part of the  
10 same case or controversy under Article III of the United State Constitution.

11 19. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)-(c) and 42  
12 U.S.C. § 2000e-5(f)(3) because Defendant conducts business and can be found in this  
13 district and a substantial part of the events and omissions giving rise to the claims alleged  
14 herein occurred in this district, and because the alleged unlawful employment practices  
15 were committed here, and employment records relevant to that practice are maintained and  
16 administered here.

17 20. Plaintiff, Brian Netzel, has exhausted administrative remedies and complied  
18 with all statutory prerequisites to Plaintiffs' Title VII claims, which satisfies the exhaustion  
19 requirement for the other named plaintiffs and the proposed Class.

20 21. Plaintiff, Nancy Larson, has exhausted administrative remedies and complied  
21 with all statutory prerequisites to Plaintiffs' claims under California's Fair Employment and  
22 Housing Act ("FEHA"), which satisfies the exhaustion requirement for the proposed  
23 California Subclass.

24 **FACTUAL ALLEGATIONS**

25 22. Over the past several years Defendant has been subject to multiple  
26 government and regulatory investigations regarding deceptive and illegal business  
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1 practices.<sup>1</sup> Aside from paying out over \$200 million in fines and penalties, AmEx also  
2 faced damage to its brand from the scandals.

3 23. Upon information and belief, Defendant sought to launder its reputation by  
4 implementing a variety of “social justice” policies that would deflect attention away from  
5 the bad publicity. The most prominent policy was aimed at increasing the percentage of  
6 black employees in the company, whether through hiring, promotion, or termination.

7 24. Upon information and belief, AmEx executed this policy with a callous  
8 indifference towards civil rights laws or the welfare of the employees whose lives would be  
9 upended by it.

### 10 AmEx’s Corporate Structure

11 25. Due to its size and variety of services it provides AmEx is divided into  
12 approximately 12 “business units” that represent different branches of its operations.

13 26. Each business unit is subdivided into “groups” that are led by a president who  
14 serves directly under the company’s CEO. The groups are further separated, based on  
15 operational needs, into departments serving geographic “regions,” or national customer  
16 bases under a high-ranking Vice President (“VP”). In some groups the departments are also  
17 broken down into smaller “teams” of approximately eight people who function under a  
18 “director.” Under the directors are managers who interact with clients and sometimes  
19 supervise a small number of other employees.

20 27. At AmEx each employee is categorized with a “band” number which  
21 signifies their role in the hierarchy. The bands range from “25” for an entry level position  
22 all the way to “100” which is the CEO.

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26 <sup>1</sup> For example, Defendant was fined \$96 million by the U.S. Consumer Financial  
27 Protection Bureau over discriminatory terms in its credit card agreements in Puerto Rico and  
28 other U.S. territories and \$85 million for illegal card practices. Upon information and belief,  
American Express is also currently being investigated by the IRS for giving illegal and faulty  
tax advice with multiple other investigations pending.

1 28. Leadership positions start with band 35 which is a client-facing manager or  
2 entry-level supervisor. Band 40's are directors with more people reporting to them than  
3 band 35's. VP's are staggered in bands 45-60.

4 29. The racially discriminatory policies at issue were predominantly focused on  
5 increasing the percentage of black employees in bands 35 and higher.

6 **AmEx Institutes Racially Discriminatory Policies**

7 30. Before Mr. Squeri replaced Ken Chenault—one of AmEx's most successful  
8 and beloved CEO's—in 2018, the company's hiring and promotion policies were  
9 meritocratic and transparent to employees. This contributed to a satisfying working  
10 environment where employees felt like compensation and advancement hinged on the  
11 quality of their performance rather than the color of their skin.

12 31. The policies radically shifted after Mr. Squeri became CEO. The culture and  
13 environment at AmEx changed dramatically. Upon information and belief, instead of merit  
14 and past performance, race became the dominant factor for individual hiring and promotion  
15 decisions.

16 32. AmEx's racial engineering policies became exponentially more aggressive  
17 and overt after the death of George Floyd in May 2020 with AmEx's "anti-racism  
18 initiative."

19 33. The company's entire outward focus and agenda became explicitly about  
20 catering exclusively to black employees and customers, to the exclusion of every other  
21 business objective.

22 34. Mr. Squeri began subjecting all AmEx employees to frequent, racially  
23 charged "town halls" where he decried America and his own company as "systemically  
24 racist."

25 35. During the town halls Mr. Squeri also suggested that employees must view  
26 each other's race, first and foremost, when interacting with each other—the reason being  
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1 that white employees all harbor some form of bigotry; and that any dissent from this  
2 established narrative would not be tolerated. This was enforced through the announcement  
3 of a “zero tolerance” policy for opposition to AmEx’s forcibly injecting race into the  
4 workplace.

5 36. Upon information and belief, Mr. Squeri’s “town halls” and the clear policy  
6 directives he created gave the green light to other executives to insert racially charged  
7 messaging into their own meetings with their subordinates. However, the executives’ race-  
8 consciousness was reserved only for black employees. Other racial minorities, while not  
9 villainized like white employees, were ignored and made to feel insignificant. AmEx’s  
10 ‘diversity and inclusion’ push obsessively focused on black employees, making their  
11 colleagues feel inadequate and disposable.

12 37. Black employees began to be promoted in far higher numbers than before.

13 38. Upon information and belief, in many departments directors were not  
14 permitted to make hiring decisions unless there were enough black candidates in the pool.

15 39. Upon information and belief, in some instances, hiring managers were told to  
16 comb through resumes to specifically find black-sounding names so they could single them  
17 out for interviews, regardless of qualifications for the position.

18 40. AmEx’s racial obsession also made its way into employee trainings. Notably,  
19 AmEx’s employee training sessions—which include the usual compliance, human  
20 resources, and similar modules—are always conducted at the beginning of the calendar  
21 year. After George Floyd’s death, the company held race-based indoctrination trainings in  
22 August and September.

23 41. The trainings focused on topics like “microaggressions” and “unconscious  
24 bias” and were almost exclusively framed as lessons to white employees about how to  
25 conduct themselves around their black coworkers.



1           42. For instance, white employees were instructed to take a back seat in relation  
2 to their black coworkers, like always letting them speak first in meetings and endorse  
3 whatever they say. White workers were also told “don’t touch black people’s hair.” No  
4 admonishments were given to black employees nor did the trainings direct black employees  
5 on how they should conduct themselves around other races.

6           43. AmEx’s “anti-racism initiative” engaged in other harmful stereotypes against  
7 white employees and deliberately maximized their psychological distress. The explicit  
8 promise of many of the policies associated with the initiative was to create discomfort in  
9 white employees because of their race.

10           44. Indeed, it became rare for several days to go by without seeing the term  
11 “uncomfortable conversations” in company-wide communications. However, it was only  
12 white employees who they meant to make “uncomfortable” because of their race. AmEx  
13 made it clear that it would strictly apply its “zero tolerance” policy to any conversations  
14 that created discomfort in any other racial group.<sup>2</sup>

15           45. This was enforced through a Stasi-like “see something, say something” policy  
16 regarding racial issues that encouraged employees to anonymously report white coworkers  
17 for violations. Because the policies were explicitly advertised as being necessary for the  
18 “safety” of black colleagues, they created a tense, racially charged atmosphere that left  
19 white employees walking on eggshells, terrified of doing or saying anything that would  
20 prompt an allegation of racism, no matter how spurious.

21           46. Conversely, black employees were able to bully and abuse white coworkers  
22 so long as it was couched in the language of “anti-racism.”

23           47. Simultaneously, AmEx recreated all of its marketing and promotion materials  
24 from scratch so they were mostly black.

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27           <sup>2</sup> AmEx’s uneven, race-based enforcement of its “zero tolerance” policy is discussed in  
28 more detail, *infra*.

1           48. AmEx also spent tens of thousands of dollars to create Black Lives Matters  
2 (“BLM”) stickers to give to merchants, some of whose stores were burned down during the  
3 BLM riots.

4           49. AmEx’s policies extended to its customers and cardholders as well. Upon  
5 information and belief, the company modified its financial qualifications specifically to  
6 expand the net of black cardholders.

7           50. Additionally, AmEx announced new policies that would terminate the  
8 accounts of members it felt mistreated black employees and fire employees who were  
9 accused of mistreating black customers. AmEx did not extend these same protections to  
10 white cardholders or employees who faced similar mistreatment from black individuals.

11           51. In one case, upon information and belief, a white employee was working with  
12 a black merchant who was applying for a business account. When the merchant was told  
13 she could not open a card without documentation required by AmEx’s guidelines the  
14 merchant became extremely hostile and abusive. The white employee told her that she was  
15 cut off from services because of her conduct. Shortly thereafter, the white employee was  
16 terminated by AmEx.

17           52. Upon information and belief, the employee was terminated because of his  
18 race and AmEx’s race-based policies.

19                   **AmEx Executives Put Its Racial Engineering Policies into Practice**

20           53. During a company-wide town hall, in or about July 2020, Mr. Squeri gave a  
21 presentation with slides that showed the percentage of black employees in every single  
22 band within the company. Mr. Squeri stated that in every band the percentage of black  
23 employees must be increased to match that of the U.S. population by 2023. Mr. Squeri also  
24 stated that if employees were not happy with the quota system being implemented that they  
25 should find another place to work.  
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1           54. At no point did Mr. Squeri bring up Equal Employment Opportunity  
2 guidelines or a commitment to uphold non-discrimination legal requirements when  
3 discussing his race-conscious policies.

4           55. Mr. Squeri also announced that employees would be allowed to go back and  
5 change their racial identity in the company's files.

6           56. Additionally, Mr. Squeri stated that AmEx had recently done a "pay equity"  
7 audit which found any disparity in pay between races to be "statistically insignificant."  
8 Despite this Mr. Squeri said he would again review the pay of all "people of color" (read  
9 "black") in the company to assure parity. This review ended with pay raises for many black  
10 employees but not white employees.

11           57. The policies instituted by AmEx gave preferential treatment to individuals for  
12 being black and unambiguously signaled to white employees that their race was an  
13 impediment to getting ahead in the company.

14           58. Upon information and belief, executives were given the go-ahead to increase  
15 the number of black employees in the desired bands and reduce the percentage of white  
16 employees without any regard for anti-discrimination laws.

17           59. In or about October 2020 AmEx promoted a black director, Malcolm  
18 Browne, to VP/GM of Foreign Exchange and International Payments ("FXIP") in one of its  
19 largest groups, Global Commercial Services ("GCS"). Upon information and belief, soon  
20 after obtaining this role Mr. Browne got rid of several non-black directors who were his  
21 direct reports and replaced them with three black individuals even though there were a  
22 disproportionate number of people of other races who were better qualified.

23           60. Upon information and belief, Mr. Browne is the same executive who told his  
24 directors in a meeting that "we are only hiring black people from now on." Additionally,  
25 when one of his subordinates hired a minority who was not black Mr. Browne chastised  
26 him saying, "you hired the wrong minority."  
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1           61. In another instance, upon information and belief, in or about September 2020  
2 a Group President of another of AmEx’s largest groups hired someone from an outside  
3 company to report directly to him. This took place during an explicit outside hiring freeze  
4 decree at AmEx, meaning that no executives from outside the company could be hired.  
5 Additionally, the Group President had preached for years about not hiring “job jumpers”  
6 (individuals who’ve worked at several companies in a short period of time). However, the  
7 hire had worked for three companies in the preceding four years but was still hired, in  
8 direct violation of the Group President’s own policy. Both the Group President and his hire  
9 are black.

10           62. Additionally, upon information and belief, the Group President had to create  
11 an entirely new position, Executive VP, to bring his hire into AmEx. This put the Executive  
12 VP directly above a white VP who was the Group President’s previous direct report. The  
13 white VP had a meteoric rise in the company due to several successful projects.

14           63. Upon information and belief, shortly after entering the position created just  
15 for her, the black Executive VP terminated the white VP and replaced him with a person of  
16 color.

17           64. Upon information and belief, during a presentation the Executive VP bragged  
18 that her success at AmEx was due to her being a “triple-threat”—black, female, and  
19 lesbian.

20           65. This was a common theme at AmEx once Mr. Squeri’s policies started to  
21 permeate the company. Upon information and belief, in the aforementioned groups—which  
22 generate the majority of AmEx’s revenue and have the largest number of employees—nine  
23 or more people of color were promoted in 2019/2020 to executive roles compared to only  
24 two or three whites. Upon information and belief, many highly qualified white applicants  
25 were overlooked for these promotions due to their race.  
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1           66. Upon information and belief, AmEx’s race-based policies caused a  
2 disproportionate decrease in the number of white employees hired or promoted into  
3 leadership roles.

4           67. For white employees in the targeted bands the prospect of a promotion  
5 became grim no matter how qualified they were, especially if they were competing against  
6 black coworkers.

7           68. Upon information and belief, when AmEx conducted rounds of mass layoffs  
8 in or about the third quarters of 2021 and 2022, respectively, white employees were let go  
9 in wildly disproportionate numbers. Conversely, black employees were retained at rates  
10 that far exceeded their representation within the affected bands. Indeed, upon information  
11 and belief, in some teams the only individuals who were not laid off were black.

12           69. In another instance of AmEx’s discriminatory policies, upon information and  
13 belief, a Senior VP brought in a woman from a different company with whom he had  
14 previously worked. Both are black. The Senior VP promoted the woman to a Director  
15 leadership position, with many employees working under her, even though, upon  
16 information and belief, she was completely unqualified for the position and there were  
17 many superior non-black candidates for the role.

18           70. Upon information and belief, while in her new role the Director pushed to  
19 have a white subordinate hire the Director’s chosen candidate for an open position. The  
20 candidate, who was black, was not qualified and a person of a different race was hired for  
21 the position. Upon information and belief, the Director created a new position with a six-  
22 figure salary just to bring in the candidate because she was black. All of this was approved  
23 by the Senior VP.

24           71. Upon information and belief, soon after AmEx’s “zero tolerance” policies  
25 were implemented a white senior VP and General Manager (“GM”) was fired by AmEx  
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1 because her young daughter made an innocuous comment about a black doll in her doll  
2 collection which she was showing during a Zoom meeting.

3 72. Upon information and belief, the GM attempted to have an endearing moment  
4 on a Zoom with her employees, as many managers did during the pandemic, to alleviate the  
5 stress and anxiety of social isolation. The GM had her young daughter with her and had her  
6 talk about the dolls she had in her collection. While discussing the various make-believe  
7 roles the dolls played she mentioned the black doll was the dishwasher, or a comment to  
8 that effect.

9 73. Days later the GM was terminated by AmEx with a company-wide email  
10 announcing that the company would not tolerate “racially insensitive” statements. The  
11 individual who replaced the GM was black.

### 12 CLASS ACTION ALLEGATIONS

13 74. Plaintiffs bring this action on behalf of themselves and as a class action,  
14 pursuant to the provisions of Rules 23(a), (b)(2), (b)(3), and (c)(4) of the Federal Rules of  
15 Civil Procedure on behalf of the following class (collectively, the “Class”):

#### 16 **The Nationwide Class**

17 All past, present, or potential white employees of American Express in  
18 bands 30 and higher who, as a result of the operation of past, current, or  
19 planned policies and practices, have been, are being, or will be discriminated  
20 against in the terms and conditions of employment, including but not limited  
21 to recruitment, hiring, promotions, training, and discharge because of their  
22 race.

#### 23 **The California Subclass**

24 All past, present, or potential white employees of American Express in  
25 bands 30 and higher, in the state of California, who, as a result of the  
26 operation of past, current, or planned policies and practices, have been, are  
27 being, or will be discriminated against in the terms and conditions of  
28 employment, including but not limited to recruitment, hiring, promotions,  
training, and discharge because of their race.

1  
2 75. Certification of Plaintiffs' claims for class-wide treatment is appropriate  
3 because Plaintiffs can prove the elements of their claims on a class-wide basis using the  
4 same evidence as would be used to prove those elements in individual actions alleging the  
5 same claim.

6 76. This action has been brought and may be properly maintained on behalf of  
7 the Class proposed herein under Federal Rule of Civil Procedure 23.

8 77. Numerosity. Federal Rule of Civil Procedure 23(a)(1): The members of the  
9 Class and Subclass are so numerous and geographically dispersed that individual joinder of  
10 all class members is impracticable. While Plaintiffs are informed and believe that there are  
11 not less than thousands of members of the Class and Subclass, the precise number of class  
12 members is unknown to Plaintiffs, but may be ascertained from AmEx's books and records.  
13 Class members may be notified of the pendency of this action by recognized, Court-  
14 approved notice dissemination methods, which may include U.S. mail, electronic mail,  
15 Internet postings, and/or published notice.

16 78. Commonality and Predominance: Federal Rule of Civil Procedure 23(a)(2)  
17 and 23(b)(3): This action involves common questions of law and fact, which predominate  
18 over any questions affecting individual class members, including, without limitation:

- 19 a. whether Defendant engaged in the conduct alleged herein;
- 20 b. whether Defendant's policies and practices amount to discrimination  
21 or preferential treatment on the basis of race;
- 22 c. whether Defendant instituted policies and customs that created a  
23 racially intimidating work environment;
- 24 d. whether Defendant created racial quotas for leadership positions;
- 25 e. whether plaintiffs are entitled to declaratory relief that Defendant has  
26 violated 42 U.S.C. §§ 1981, 2000e, *et seq.*, and California Government  
27 Code § 12900, *et seq.*;
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- 1 f. whether equitable remedies, injunctive relief, compensatory damages,  
2 and punitive damages for the Class and Subclass are warranted, and;
- 3 g. whether Defendant has failed to implement policies and procedures to  
4 prevent retaliation against employees who challenge discrimination in  
5 the workplace and failed to address complaints and conduct proper  
6 investigations.

7 79. Typicality: Federal Rule of Civil Procedure 23(a)(3): Plaintiffs' claims are  
8 typical of the other class members' claims because, among other things, all class members  
9 were comparably injured through AmEx's wrongful conduct as described above.

10 80. Adequacy: Federal Rule of Civil Procedure 23(a)(4): Plaintiffs are adequate  
11 class representatives because their interests do not conflict with the interests of the other  
12 members of the Class and Subclass they seek to represent; Plaintiffs have retained counsel  
13 competent and experienced in class action litigation; and Plaintiffs intend to prosecute this  
14 action vigorously. The Class and Subclass's interests will be fairly and adequately  
15 protected by Plaintiffs and their counsel.

16 81. Declaratory and Injunctive Relief: Federal Rule of Civil Procedure 23(b)(2):  
17 AmEx has acted or refused to act on grounds generally applicable to Plaintiffs and the other  
18 members of the Class and Subclass, thereby making appropriate final injunctive relief and  
19 declaratory relief, as described below, with respect to the Class and Subclass as a whole.

20 82. Superiority: Federal Rule of Civil Procedure 23(b)(3): A class action is  
21 superior to any other available means for the fair and efficient adjudication of this  
22 controversy, and no unusual difficulties are likely to be encountered in the management of  
23 this class action. The class members have been damaged and are entitled to recovery as a  
24 result of Defendant's common, uniform, unfair, and discriminatory policies and practices.  
25 Further, individualized litigation creates a potential for inconsistent or contradictory  
26 judgments, and increases the delay and expense to all parties and the court system. By  
27 contrast, the class action device presents far fewer management difficulties, and provides  
28



1 the benefits of single adjudication, economy of scale, and comprehensive supervision by a  
2 single court.

3 83. Alternatively, class certification with respect to particular issues is  
4 appropriate pursuant to Federal Rule of Civil Procedure 23(c)(4).

5 **CLAIMS OF REPRESENTATIVE PLAINTIFFS**

6 **Brian Netzel**

7 84. Plaintiff Brian Netzel started working for AmEx in or about 2010. He was  
8 soon promoted from a salesperson to a specialist for corporate card sales. After a few years  
9 Mr. Netzel was again promoted to a client manager in the Global Merchant Network  
10 Services (“GMNS”) group in AmEx’s Phoenix office.

11 85. During his employment at AmEx Mr. Netzel consistently received positive  
12 reviews and won many awards, including for leadership.

13 86. As a band 35 client manager Mr. Netzel occupied one of the positions  
14 specifically targeted by Mr. Squeri and AmEx with their racially discriminatory policies.

15 87. In or about 2019 a new VP/GM was transferred to Mr. Netzel’s group from  
16 the New York office. Upon information and belief, this executive, Therese Banks, had a  
17 bad reputation among her colleagues for her management style and was promoted at the  
18 insistence of the Group President, discussed above, rather than the executive directly above  
19 her (who was white and would normally be responsible for the promotion).

20 88. Upon information and belief, Ms. Banks was promoted solely due to her race.

21 89. In her new role Ms. Banks, who is black, preferentially treated and promoted  
22 black employees while creating a racially hostile work environment for white employees.

23 90. Upon information and belief, Ms. Banks explicitly stated on several occasions  
24 that the race of black candidates must be considered when making employment decisions.  
25 For instance, during one executive meeting Ms. Banks harshly criticized a white underling  
26 for a purely merit-based decision to not promote a black subordinate.

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1           91.    Upon information and belief, at the time Ms. Banks was transferred to Mr.  
2   Netzel's office one out of the six directors under her were black.

3           92.    Upon information and belief, soon after Ms. Banks obtained her new role she  
4   harassed and bullied two white male directors out of their positions and replaced them by  
5   promoting two black managers. At the time, blacks represented less than 10% of the  
6   candidate pool.

7           93.    Upon information and belief, of the four director positions that opened up  
8   while Ms. Banks was VP/GM, three went to blacks. One position was kept open by Ms.  
9   Banks for approximately six months and eventually filled by a white candidate because no  
10   black candidate could be found during that time.

11          94.    Upon information and belief, Ms. Banks promoted several blacks to  
12   leadership positions even though they did not have a college degree. This is significant  
13   because Ms. Banks consistently told her team that she would not promote people to those  
14   roles without a degree.

15          95.    Upon information and belief, Ms. Banks denied promotions to multiple white  
16   candidates because they did not have a college degree.

17          96.    Upon information and belief, on at least one occasion, Ms. Banks forced a  
18   white subordinate to hire a black candidate over a white candidate even though the black  
19   candidate did not have a college degree and was less qualified.

20          97.    Additionally, Ms. Banks created an uncomfortable and racially hostile  
21   environment for her white employees. Ms. Banks' actions became worse after George  
22   Floyd's death and in the context of Mr. Squeri's racialized messaging and AmEx's  
23   mandated racial indoctrination trainings.

24          98.    After one of these trainings Mr. Netzel notified AmEx of his opposition to  
25   what he believed was the racially discriminatory nature of AmEx's recent actions and  
26   messaging.

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1           99. Upon information and belief, Ms. Banks’ leadership style was to aggressively  
2 berate and harass white employees; many times during meetings in front of other workers.  
3 However, black employees were never subjected to the same treatment.

4           100. Upon information and belief, Ms. Banks would also assign too many tasks to  
5 white employees and retaliate against them if they complained by chastising them and  
6 giving them poor performance reviews.

7           101. Upon information and belief, Ms. Banks also held regular, racially segregated  
8 work meetings whose members referred to themselves as the “black girls magic” club and  
9 included several executives previously described in this complaint.

10           102. On or about October 30, 2020, Mr. Netzel’s employment was terminated by  
11 Ms. Banks. Mr. Netzel was terminated because of his race and because he spoke out against  
12 AmEx’s racially discriminatory policies.

13           103. Upon information and belief, Ms. Banks was one of the executives who  
14 received financial incentives from AmEx to reduce the percentage of whites in her  
15 department.

16           104. All of Ms. Banks’ actions as an executive were consistent with the  
17 expectations and policies promulgated by AmEx and encouraged by the company and Mr.  
18 Squeri.

19           105. AmEx was aware of Ms. Banks’ racially discriminatory conduct. AmEx was  
20 also aware that Ms. Banks—while in her executive role—engaged in continuous unlawful  
21 activity that violated various employment statutes and company policies. However, unlike  
22 Mr. Netzel and countless other white employees, AmEx did not take any disciplinary action  
23 against Ms. Banks, much less terminate her employment. This was solely due to Ms.  
24 Banks’ race and AmEx’s racist policies.

25           106. On or about August 12, 2021 Mr. Netzel filed a charge of discrimination with  
26 the Equal Employment Opportunity Commission (“EEOC”). On or about August 25, 2021  
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1 Mr. Netzel filed a supplemental charge of retaliation. On or about June 2, 2022 Mr. Netzel  
2 received a Notice of Right to Sue from the EEOC.

3 **Travis Smith**

4 107. In or about March 2016, Plaintiff Travis Smith began working for AmEx as a  
5 band 30 individual contributor in sales with the Commercial Acquisition Group (“CAG”)  
6 within GCS.

7 108. In his first year Mr. Smith outperformed expectations by nearly doubling his  
8 new account acquisition goals and far exceeding his target in sales. Mr. Smith also showed  
9 promising leadership skills and in 2017 was promoted to a band 35 senior manager in CAG,  
10 leading a team of approximately 10 individuals.

11 109. Because AmEx’s values at that time reflected a commitment to meritocracy  
12 and awarded excellence, Mr. Smith fully dedicated himself to being a valued leader and  
13 contributor. At that time he believed that he would have a long and fruitful career at AmEx  
14 where his hard work would translate into success.

15 110. However, things drastically changed after Mr. Squeri became the CEO.

16 111. Previously, it was customary at AmEx for high-achieving individual  
17 contributors like Mr. Smith, who showed exemplary leadership abilities, to be promoted to  
18 director roles after a few years with the company. Based on this precedent Mr. Smith  
19 applied for a band 40 director role in CAG.

20 112. Mr. Smith’s first interview for the role went well and he was then set up for a  
21 second interview. This interview was with Malcolm Browne, mentioned earlier in this  
22 complaint.

23 113. From the start of the interview Mr. Browne addressed Mr. Smith in a  
24 demeaning manner and harangued him with irrelevant questions that sought to make Mr.  
25 Smith feel inferior and unwanted. The interview ended with Mr. Browne telling Mr. Smith,  
26 “you are not worth my time.”  
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1           114. Upon information and belief Mr. Smith was treated that way by Mr. Browne  
2 because of his race.

3           115. Mr. Smith started to experience ever-increasing racial hostility at AmEx after  
4 his interview with Mr. Browne.

5           116. In or about late 2020 Mr. Smith wanted to fill an open role on his team. He  
6 proposed who he thought was the strongest candidate for the position to his director.  
7 However, the director rejected the candidate because they were white. When Mr. Smith  
8 objected to making hiring decisions based on race and repeated to his director that the  
9 candidate presented was the most qualified his director stated, “I don’t care...I need a black  
10 female.”

11           117. Upon information and belief, the directive to only hire someone black came  
12 from Mr. Browne.

13           118. Subsequently, Mr. Smith was subjected to repeated trainings and lectures  
14 which reminded him that there were too many white people in leadership positions at  
15 AmEx, that he was a racist and privileged because he was a white male and because he  
16 approached life with a colorblind mentality.

17           119. During one of these trainings Mr. Smith spoke up and objected to being  
18 treated differently because of his race. His complaints were not investigated or even  
19 considered by AmEx.

20           120. Upon information and belief, during this time Mr. Browne removed several  
21 white directors from their roles. Mr. Smith encouraged two of his team members to apply  
22 for a role as a director. Both were extremely qualified. Both were denied promotions which  
23 went to a black male who was not nearly as qualified but was personally chosen by Mr.  
24 Browne.

25           121. When the white directors were eliminated, it left a leadership void that  
26 resulted in Mr. Smith having to report directly to Mr. Browne. This caused Mr. Smith to  
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1 experience extreme anxiety and terror given the racially hostile environment created by Mr.  
2 Browne with the full backing of AmEx. Despite this, Mr. Smith continued to lead his team  
3 to perform at a high level in order to support his family.

4 122. Eventually, Mr. Smith applied for a promotion that he believed would help  
5 him avoid the consequences that befell his other white colleagues. Unfortunately, Mr.  
6 Browne ended up being one of the interviewers. Only minutes into the interview Mr.  
7 Browne began to belittle and bully Mr. Smith.

8 123. After the interview Mr. Browne sent Mr. Smith a scathing email which  
9 continued to gaslight him, accusing Mr. Smith of “disrespect” and “rudeness,” claiming he  
10 was “not fit for leadership” despite his objectively verifiable accomplishments. All of Mr.  
11 Browne’s statements in the email were malicious and materially false.

12 124. Upon information and belief, Mr. Smith was mistreated because of his race  
13 and because he spoke out against AmEx’s racially discriminatory practices and policies.

14 125. Upon information and belief, AmEx was aware of Mr. Browne’s racially  
15 discriminatory conduct and helped to facilitate it.

16 126. Mr. Browne’s conduct was so outrageous that Mr. Smith was forced to seek  
17 leave under the Family and Medical Leave Act (“FMLA”) as a result of the stress.

18 127. At this point Mr. Smith realized that the intolerable, racially hostile  
19 conditions and unlawful retaliation at AmEx would only get worse. He knew that if he  
20 stayed at the company he would have to endure further fear, humiliation, and harassment as  
21 well as likely termination by Mr. Browne.

22 128. Having no other reasonable choice, Mr. Smith made the difficult decision to  
23 resign from AmEx.

24 **Eric Langkamp**

25 129. In or about April 2017, Plaintiff Eric Langkamp began working for AmEx as  
26 a band 35 manager of business development in GCS.

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1           130. In or about 2020 Mr. Langcamp, like all of his fellow coworkers, was  
2 subjected to racially discriminatory trainings and mandatory “town halls” from the CEO  
3 and management that accused him of having privilege because of his white skin.

4           131. At the same time, while preaching that capitalism was racist, AmEx publicly  
5 announced to all of its employees that no one would be receiving merit or annual raises due  
6 to the financial impact of COVID.

7           132. However, Mr. Langcamp soon found out that a member of his team, who was  
8 black, received a raise that year. Notably, of the 7 members on Mr. Langcamp’s team, the  
9 individual who received a raise was the lowest performing and below his performance  
10 quota. None of the other members of Mr. Langcamp’s team, who were all above their  
11 quotas, were black.

12           133. Upon information and belief, when the black employee asked his director if  
13 he received the raise because of his race, the director confirmed that he did. This employee  
14 was so disgusted that AmEx gave him preferential treatment because of his race that he  
15 resigned from the company.

16           134. Upon information and belief, AmEx gave raises to many other black  
17 employees while publicly telling workers that no one would be receiving them. No white  
18 employees received raises during this time.

19           135. Soon after that AmEx was involved in a major scandal related to its sales  
20 practices. In response, the company instituted a series of rules for its salespeople that would  
21 result in \$1,000 fines and penalties for each violation.

22           136. However, just like its raises, AmEx enforced its sales rules in a racially  
23 discriminatory manner. Mr. Langcamp discovered that while his white coworkers were  
24 being fined and, in some cases terminated, for violating these rules—AmEx did not enforce  
25 these rules against his black coworkers who had committed demonstrable infractions.

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1           137. In or about May 2022, AmEx terminated approximately 70% of its sales  
2 department in GCS. Upon information and belief, the terminations were conducted in a  
3 racially discriminatory manner with white employees bearing the brunt of this burden and  
4 black employees being spared specifically because of their race.

5           138. After seeing the majority of his white colleagues terminated, punished, and  
6 treated deplorably because of their race, the suffocating and hostile environment at AmEx  
7 became intolerable for Mr. Langcamp. As a result, he was forced to resign from the  
8 company in January 2022.

9           **Nancy Larson**

10           139. Plaintiff Nancy Larson was constructively terminated by AmEx in June 2022  
11 after 29 years with the company.

12           140. In late 2019 she was a Director of Account Development covering the Los  
13 Angeles area and had a team of employees under her (the "LA Team"). Ms. Larson led  
14 multiple national initiatives and was a top performer in sales.

15           141. During this time, Ms. Larson was hiring for an open position on her team.  
16 The candidates were a black male and a white male. Ms. Larson's VP, Monica Singh,  
17 pressured Ms. Larson to hire the black candidate in furtherance of AmEx's racial  
18 engineering policies.

19           142. Upon information and belief, Ms. Singh was one of the executives who  
20 benefitted financially from making her department less white.

21           143. The candidate Ms. Singh selected failed to meet performance expectations.  
22 When Ms. Larson attempted to take corrective action with him like any other employee in  
23 this situation Ms. Singh reprimanded her and told Ms. Larson she needs to be an "ally,"  
24 stating that the employee should be given special treatment because of his race.

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1           144. When Ms. Larson objected to treating employees differently based on race  
2 Ms. Singh retaliated against her by giving her a poor performance review which negatively  
3 affected Ms. Larson’s annual compensation.

4           145. Although Ms. Larson was second among six directors in sales and received  
5 positive feedback from her team for her leadership skills Ms. Singh gave higher  
6 performance reviews to non-white leaders who performed significantly worse.

7           146. Upon information and belief, Ms. Singh prioritized non-white leaders who  
8 implemented AmEx's racially discriminatory policies above those who excelled in their  
9 core job functions of leadership and sales.

10           147. Ms. Singh made life difficult for Ms. Larson after she objected to giving  
11 preferential treatment to black employees. Ms. Singh continually criticized Plaintiff,  
12 undermined her ideas in front of other leaders, and rated her below her actual performance.

13           148. During this time Ms. Larson noticed that whites in her department were being  
14 disproportionately denied job opportunities and promotions and were being subjected to  
15 inferior treatment.

16           149. At one of AmEx’s Critical Race Theory trainings, which Ms. Singh insisted  
17 on attending with Ms. Larson’s team, employees were tasked with speaking about  
18 discrimination. A white woman who was dating a black man shared her story where she  
19 said she was not well received by her boyfriend’s family because of her race. The woman  
20 was immediately shut down by Ms. Singh and prohibited from telling her story.

21           150. Upon information and belief, Ms. Singh followed up with the woman to  
22 specifically tell her that “Steve” (the company’s CEO) wants her to be an “ally, ” that white  
23 privilege is real and that she, as a white woman, could not experience discrimination.

24           151. Ms. Singh’s conduct had a ripple effect on other white employees who began  
25 to fear that they too would be retaliated against if they spoke honestly about their  
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1 experiences. This was exacerbated by Ms. Singh constantly reminding these employees of  
2 Mr. Squeri's "vision" for the company which they had to endure for months on end.

3 152. Ms. Larson faced continuing pressure from Ms. Singh to treat her workers  
4 differently based on race. On multiple occasions, when Ms. Larson attempted to manage  
5 the performance of her white employees she was told to manage them to a "new career,"  
6 meaning "out" of AmEx. However, when it came to black employees, Ms. Larson received  
7 completely different feedback and was instructed to be an "ally."

8 153. Ms. Larson's refusal to treat her workers differently based on race resulted in  
9 her transfer from the LA team to the Orange County team. However, the discriminatory and  
10 retaliatory conduct from Ms. Singh continued.

11 154. Ms. Larson's position on the LA Team was given to a black outside hire. This  
12 new LA Director struggled to competently lead his workers, leading to many complaints  
13 against him. Ms. Singh blamed the LA Director's struggles on Ms. Larson, claiming that  
14 she did not support this Director sufficiently, even though Ms. Larson no longer had any  
15 connection to that team and did everything to help him succeed at the time of her departure.

16 155. When Ms. Larson realized she would continue to be retaliated against for her  
17 opposition to AmEx's discriminatory policies she applied for a transfer to a similar sales  
18 position in Austin, TX.

19 156. One of the people who conducted the interview was Therese Banks,  
20 previously mentioned herein. During the interview Ms. Banks acted dismissively and  
21 condescended to Ms. Larson because she did not have a college degree.

22 157. The reason Ms. Larson did not have a degree is because she had to leave  
23 college at the age of 21 to support her then-husband and raise her son. Despite this she was  
24 able to become a top-performing salesperson and accomplished leader at a time when  
25 AmEx rewarded merit. Additionally, a college degree should have been irrelevant because  
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1 Ms. Larson was applying for the same position she was already succeeding at, just in a  
2 different location.

3 158. Ms. Banks ended up giving the Austin job to a younger black male with no  
4 sales experience.

5 159. Sometime before her own interview with Ms. Banks, Ms. Larson had referred  
6 a white candidate with eight years of sales experience for a sales role in Ms. Banks’  
7 organization. Upon information and belief, Ms. Banks declined to even interview the  
8 candidate, who did not have a college degree, and instead gave the job to a black candidate  
9 who just graduated college and had no sales experience.

10 160. This was yet another instance where Ms. Banks discriminated against a white  
11 employee using the pretext of a college degree as a requirement (she notably promoted  
12 several blacks without a degree).

13 161. AmEx's discriminatory policies and practices shut Ms. Larson out from  
14 advancement and compensation commensurate with her performance and created an  
15 intolerably hostile environment because she is white.

16 162. Having no other reasonable choice, Ms. Larson was forced to resign from  
17 AmEx in June 2022.

18 163. On or about September 9, 2022 Ms. Larson filed an administrative charge  
19 against AmEx and received a Notice of Right to Sue from the California Department of  
20 Fair Employment and Housing (“DFEH”) pursuant to the California Fair Employment and  
21 Housing Act.

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**CAUSES OF ACTION**

**COUNT 1 – VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964  
(42 U.S.C. 2000e, *et seq.*) AND 42 U.S.C. § 1981  
Unlawful Race Discrimination  
(On behalf of all Plaintiffs and the Class)**

164. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint as if fully set forth herein.

165. This claim is brought by Individual and Representative Plaintiffs on behalf of themselves and the Class they represent.

166. Defendant has engaged in an intentional, company-wide, and systematic pattern and/or practice of discrimination against non-black—and specifically white—employees in bands 30 and higher.

167. Defendant has engaged in an intentional, company-wide, and systematic pattern or practice of discrimination against its employees by, among other things:

- a. Creating racial quotas for leadership positions at AmEx;
- b. Giving executives financial incentives for reducing the number of white employees in their departments;
- c. Giving preferential treatment to black employees in hiring, promotions, salary, and other terms and conditions of employment;
- d. Requiring employees to make hiring and promotion decisions based on race and disciplining or chastising employees who refused to comply;
- e. Targeting white employees for harassment during AmEx’s “diversity” trainings, executive “town halls,” and through its “see something, say something” policies;
- f. Engaging in disparate treatment of white employees for termination and discipline.

1           168. Defendant’s invidious race discrimination adversely affected the terms,  
2 conditions, and privileges of Plaintiffs’ and the Class’s employment.

3           169. Defendant’s discriminatory conduct created an intolerable working  
4 environment for Plaintiffs and the Class.

5           170. As a further direct and proximate result of said unlawful employment  
6 practices Plaintiffs and the Class suffered the indignity of discrimination and invasion of  
7 their right to be free from discrimination.

8           171. As a further direct and proximate result of said unlawful employment  
9 practices, Plaintiffs suffered extreme emotional distress, shame, intimidation, humiliation,  
10 indignation, embarrassment, and fear.

11           172. Defendant’s discriminatory and unlawful employment practices identified in  
12 this complaint have been intentional, deliberate, willful, systematic, and conducted in  
13 callous disregard of the federally protected rights of Plaintiffs and the Class. As a result,  
14 Plaintiffs and the Class are entitled to compensatory and punitive damages.

15           **COUNT 2 – VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**  
16                                   **(42 U.S.C. 2000e, *et seq.*) AND 42 U.S.C. § 1981**  
17                                   **Unlawful Racial Harassment/Hostile Environment**  
18                                   **(On behalf of all Plaintiffs and the Class)**

19           173. Plaintiffs repeat and reallege each of the foregoing allegations in this  
20 Complaint as if fully set forth herein.

21           174. Defendant’s policies and practices created a working environment heavily  
22 charged with racial discrimination and intimidation. These policies and practices subjected  
23 Plaintiffs and the Class to a racially hostile work environment.

24           175. As a further direct and proximate result of said unlawful employment  
25 practices Plaintiffs and the Class suffered the indignity of discrimination and invasion of  
26 their right to be free from discrimination.  
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1 176. As a further direct and proximate result of said unlawful employment  
2 practices, Plaintiffs suffered extreme emotional distress, shame, intimidation, humiliation,  
3 indignation, embarrassment, and fear.

4 177. Defendant's discriminatory and unlawful employment practices identified in  
5 this complaint have been intentional, deliberate, willful, systematic, and conducted in  
6 callous disregard of the federally protected rights of Plaintiffs and the Class. As a result,  
7 Plaintiffs and the Class are entitled to compensatory and punitive damages.

8 **COUNT 3 – VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**  
9 **(42 U.S.C. 2000e, *et seq.*) AND 42 U.S.C. § 1981**

10 **Retaliation**

11 **(On behalf of Plaintiffs Netzel, Smith, and Larson, individually)**

12 178. Plaintiffs repeat and reallege each of the foregoing allegations in this  
13 Complaint as if fully set forth herein.

14 179. When Plaintiffs complained about AmEx's racially discriminatory policies,  
15 practices, and hostile environment Defendant retaliated against them for their protected  
16 civil rights activity.

17 180. Defendant took adverse action against Plaintiffs with the purpose of  
18 retaliating against them because of their participation in protected activity, and Plaintiffs  
19 suffered damages as a result of the that conduct.

20 181. As a further direct and proximate result of said unlawful employment  
21 practices, Plaintiffs suffered extreme emotional distress, shame, intimidation, humiliation,  
22 indignation, embarrassment, and fear.

23 182. Defendant's discriminatory and unlawful employment practices identified in  
24 this complaint have been intentional, deliberate, willful, systematic, and conducted in  
25 callous disregard of the federally protected rights of Plaintiffs. As a result, Plaintiffs are  
26 entitled to compensatory and punitive damages.

**COUNT 4 – VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964  
(42 U.S.C. 2000e, *et seq.*) AND 42 U.S.C. § 1981**

**Constructive Discharge**

**(On behalf of Plaintiffs Smith, Langkamp, and Larson, individually)**

183. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint as if fully set forth herein.

184. Defendant’s discriminatory conduct created an intolerable working environment for Plaintiffs, leading to their constructive discharge.

185. As a further direct and proximate result of said unlawful employment practices, Plaintiffs suffered extreme emotional distress, shame, intimidation, humiliation, indignation, embarrassment, and fear.

186. Defendant’s discriminatory and unlawful employment practices identified in this complaint have been intentional, deliberate, willful, systematic, and conducted in callous disregard of the federally protected rights of Plaintiffs. As a result, Plaintiffs are entitled to compensatory and punitive damages.

**COUNT 5 – VIOLATION OF FEHA, CALIFORNIA GOVERNMENT CODE §  
12900, *et seq.***

**Discrimination on the Basis of Race**

**(On behalf of Nancy Larson and the California Subclass)**

187. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint as if fully set forth herein.

188. At all relevant times AmEx was an employer covered by the Fair Employment and Housing Act (“FEHA”), and Plaintiff Nancy Larson and the California Subclass were covered employees.

189. Defendant has engaged in an intentional, company-wide, and systematic pattern and/or practice of discrimination against non-black—and specifically white—employees in bands 30 and higher.

1           190. Defendant has engaged in an intentional, company-wide, and systematic  
2 pattern or practice of discrimination against its employees by, among other things:

- 3           a. Creating racial quotas for leadership positions at AmEx;  
4           b. Giving executives financial incentives for reducing the number of  
5 whites in their departments;  
6           c. Giving preferential treatment to black employees in hiring,  
7 promotions, salary, and other terms and conditions of employment;  
8           d. Requiring employees to make hiring and promotion decisions based on  
9 race and disciplining or chastising employees who refused to comply;  
10          e. Targeting white employees for harassment during AmEx’s “diversity”  
11 trainings, executive “town halls,” and through its “see something, say  
12 something” policies;  
13          f. Engaging in disparate treatment of white employees for termination  
14 and discipline.

15           191. Defendant’s invidious race discrimination adversely affected the terms,  
16 conditions, and privileges of Plaintiff’s and the California Subclass’ employment.

17           192. Defendant’s discriminatory conduct created an intolerable working  
18 environment for Plaintiff and the California Subclass.

19           193. As a further direct and proximate result of said unlawful employment  
20 practices Plaintiff and the California Subclass suffered the indignity of discrimination and  
21 invasion of their right to be free from discrimination.

22           194. As a further direct and proximate result of said unlawful employment  
23 practices, Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation,  
24 indignation, embarrassment, and fear.

25           195. Defendant’s discriminatory and unlawful employment practices identified in  
26 this complaint have been intentional, deliberate, willful, systematic, and conducted in  
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1 callous disregard of the legally protected rights of Plaintiff and the California Subclass. As  
2 a result, Plaintiff and the California Subclass are entitled to compensatory and punitive  
3 damages.

4 **COUNT 6 – VIOLATION OF FEHA, CALIFORNIA GOVERNMENT CODE §**  
5 **12900, *et seq.***

6 **Harassment on the Basis of Race**  
7 **(On behalf of Nancy Larson and the California Subclass)**

8 196. Plaintiffs repeat and reallege each of the foregoing allegations in this  
9 Complaint as if fully set forth herein.

10 197. FEHA provides that it is unlawful for an employer to harass an employee  
11 because of, inter alia, the employee's gender and/or race.

12 198. Furthermore, it is unlawful to harass an employee for informing management  
13 about possible violations of the law.

14 199. Defendant's policies and practices created a working environment heavily  
15 charged with racial discrimination and intimidation. These policies and practices subjected  
16 Plaintiff and the California Subclass to a racially hostile work environment.

17 200. AmEx treated Plaintiff in a discriminatory and harassing manner after she  
18 objected to AmEx's unlawful policies.

19 201. As a further direct and proximate result of said unlawful employment  
20 practices Plaintiff and the California Subclass suffered the indignity of discrimination and  
21 invasion of their right to be free from discrimination.

22 202. Defendant's invidious race discrimination adversely affected the terms,  
23 conditions, and privileges of Plaintiff's and the California Subclass' employment.

24 203. Defendant's discriminatory conduct created an intolerable working  
25 environment for Plaintiff and the California Subclass.

26 204. AmEx's conduct was a substantial factor in causing harm to Plaintiff and the  
27 California Subclass.  
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1 205. As a further direct and proximate result of said unlawful employment  
 2 practices, Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation,  
 3 indignation, embarrassment, and fear.

4 206. Defendant’s discriminatory and unlawful employment practices identified in  
 5 this complaint have been intentional, deliberate, willful, systematic, and conducted in  
 6 callous disregard of the legally protected rights of Plaintiff and the California Subclass. As  
 7 a result, Plaintiff and the California Subclass are entitled to compensatory and punitive  
 8 damages.

9 **COUNT 7 – VIOLATION OF FEHA, CALIFORNIA GOVERNMENT CODE §**  
 10 **12900, et seq.**

11 **Failure to Prevent Discrimination, Harassment, and Retaliation**  
 12 **(On behalf of Nancy Larson and the California Subclass)**

13 207. Plaintiffs repeat and reallege each of the foregoing allegations in this  
 14 Complaint as if fully set forth herein.

15 208. At all relevant times, AmEx was required, but failed, to take all reasonable  
 16 steps necessary to prevent discrimination, harassment, and retaliation under California  
 Government Code § 12940(k), *et seq.*

17 209. However, AmEx’s pattern and practice was to implement and encourage  
 18 discrimination, harassment, and retaliation against Plaintiff and the California Subclass.

19 210. Defendant’s policies and practices constituted failure to prevent  
 20 discrimination, harassment, and retaliation under FEHA.

21 211. As a direct and proximate result of said unlawful employment practices,  
 22 Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation, indignation,  
 23 embarrassment, and fear.

24 212. Defendant’s discriminatory and unlawful employment practices identified in  
 25 this complaint have been intentional, deliberate, willful, systematic, and conducted in  
 26 callous disregard of the legally protected rights of Plaintiff and the California Subclass. As a  
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1 result, Plaintiff and the California Subclass are entitled to compensatory and punitive  
2 damages.

3 **COUNT 8 – VIOLATION OF FEHA, CALIFORNIA GOVERNMENT CODE §**  
4 **12900, *et seq.***  
5 **Retaliation in Violation of FEHA**  
6 **(On behalf of Nancy Larson, individually)**

7 213. Plaintiff repeats and realleges each of the foregoing allegations in this  
8 Complaint as if fully set forth herein.

9 214. California Government Code § 12940(h) provides that it is unlawful for any  
10 employer or person to discriminate against any person because the person has opposed any  
11 practices forbidden under the Fair Employment and Housing Act, Government Code §  
12 12940, *et seq.*

13 215. Plaintiff opposed AmEx’s racially discriminatory practices and policies in  
14 violation of California Government Code § 12940 *et seq.* by complaining to her supervisors  
15 on several occasions.

16 216. In retaliation for objecting to such unlawful conduct in violation of FEHA,  
17 AmEx took adverse employment action against Plaintiff by providing her with decreased  
18 performance reviews, stifling her ability to advance in the company, and reprimanding and  
19 undermining her verbally and in writing for not going along with AmEx’s policy of  
20 discrimination.

21 217. Defendant took adverse action against Plaintiff with the purpose of retaliating  
22 against her because of her participation in protected activity, and Plaintiff suffered damages  
23 as a result of the that conduct.

24 218. As a further direct and proximate result of said unlawful employment  
25 practices, Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation,  
26 indignation, embarrassment, and fear.  
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1           219. Defendant’s discriminatory and unlawful employment practices identified in  
2 this complaint have been intentional, deliberate, willful, systematic, and conducted in  
3 callous disregard of the legally protected rights of Plaintiff. As a result, Plaintiff is entitled  
4 to compensatory and punitive damages.

5                           **COUNT 9 – RETALIATION IN VIOLATION OF PUBLIC POLICY**

6   **Tameny Retaliation**

7   **(On behalf of Nancy Larson, individually)**

8           220. Plaintiff repeats and realleges each of the foregoing allegations in this  
9 Complaint as if fully set forth herein.

10           221. Punishing employees in retaliation for resisting the violations of laws that  
11 secure important public policies contravenes those policies and gives rise to a common law  
12 action in tort.

13           222. Defendant took adverse action against Plaintiff with the purpose of retaliating  
14 against her because of her participation in protected activity, and Plaintiff suffered damages  
15 as a result of the that conduct.

16           223. As a further direct and proximate result of said unlawful employment  
17 practices, Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation,  
18 indignation, embarrassment, and fear.

19           224. Defendant’s discriminatory and unlawful employment practices identified in  
20 this complaint have been intentional, deliberate, willful, systematic, and conducted in  
21 callous disregard of the legally protected rights of Plaintiff. As a result, Plaintiff is entitled  
22 to compensatory and punitive damages.

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**COUNT 10 – VIOLATION OF FEHA, CALIFORNIA GOVERNMENT CODE §  
12900, et seq.**

**Constructive Discharge**

**(On behalf of Nancy Larson, individually)**

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225. Plaintiff repeats and realleges each of the foregoing allegations in this Complaint as if fully set forth herein.

226. Defendant's discriminatory conduct created an intolerable working environment for Plaintiff, leading to her constructive discharge.

227. As a further direct and proximate result of said unlawful employment practices, Plaintiff suffered extreme emotional distress, shame, intimidation, humiliation, indignation, embarrassment, and fear.

228. Defendant's discriminatory and unlawful employment practices identified in this complaint have been intentional, deliberate, willful, systematic, and conducted in callous disregard of the legally protected rights of Plaintiff. As a result, Plaintiff is entitled to compensatory and punitive damages.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury on all claims so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs on behalf of themselves and all members of the Class and Subclass pray for relief and judgment as follows:

- A. An order certifying the proposed Class and Subclass, appointing the named Plaintiffs as the representatives of the Class and Subclass, and appointing the law firms representing the named Plaintiffs as counsel for the Class and Subclass.
- B. General and compensatory damages for Plaintiffs and the Class and Subclass for the violations of their federal statutory rights, emotional distress, humiliation, and anguish, all according to proof.

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- C. An order reinstating Plaintiffs and the Class members to their rightful positions at AmEx or, in lieu of reinstatements, an order for front pay benefits.
- D. Punitive damages, according to proof.
- E. A declaration that Defendant, through the actions, omissions, policies, practices, and/or procedures complained of, violate 42 U.S.C. §§ 1981, 2000e, *et seq.*, and California Government Code § 12900, *et seq.*
- F. Preliminary and permanent injunctive relief for the Class and Subclass:
  - 1. Preliminary and permanent injunctive relief requiring Defendant, its successors in office, agents, employees, and assigns, and all persons acting in concert with them, to eliminate policies, customs, and/or practices that discriminate or give preferential treatment to individuals based on race in recruiting, hiring, promotion, and other terms and conditions of employment.
- F. Attorneys' fees, costs, interest, and expenses pursuant to 42 U.S.C. §1988, California Government Code § 12965(b), and other relevant statutes.
- G. And such other and further relief as the Court may deem proper.

DATE: September 14, 2022

THE PIVTORAK LAW FIRM

By:



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DAVID PIVTORAK  
Attorney for Plaintiffs