

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

STREET ADDRESS: 330 West Broadway
MAILING ADDRESS: 330 West Broadway
CITY AND ZIP CODE: San Diego, CA 92101
BRANCH NAME: Central
TELEPHONE NUMBER: (619) 450-7071

PLAINTIFF(S) / PETITIONER(S): Lorri Sulpizio et.al.

DEFENDANT(S) / RESPONDENT(S): San Diego Mesa College et.al.

SULPIZIO VS. SAN DIEGO MESA COLLEGE

NOTICE OF CASE ASSIGNMENT

CASE NUMBER:
37-2008-00088329-CU-CR-CTL

Judge: Ronald S. Prager

Department: C-71

COMPLAINT/PETITION FILED: 07/24/2008

CASES ASSIGNED TO THE PROBATE DIVISION ARE NOT REQUIRED TO COMPLY WITH THE CIVIL REQUIREMENTS LISTED BELOW

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document.

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service.

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

SAN DIEGO MESA COLLEGE; SAN DIEGO COMMUNITY COLLEGE DISTRICT; DAVE EVANS, an individual; and DOES 1 THROUGH 25

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

2008 JUL 26 PM 3:08

SAN DIEGO COUNTY CA

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

LORRI SULPIZIO and CATHY BASS

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

SAN DIEGO SUPERIOR COURT
330 WEST BROADWAY

CASE NUMBER:

(Número del Caso)

37-2008-00088329-CU-CR-CTI

SAN DIEGO, CA 92101

HALL OF JUSTICE

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

LESLIE F. LEVY (SBN 1046334)

(510) 835-8870

BOXER & GERSON, LLP

300 FRANK H. OGAWA PLAZA, STE. 500

OAKLAND, CA 94612

DATE:

(Fecha) JUL 24 2008

Clerk, by _____

(Secretario)

A. GUTIERREZ

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):

- on behalf of (specify):

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify):

- by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): LESLIE F. LEVY (SBN 1046334) DARCI E. BURRELL (SBN 180467) BOXER & GERSON, LLP 300 FRANK H. OGAWA PLAZA, STE. 500 OAKLAND, CA 94612 TELEPHONE NO.: (510) 835-8870 FAX NO.: (510) 835-0415 ATTORNEY FOR (Name): LORRI SULPIZIO AND CATHY BASS		FOR COURT USE ONLY 2008 JUL 24 PM 3:09 SAN DIEGO COUNTY, CA
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 WEST BROADWAY MAILING ADDRESS: CITY AND ZIP CODE: SAN DIEGO, CA 92101 BRANCH NAME: HALL OF JUSTICE		
CASE NAME: LORRI SULPIZIO and CATHY BASS v. SAN DIEGO MESA COLLEGE, ET AL.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: 37-2008-00088329-CU-CR-CTL JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. Large number of separately represented parties d. Large number of witnesses

b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court

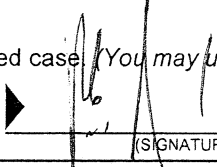
c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 9 - RETALIATION(3); EQUAL PROTECTION(1); SEX ORIENTATION(2); GENDER(2); WRONGFUL TERMINATION(1).

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: MATTHEUS E. STEPHENS for LESLIE F. LEVY (TYPE OR PRINT NAME)  (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

2001 JUL 24 PM 3: 09
SAN DIEGO COUNTY, CA

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11 *Attorneys for Plaintiffs*
12 LORRI SULPIZIO and CATHY BASS

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SAN DIEGO, CENTRAL DISTRICT**

Exceeds \$25,000.00

16 LORRI SULPIZIO and CATHY BASS,)
17)
18 Plaintiffs,)
19 vs.)

Case No. 37-2008-00088329-CU-CR-CTL

19 SAN DIEGO MESA COLLEGE; SAN DIEGO)
20 COMMUNITY COLLEGE DISTRICT; DAVE)
21 EVANS, an individual; and DOES 1 through 25,)
22 Defendants.)

**COMPLAINT FOR DAMAGES AND
DECLARATORY AND INJUNCTIVE
RELIEF; REQUEST FOR JURY TRIAL**
(1) Retaliation in Violation of Title IX
(2) Retaliation in Violation of Title VII
(3) Retaliation in Violation of FEHA
(4) Violation of the Equal Protection Clause
of the California Constitution
(5) Sexual Orientation Discrimination in
Violation of FEHA
(6) Sexual Orientation Harassment in
Violation of FEHA
(7) Gender Discrimination in Violation of
Title VII
(8) Gender Discrimination in Violation of
FEHA
(9) Wrongful Termination

1 COME NOW Plaintiffs Lorri Sulpizio and Cathy Bass, by and through their attorneys, for their
2 Complaint in the above-captioned action and state to this Honorable Court as follows:

3 **PRELIMINARY STATEMENT**

4 1. Lorri Sulpizio (“Sulpizio” or “Coach Sulpizio”), former Head Coach of the women’s basketball
5 team at San Diego Mesa College (“Mesa”), and Cathy Bass (“Bass” or “Coach Bass”), former Director of
6 Basketball Operations for the women’s basketball team at Mesa (collectively “Plaintiffs” or the “Coaches”),
7 jointly bring this action against Mesa, the San Diego Community College District, and Dave Evans
8 (“Evans”), Mesa’s Athletic Director and Dean of the Department of Physical Education, Health Education
9 and Athletics (“the Athletic Department” or “the Department”), for retaliating against Plaintiffs for speaking
10 out about gender inequities in the Department, for discriminating against Plaintiffs based on gender and
11 sexual orientation, and, ultimately, for wrongfully terminating both coaches in violation of public policy.
12 Specifically, Sulpizio and Bass allege the following causes of action:

- 13 I. retaliation in violation of Title IX of the Education Amendments of 1972, at 20
14 U.S.C. §§ 1681, et seq. (“Title IX”) and the implementing regulations promulgated
15 under Title IX;
- 16 II. retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C.
17 §§ 2000e, et seq. (“Title VII”);
- 18 III. retaliation in violation of the California Fair Employment and Housing Act
19 (“FEHA”), California Government Code §§ 12940, et seq.
- 20 IV. gender and sexual orientation discrimination in violation of the equal protection
21 provisions at Article I, Section 7 of the California Constitution;
- 22 V. sexual orientation discrimination in violation of FEHA;
- 23 VI. sexual orientation harassment in violation of FEHA;
- 24 VII. gender discrimination in violation of Title VII;
- 25 VIII. gender discrimination in violation of FEHA; and
- 26 IX. wrongful termination in violation of the public policy of the State of California.

1 2. From 2001 to 2007, Head Coach Sulpizio, assisted by Coach Bass, successfully led the Mesa
2 women's basketball team on the court while also helping the team's student-athletes succeed in the
3 classroom. Throughout Coach Sulpizio's tenure as Head Coach, the team entered championship play in 33
4 of 35 tournaments. In the 2001-2002 season, the team was undefeated in the Pacific Coast Conference
5 championship with a 32-10 overall record. More student-athletes from the Mesa women's basketball team
6 went on to study and play ball at four-year universities and earn Bachelor's degrees than the average from
7 the other San Diego community colleges. Despite these successes, Defendants retaliated against Sulpizio
8 and Bass for exercising their protected right to advocate for gender equity in Mesa's Athletic Department
9 and discriminated against the two Coaches based on their gender and sexual orientation. Among other
10 things, Defendants denied Sulpizio a tenure-track position and denied both Coaches equitable teaching
11 assignments compared with men within the Athletic Department. Evans attempted to "investigate" the
12 sexual orientation of both Coaches, as well as of other coaches, and expressed concern that their sexual
13 orientation affected the "image" of the women's basketball team. Ultimately, after Sulpizio continued to
14 complain about gender inequities in the Athletic Department, and after a family photograph appeared in a
15 local newspaper identifying the two Coaches as "partners," on April 18, 2007, Evans fired Coach Sulpizio.
16 The next day, on April 19, 2007, Evans fired Coach Bass. Mesa replaced Sulpizio with a less-qualified man
17 who had never previously served as a head coach.

18 **PARTIES**

19 3. Coach Lorri Sulpizio is a woman and a lesbian and was, at all times material to her Complaint,
20 a resident of the County of San Diego, California who was employed by the San Diego Community College
21 District from September 1998 until May 2007. She is a "person" within the meaning of 42 U.S.C. §
22 2000e-(a).

23 4. Coach Cathy Bass is a woman and a lesbian and was, at all times material to her Complaint, a
24 resident of the County of San Diego, California who was employed by the San Diego Community College
25 District from June 1999 until May 2007. She is a "person" within the meaning of 42 U.S.C.
26 § 2000e-(a).

1 disparities. The Office of Civil Rights' investigation of the treatment of student-athletes at Mesa is still
2 pending. Plaintiffs reserve the right to amend their Complaint to add additional claims after the completion
3 of that investigation.

4 12. On November 30, 2007, Coach Sulpizio and Coach Bass each submitted complaints to the
5 California Department of Fair Employment and Housing ("DFEH") against Mesa, the District, and Dave
6 Evans. The DFEH issued Right to Sue Notices to both Plaintiffs on December 14, 2007.

7 13. Coach Sulpizio and Coach Bass also exhausted available internal remedies. After Evans
8 terminated them, Coach Sulpizio and Coach Bass made formal complaints of retaliation and discrimination
9 to Mesa's Affirmative Action Compliance Officer, Sondra Frisch; Mesa's President, Dr. Rita Cepeda; the
10 District's Chancellor, Dr. Constance Carroll; and the District's Vice Chancellor of Human Resources,
11 Wayne Murphy.

12 **FACTUAL ALLEGATIONS**

13 **Plaintiffs' Backgrounds and Histories of Success at Mesa**

14 14. Mesa hired Coach Sulpizio as Assistant Coach for its women's basketball team in September
15 1998. In March 2001, Mesa named Coach Sulpizio interim Head Coach of women's basketball and
16 promoted her to Adjunct Faculty member. In April 2002, Mesa promoted Coach Sulpizio to the position
17 of Head Coach of the women's basketball team, and she served in that capacity until 2007.

18 15. Prior to coming to Mesa, Sulpizio had eight years of coaching experience, first at Bernardo
19 Heights Middle School and then at the high school level in San Luis Obispo where she directed the San Luis
20 Obispo RAGE club program and coached the 7th grade team to a State Championship. She has a Bachelor
21 of Arts Degree in English from California Polytechnic State University ("Cal Poly") at San Luis Obispo and
22 a Master's Degree in Physical Education from San Diego State University.

23 16. Mesa hired Bass as Assistant Coach for its women's basketball team in 1999 after, as a team
24 member, Bass led the Mesa team to a Pacific Coast Conference Championship. In 2003, Mesa appointed
25 Bass an Adjunct Faculty member, a position in which she served for four years. In 2006, her position as
26 Assistant Coach was re-titled to Director of Basketball Operations.

1 17. Prior to coaching at Mesa, Bass coached the Santana Storm and San Diego Elite club teams
2 from 1997 to 1999. She has a Bachelor of Arts Degree in Psychology from California State University San
3 Marcos and a Master's Degree in Physical Education from Azusa Pacific University.

4 18. Coach Sulpizio and Coach Bass successfully led the women's basketball team program at
5 Mesa from 2001 until 2007. During those years, the Mesa women's basketball team entered championship
6 play in 33 of 35 tournaments. In the 2001-2002 season, the team was undefeated and won the Pacific Coast
7 Conference Championship. The team ended the 2005-2006 season with a higher Rating Percent Index
8 ranking (a measure of a team's performance when compared with the strength of its game schedule) than
9 any other women's basketball team in San Diego. In the 2005-2006 and 2006-2007 seasons, the team won
10 third place at the Pacific Coast Conference Tournament. During her employment at Mesa, Coach Sulpizio
11 recruited more All-League/All CIF ("California Interscholastic Federation") players than any other San
12 Diego women's basketball program.

13 19. Coaches Sulpizio and Bass also successfully furthered the academic careers of their team's
14 student-athletes. During the years that Sulpizio led the women's basketball team as Head Coach, a higher
15 percentage of student-athletes from her teams went on to four-year colleges than the Mesa average
16 percentage. Also, more Mesa women's basketball student-athletes advanced to play ball at four-year
17 colleges and more completed Bachelor's degrees than the average of the San Diego community colleges.
18 During the six years that Coach Sulpizio worked as Head Coach, no women's basketball team player fell
19 to "ineligible" status due to poor grades, and at least three students from the team were named
20 Scholar-Athletes each year.

21 20. Sulpizio was a leader in women's basketball, serving from 2002 to 2006 as the Pacific Coast
22 Conference's representative on the Executive Board of the California Community College Women's
23 Basketball Association. The position was uncompensated and required a significant commitment of time
24 and energy, but it gave Mesa higher visibility on the statewide level as well as access to information about
25 policy and legislative changes that could impact recruiting and fund-raising, among other things. Coach
26 Sulpizio also served as a Seeding Representative for the Pacific Coast Conference, playing a crucial role in

27 ///

1 determining which teams – including Mesa – would participate in the California Community College
2 Athletic Association Regional Tournament each year.

3 **Plaintiffs' Complaints About Gender Inequities At Mesa**

4 21. Throughout their tenure at Mesa, Plaintiffs spoke out about gender inequities in the treatment
5 of the women's basketball team, and Coach Sulpizio advocated vocally for equal treatment for female
6 faculty members, especially those on her staff, and for female student-athletes.

7 22. At the end of the 2005-2006 season, Coach Sulpizio formally met with Evans and Assistant
8 Athletic Director Ann Heck to raise several concerns regarding the treatment of female athletes and female
9 faculty, including but not limited to:

10 (A) Mesa allowed visiting men's football teams to displace female athletes from the women's
11 locker room and told female athletes to change in the public restroom, the gym lobby, or their team room
12 (even though the only access to the women's team room was through the locker room, which was occupied
13 by men).

14 (B) Mesa's weight room was inadequate to serve female athletes because it was adjacent to
15 the men's locker room and primarily included equipment that was too heavy or large for women athletes to
16 use effectively.

17 (C) Mesa's women's softball team was required to practice and compete on the all-grass
18 soccer field without a standard dirt softball infield, whereas Mesa provided its men's baseball team with a
19 properly designed, well-maintained baseball field.

20 (D) Mesa's laundry facilities for student-athletes were located adjacent to the men's
21 equipment room so that, compared with the ease of facility access for men, the women athletes had to make
22 special arrangements to get soiled practice gear and uniforms washed.

23 (E) Female faculty in the Department were assigned fewer classes than male faculty, even
24 after female faculty made repeated requests for more classes. This practice resulted in male assistant coaches
25 receiving more teaching assignments than their female counterparts, or even female head coaches.

26 ///

1 (F) Male faculty in the Athletic Department were given preference for teaching assignments
2 each semester, while female faculty members' requests to teach particular courses were routinely disregarded
3 or considered only after requests from male faculty members had been satisfied.

4 (G) Female faculty in the Department were routinely assigned the most labor intensive and
5 demanding classes compared with male faculty.

6 23. Neither Coach Sulpizio nor Coach Bass are aware of any investigation into the treatment of
7 female student-athletes and faculty about which Coach Sulpizio formally raised concerns with Evans and
8 Heck.

9 24. After Coach Sulpizio raised formal concerns about gender inequities in Mesa's Athletic
10 Department at the end of the 2005-2006 season, Coach Sulpizio continued to question Department practices
11 and policies that disadvantaged female student-athletes and female faculty through the summer of 2006 and
12 throughout the 2006-2007 season.

13 **Retaliation And Discrimination Based On Gender**

14 25. As Athletic Director, Evans provided little support for the women's basketball team. For
15 example, in the nine years that Sulpizio worked at Mesa, Evans never came to the annual women's
16 basketball banquet. When required to assist with the annual women's basketball tournament sponsored by
17 Mesa, Evans frequently would sit in a corner listening to a football game on a portable radio or would leave
18 the tournament to watch Mesa's football team. Upon information and belief, Evans regularly approached
19 the men's basketball Head Coach and offered him assistance and support, an offer Evans never made to
20 Sulpizio.

21 26. Throughout Plaintiffs' employment at Mesa, where faculty compensation was partially based
22 on how many and what types of classes each person taught, each semester Coach Sulpizio and Coach Bass
23 had to actively pursue class teaching assignments, even after submitting written requests for classes. Upon
24 information and belief, similarly situated male faculty members' requests were fulfilled simply upon
25 submitting written requests.

26 ///

1 27. Upon information and belief, other female faculty members of the Department experienced
2 similar difficulties in acquiring class teaching assignments, and fewer and less desirable classes were
3 assigned to female faculty members than their male counterparts.

4 28. Female faculty members' scheduling requests were routinely disregarded or considered only
5 after requests from male faculty members had been satisfied.

6 29. Female faculty in the Department were routinely assigned the most labor intensive and
7 demanding classes compared with male faculty.

8 30. The position of women's basketball Head Coach was rejected for tenure track many times
9 while Sulpizio held the position. Women's basketball Head Coach is the longest running position that is
10 still classified as an adjunct rather than as a tenured position in the Athletic Department among
11 "mainstream" sports (those most popular with students). As Head Coach, but without a tenure-track
12 position, Sulpizio had reduced job security, could not be assigned to or compensated for a full teaching load,
13 and was denied access to office space and administrative support.

14 31. Since Evans became Athletic Director and Dean of the Department, nine of the ten positions
15 that have become tenured have gone to men.

16 32. Sulpizio had to borrow video equipment from the football team to review film of the women's
17 basketball team for training purposes. When the Department approved her proposal to purchase additional
18 video equipment in or about 2005, Evans used that money for other purposes and never bought the
19 equipment.

20 33. Evans applied different standards to male and female assistant coaches.

21 34. Evans selectively enforced a policy prohibiting children in classrooms. He made a point of
22 telling Coach Sulpizio that she was not permitted to have her children in the gym during team practice, even
23 though she was aware of and in compliance with the policy. At the same time, Evans did not enforce that
24 policy against Assistant Coach Hootner, who was permitted to have his girlfriend's child accompany him
25 during team practices and to Department classes he was teaching.

26 35. In or about Fall 2006, in response to an e-mail that Coach Sulpizio sent to Jim Fegan, the Chair
27 of the Coaches Advisory Committee, questioning the committee's lack of activity and offering help
28

1 coordinating activities among coaches to benefit Mesa's teams (including especially women's basketball),
2 Coach Sulpizio received a printout of the e-mail in her faculty mail box with the term "Adjunct Professor"
3 in her signature block crossed out and replaced with "Adjunct Instructor," a lower faculty position at Mesa.

4 36. Each year, male football players watching training videos in the gymnasium lobby would
5 impede access to the restrooms and water fountains and walk through the gym, disrupting the women's
6 basketball team's practice. The Department ignored Coach Sulpizio and Coach Bass' multiple complaints
7 about this problem. Finally, during the 2006-2007 season, Sulpizio stood in gym doorways to prevent
8 disruption on the days when the football team watched videos.

9 37. Throughout their tenure, but especially during the 2006-2007 season, upon information and
10 belief, Evans singled out Sulpizio and Bass for extra scrutiny and differential treatment.

11 **Discrimination and Harassment Based on Sexual Orientation**

12 38. In 1999, Evans received an anonymous report that Coach Sulpizio was a lesbian, and attempted
13 to "investigate" her sexual orientation. Around the same time, another faculty member told Coach Sulpizio
14 to "cool it," which Sulpizio understood to mean that she and Coach Bass should hide their sexual orientation
15 from Evans in order to avoid discrimination.

16 39. In the Fall of 2003, Evans called Coach Sulpizio into a meeting where he asked her about the
17 sexual orientation of other coaches and inquired specifically about the sexual orientation of Coach Bass.

18 40. Following Evans' inquiry into the sexual orientation of coaches, at a 2004 faculty meeting,
19 Evans announced that Mesa athletes would no longer be permitted to share beds on team road trips, a long-
20 established practice at Mesa and a common practice at other colleges.

21 41. Coach Sulpizio authored several articles, including one titled "Sports" that discussed gender
22 stereotypes and homophobia in athletics, which was published in 2007 in the *Encyclopedia of Sex, Love and*
23 *Culture, Volume 6: The 20th and 21st Centuries*. To qualify for Mesa "professional development points,"
24 Coach Sulpizio submitted that article for review and approval to Evans and Jerry Milburn in late 2006.
25

26 42. On March 29, 2007, after Sulpizio family members made a significant financial contribution
27 to the San Diego Children's Museum, the *Bernardo News Journal* published an article with a family
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1 photograph showing Sulpizio and Bass with their children, and identifying them as “partners” and indicating
2 that the children belonged to both women.

3 43. As described in paragraphs 25 through 37, as well as elsewhere in this Complaint, Defendants
4 repeatedly subjected Sulpizio and Bass to retaliatory and discriminatory treatment, including but not limited
5 to treating them differently than similarly situated male coaches and/or coaches who were or were perceived
6 to be heterosexual, and subjecting Sulpizio and Bass to extra scrutiny and harassment because of their actual
7 or perceived sexual orientation.
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9 44. Shortly before Evans terminated both Plaintiffs, upon information and belief, Evans told
10 another faculty member that his problem with Coach Sulpizio and Coach Bass was that someone needed to
11 restore “the image” of the team, and that “lots of people” in the community had been talking about “it.” The
12 faculty member understood Evans to be referring to Coach Sulpizio and Coach Bass’ sexual orientation.
13

14 Termination and Subsequent Events

15 45. On April 18, 2007, after the end of the 2006-2007 basketball season, Evans terminated Coach
16 Sulpizio’s employment effective at the end of the semester, approximately May 31, 2007, refusing to provide
17 any basis for the termination.

18 46. The following day, April 19, 2007, Evans informed Coach Bass that he was terminating her
19 employment with Mesa at the close of the semester, ending approximately May 31, 2007.

20 47. On information and belief, the District conducted a superficial investigation of the gender
21 inequity complaints Coach Sulpizio and Coach Bass made before and after their terminations, and the
22 District failed to interview any of the other female faculty members of the Department or any of the
23 corroborating witnesses Coach Sulpizio and Coach Bass had provided. On information and belief, there was
24 no investigation into Coach Bass’ termination.
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1 48. As a result of stress from her and Coach Sulpizio's termination from their jobs, Coach Bass
2 began to suffer headaches and other physical ailments. Both Coaches suffered emotional distress as a result
3 of the conditions at Mesa, but particularly as a result of being fired.

4 49. In May 2007, as Coach Sulpizio and Coach Bass were professionally fulfilling their teaching
5 obligations for the remainder of the semester even after being given notice of their terminations, on several
6 occasions Evans subjected Sulpizio and Bass to unwarranted close scrutiny and intimidation and deliberately
7 interfered with their teaching.
8

9 50. After Coach Sulpizio's departure, Evans named Mike Hootner as Head Coach of Mesa's
10 women's basketball team. Upon information and belief, Mike Hootner has no prior experience as a head
11 coach.

12 **FIRST CAUSE OF ACTION**
13 **Retaliation in Violation of Title IX of the 1972 Education Amendments**
14 **(By Plaintiffs against District and Mesa)**

15 51. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though
16 fully set forth herein.

17 52. Defendants District and Mesa receive federal assistance, and therefore must comply with Title
18 IX of the Education Amendments of 1972, at 20 U.S.C. §§ 1681, et seq. ("Title IX"), which prohibits gender
19 discrimination in any education program or activity receiving federal financial assistance; Title 34 of the
20 Code of Federal Regulations, section 100.7, which prohibits retaliation against people who assert a right
21 protected by Title IX; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq. ("Title
22 VII"), which prohibits gender discrimination in an employment setting and retaliation for complaints about
23 discrimination.

24 53. Coach Sulpizio and Coach Bass complained to Defendant Evans and other agents and/or
25 employees of the District and Mesa about what they reasonably and in good faith believed to be gender
26 inequities in the treatment of student-athletes, coaches and Athletic Department faculty at Mesa, as set forth
27 herein.
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1 54. Following these complaints, Defendants District and Mesa subjected Plaintiffs to retaliation.
2 The retaliatory acts included, but were not limited to, subjecting Plaintiffs to different expectations and
3 greater scrutiny than their male counterparts and terminating Plaintiffs' employment.

4 55. Plaintiffs' complaints about gender inequities in the Athletic Department at Mesa were a
5 motivating factor in the District and Mesa's decision to take adverse action against Plaintiffs. Defendants'
6 retaliatory conduct caused Plaintiffs to suffer harm, including emotional distress and economic loss.

7 56. Defendants' retaliatory conduct was a substantial factor in causing Plaintiffs' harm.

8 **SECOND CAUSE OF ACTION**
9 **Retaliation in Violation of Title VII of the Civil Rights Act of 1964**
10 **(By Plaintiffs against District and Mesa)**

11 57. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though
12 fully set forth herein.

13 58. Coach Sulpizio complained to Defendant Evans and other agents and/or employees of the
14 District and Mesa about what she reasonably and in good faith believed to be gender inequities in the
15 treatment of faculty in the Department, as set forth herein.

16 59. Following these complaints, Defendants District and Mesa subjected Coach Sulpizio and,
17 based on her association with Coach Sulpizio, also subjected Coach Bass to retaliation. The retaliatory acts
18 included, but were not limited to, subjecting Plaintiffs to different expectations and greater scrutiny than
19 their male counterparts and terminating Plaintiffs' employment.

20 60. Coach Sulpizio's complaints about gender inequities in the treatment of faculty members in
21 the Athletic Department at Mesa were a motivating factor in the District and Mesa's decision to take adverse
22 action against Plaintiffs.

23 61. Defendants' retaliatory conduct caused Plaintiffs to suffer harm, including emotional distress
24 and economic loss.

25 62. Defendants' retaliatory conduct was a substantial factor in causing Plaintiffs' harm.
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THIRD CAUSE OF ACTION
Retaliation in Violation of California Government Code §§ 12940, et seq.
(By Plaintiffs against District and Mesa)

63. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though fully set forth herein.

64. Plaintiffs engaged in protected activity by opposing what they reasonably and in good faith believed to be discriminatory treatment of female athletes and female faculty that violated Government Code section 12940, et seq., and California Education Code sections 66270 and 66271.8.

65. Following these complaints, Defendants District and Mesa subjected Plaintiffs to retaliation. The retaliatory acts included, but were not limited to, subjecting Plaintiffs to different expectations and greater scrutiny than their male counterparts and terminating Plaintiffs' employment.

66. Plaintiffs' complaints about gender inequities in the Athletic Department at Mesa were a motivating factor in Defendants District and Mesa's decision to take adverse action against Plaintiffs.

67. Defendants' retaliatory conduct caused Plaintiffs to suffer harm, including emotional distress and economic loss.

68. Defendants' retaliatory conduct was a substantial factor in causing Plaintiffs' harm.

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FOURTH CAUSE OF ACTION
Violation of the Equal Protection Clause of the California Constitution, Article I, Section 7
(By Plaintiffs against District and Mesa)

69. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though fully set forth herein.

70. At all times relevant to the Complaint, Defendants acted under color of state law.

71. Defendants knew or suspected that Sulpizio and Bass were lesbians and that they were partners.

72. Defendants treated Coach Sulpizio and Coach Bass differently from other, similarly-situated faculty members of the Athletic Department who were male and/or who were or were perceived to be

1 heterosexual, as set forth herein. Defendants also terminated Plaintiffs' employment shortly after a
2 newspaper identified them as lesbians.

3 73. The disparate treatment that Coach Sulpizio and Coach Bass received did not serve any
4 compelling state interest or important government objective.

5 74. Defendant Evans, acting as an agent for Defendants Mesa and the District, subjected Coach
6 Sulpizio and Coach Bass to differential treatment on the basis of gender and sexual orientation in violation
7 of the Equal Protection Clause of the California Constitution.

8 75. Defendant Evans intentionally, or with deliberate indifference or callous disregard for Coach
9 Sulpizio and Coach Bass' rights, deprived Coach Sulpizio and Coach Bass of their right to equal protection
10 of the laws, in violation of the Equal Protection Clause of the California Constitution, Article I, Section 7.

11 76. Defendants Mesa and the District knowingly acquiesced and participated in Defendant Evans'
12 violations of Coach Sulpizio and Coach Bass' right to equal protection of the laws, in violation of the
13 California Constitution, Article I, section 7.

14 77. Defendants' violations of Coach Sulpizio and Coach Bass' right to equal protection caused
15 Plaintiffs to suffer harm, including emotional distress and economic loss.

16 78. Defendants' violations of Coach Sulpizio and Coach Bass' right to equal protection were a
17 substantial factor in causing Plaintiffs' harm.

18 **FIFTH CAUSE OF ACTION**
19 **Sexual Orientation Discrimination in Violation of California Government Code §§ 12940, et seq.**
20 **(By Plaintiffs against District and Mesa)**

21 79. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though
22 fully set forth herein.

23 80. Defendants District and Mesa are "employers" within the meaning of the California Fair
24 Employment and Housing Act ("FEHA"), California Government Code § 12940, et seq.

25 81. Plaintiffs were "employees" within the meaning of the FEHA.

26 82. Defendants knew or suspected that Sulpizio and Bass were lesbians and that they were
27 partners.
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1 83. Defendants treated Coach Sulpizio and Coach Bass differently from other, similarly-situated
2 faculty members of the Athletic Department who were or were perceived to be heterosexual, as set forth
3 herein. Defendants also terminated Plaintiffs' employment shortly after a newspaper identified them as
4 lesbians.

5 84. Plaintiffs' actual or perceived sexual orientation was a motivating factor for the discriminatory
6 treatment and termination.

7 85. Defendants' discriminatory conduct caused Plaintiffs to suffer harm, including emotional
8 distress and economic loss.

9 86. Defendants' discriminatory conduct was a substantial factor in causing Plaintiffs' harm.

10 **SIXTH CAUSE OF ACTION**
11 **Sexual Orientation Harassment in Violation of California Government Code §§ 12940, et seq.**
12 **(By Plaintiffs against District, Mesa and Evans)**

13 87. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though
14 fully set forth herein.

15 88. At all times relevant herein, Plaintiffs were employees of Defendants District and Mesa and
16 were protected from discrimination in employment on the basis of their status as lesbians.

17 89. Defendants District and Mesa are "employers" within the meaning of the FEHA.

18 90. Defendants knew or suspected that Sulpizio and Bass were lesbians and that they were
19 partners.

20 91. The actions of Defendants District, Mesa, and their employees, and of Defendant Evans,
21 including, but not limited to, interrogating Coach Sulpizio about the sexual orientation of other coaches,
22 created an atmosphere where Plaintiffs felt that they might be the subject of an investigation for simply being
23 lesbian, and subjecting Plaintiffs to different expectations and greater scrutiny, constitute sexual orientation
24 harassment in violation of the FEHA. Defendants' actions created a hostile, intimidating, and offensive
25 work environment, which adversely affected the terms and conditions of Plaintiffs' jobs on the basis of their
26 sexual orientation.

27 92. The harassing conduct to which Plaintiffs were subjected was so severe, widespread, and/or
28 persistent that a reasonable lesbian in Plaintiffs' circumstances would have considered the work environment

1 to be hostile or abusive.

2 93. Plaintiffs considered the work environment to be hostile or abusive.

3 94. Management personnel, including but not limited to Defendant Evans, engaged in the
4 harassing conduct. Additionally, Defendants knew or should have known of the conduct, and they failed
5 to take immediate and appropriate corrective action.

6 95. Defendants' harassing conduct caused Plaintiffs to suffer harm, including emotional distress
7 and economic loss.

8 96. Defendants' harassing conduct was a substantial factor in causing Plaintiffs' harm.

9 97. Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively with
10 the wrongful intention of injuring Plaintiffs, from an improper and evil motive amounting to malice and in
11 conscious disregard of Plaintiff's rights, entitling Plaintiffs to recover punitive damages from Evans in
12 amounts to be proven at trial.

13 **SEVENTH CAUSE OF ACTION**
14 **Gender Discrimination in Violation of Title VII**
15 **(By Plaintiffs Against Defendants District and Mesa)**

16 98. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though
17 fully set forth herein.

18 99. Defendants District and Mesa are "employers" and Plaintiffs are "employees" within the
19 meaning of Title VII.

20 100. Defendants treated Plaintiffs less favorably than their similarly situated male counterparts,
21 as set forth herein, and Defendants terminated Plaintiffs' employment.

22 101. Plaintiffs' gender, female, was a motivating factor in Defendants' subjecting Plaintiffs to
23 discrimination and terminating Plaintiffs' employment.

24 102. Defendants' discriminatory conduct caused Plaintiffs to suffer harm, including emotional
25 distress and economic loss.

26 103. Defendants' discriminatory conduct was a substantial factor in causing Plaintiffs' harm.

1 **EIGHTH CAUSE OF ACTION**
2 **Gender Discrimination in Violation of California Government Code §§ 12940, et seq.**
3 **(By Plaintiffs Against Defendants District and Mesa)**

4 104. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though
5 fully set forth herein.

6 105. Defendants District and Mesa are “employers” within the meaning of the FEHA.

7 106. Plaintiffs were “employees” within the meaning of the FEHA.

8 107. Defendants treated Plaintiffs less favorably than their similarly situated male counterparts,
9 as set forth herein, and Defendants terminated Plaintiffs’ employment.

10 108. Plaintiffs’ gender, female, was a motivating factor in Defendants’ subjecting Plaintiffs to
11 discrimination and terminating Plaintiffs’ employment.

12 109. Defendants’ discriminatory conduct caused Plaintiffs to suffer harm, including emotional
13 distress and economic loss.

14 110. Defendants’ discriminatory conduct was a substantial factor in causing Plaintiffs’ harm.

15 **NINTH CAUSE OF ACTION**
16 **Wrongful Termination in Violation of Public Policy**
17 **(By Plaintiffs Against Defendants District and Mesa)**

18 111. Plaintiffs hereby incorporate by reference all other paragraphs in this Complaint, as though
19 fully set forth herein.

20 112. Plaintiffs were employed by Defendants District and Mesa.

21 113. Plaintiffs were terminated from their employment by Defendants.

22 114. Plaintiffs’ sexual orientation, gender, and Coach Sulpizio’s good faith and reasonable
23 opposition to what she perceived to be disparities in the treatment of female athletes and female faculty
24 compared with male athletes and male faculty at Mesa were the motivating reasons for Plaintiffs’
25 termination from their employment.

26 115. Defendants’ unlawful terminations of Plaintiffs’ employment caused Plaintiffs harm,
27 including emotional distress and economic loss.

28 ///

1 116. Defendants' unlawful terminations of Plaintiffs' employment were a substantial factor in
2 causing Plaintiffs' harm.

3 **REQUEST FOR RELIEF**

4 WHEREFORE, Plaintiffs request judgment against the Defendants as follows:

5 1. An order (a) directing Defendants to cease and desist discriminating against faculty, staff, and
6 students on the basis of their gender and/or sexual orientation; (b) directing Defendants to conduct
7 mandatory training for all faculty and staff on the prevention of gender and sexual orientation discrimination;
8 (c) directing Defendants to take immediate action to bring the Athletic Department into compliance with Title
9 IX and to continue to monitor the athletic program to assure that it remains in compliance; and (d) directing
10 Defendants to establish a prompt, effective mechanism to investigate and respond to complaints of sexual
11 orientation, gender discrimination, and/or retaliation;

12 2. Any other declaratory or injunctive relief necessary to ensure that Defendants are and remain
13 in compliance with Title IX, the provisions of FEHA prohibiting gender and sexual orientation
14 discrimination, as well as the requirements of the equal protection provisions of the California Constitution;

- 15 3. Compensatory damages;
- 16 4. Attorneys' fees and costs of suit;
- 17 5. Interest, including prejudgment interest;
- 18 6. Punitive damages against Defendant Evans; and

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1 7. Such other and further relief the Court deems proper.

2 Respectfully submitted on this 24th day of July, 2008.

3
4 BY:  _____

5 BOXER & GERSON, LLP
6 Darci E. Burrell
7 Leslie F. Levy

8 NATIONAL CENTER FOR LESBIAN RIGHTS
9 Shannon P. Minter
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11 STOCK STEPHENS, LLP
12 Matheus E. Stephens

13 Attorneys for Plaintiffs
14 LORRI SULPIZIO and CATHY BASS

1 DEMAND FOR JURY TRIAL

2 Plaintiffs hereby demand a trial by jury for each and every claim for which they have a right to jury
3 trial.

4 Respectfully submitted on this 24th day of July, 2008.

5
6 BY:  _____

7 *pro* BOXER & GERSON, LLP
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