

**DAL SOGLIO & MARTENS LLP**

Robin D. Dal Soglio (State Bar No. 155334)

Wynne E. Campbell (State Bar No. 305857)

222 North Pacific Coast Highway, Suite 2000

El Segundo, California 90245

Telephone: (661) 362-0736

Facsimile: (661) 244-4942

Attorneys for Plaintiff

Daniel Fierro

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DANIEL FIERRO, an individual,

Plaintiff,

v.

STATE OF CALIFORNIA, the  
CALIFORNIA STATE ASSEMBLY, the  
ASSEMBLY RULES COMMITTEE,  
ASSEMBLYWOMAN CRISTINA  
GARCIA, ASSEMBLYWOMAN  
SHARON QUIRK-SILVA, and DOES 1  
through 20, Inclusive,

Defendants.

CASE NO.

Action Filed:

**PLAINTIFF DANIEL FIERRO'S  
COMPLAINT FOR DAMAGES**

- 1. Retaliation in Violation of 42 U.S.C. §1983**
- 2. Gender Discrimination in Violation of 42 U.S.C. § 1983**
- 3. Retaliation in Violation of the Fair Employment and Housing Act**
- 4. Discrimination in Violation of the Fair Employment and Housing Act**
- 5. Violation of California Government Code Section 9149.30, et seq.**
- 6. Intentional Interference with Prospective Economic Relations**
- 7. Defamation**

DEMAND FOR JURY TRIAL

This action arises out of Plaintiff Daniel Fierro's ("Plaintiff" or "Fierro") complaint filed with the Defendant Assembly Rules Committee and Defendant California State Assembly against Defendant Assemblymember Garcia and the subsequent and continuing retaliation and discrimination Plaintiff Fierro has endured because of his complaint. Plaintiff

1 Fierro for causes of action against Defendants State of California, the California State Assembly,  
2 the Assembly Rules Committee, Assemblywoman Cristina Garcia, Assemblywoman Sharon  
3 Quirk-Silva, and Does 1 through 20 hereby complains and alleges as follows:

4 **I.**

5 **JURISDICTION AND VENUE**

6 1. Jurisdiction is proper in this Court as Plaintiff Fierro is asserting claims under  
7 federal law, namely 42 U.S.C. §1983.

8 2. Jurisdiction of this Court is predicated on 28 U.S.C § 1331 and 1343.

9 3. A substantial part of the events giving rise to this action occurred in Sacramento  
10 County, California. Venue is therefore proper under 28 U.S.C § 1391(b).

11 4. Also, venue in this Court is proper in that all Defendants are located and/or do  
12 business in Sacramento County.

13 5. Venue against the State of California is proper in the Sacramento County.

14 6. The relief sought is within jurisdiction of this Court.

15 7. On September 28, 2018, Fierro filed an administrative claim with the State's  
16 Department of General Services for the claims described herein. On or around November 5,  
17 2018, Plaintiff received a letter from the Department of General Services stating that the  
18 Government Claims Program "believes the court System is the appropriate means for resolution  
19 of such claims because the issues presented are complex and outside the scope of analysis and  
20 interpretation typically undertaken by the GCP." This action is timely filed within six months of  
21 receiving the rejection letter from Department of General Services.

22 8. On January 31, 2019, Fierro filed a Complaint against Defendants for the claims  
23 described herein with the California Department of Fair Employment and Housing ("DFEH")  
24 and received an immediate Right-To-Sue notice from the DFEH.

25 **II.**

26 **PARTIES**

27 9. **Plaintiff Daniel Fierro** ("Fierro"), at all times relevant to this action, was a  
28 resident of the State of California.

1           10. Fierro is informed and believes that the **Defendant California State Assembly**  
2 (“State Assembly”) is a legislative body of **Defendant the State of California**, and was during  
3 the relevant time period, the employer of all referenced parties. **Defendant Assembly Rules**  
4 **Committee** is an Assembly sub-committee charged with oversight and management of the  
5 Assembly as a whole including investigations for sexual assault complaints. For purposes of this  
6 Complaint, these entities are one and the same, and unless context suggests otherwise, a  
7 reference to one is a reference to the others and will be collectively referred to as the “Entity  
8 Defendants.”

9           11. Fierro is informed and believes, and thereon alleges that **Defendant**  
10 **Assemblywoman Cristina Garcia** (“Garcia” or “Defendant Garcia”) is, and at all times herein  
11 mentioned was, an individual and a resident of the State of California, and an assembly member  
12 in the State Assembly. All actions alleged herein by Garcia were undertaken in the course and  
13 scope of her employment with the State Assembly. Garcia is sued individually and in her  
14 official capacity as a Member of the State Assembly of the State of California.

15           12. Fierro is informed and believes, and thereon alleges that **Defendant Sharon**  
16 **Quirk-Silva** (“Quirk-Silva” or “Defendant Quirk-Silva”) is, and at all times herein mentioned  
17 was, an individual and a resident of the State of California, and an assembly member in the State  
18 Assembly. All actions alleged herein by Quirk-Silva were undertaken in the course and scope of  
19 her employment with the State Assembly. Quirk-Silva is sued individually and in her official  
20 capacity as a Member of the State Assembly of the State of California.

21           13. Fierro does not know the true names and capacities of the defendants sued herein  
22 as Does 1 through 20, whether individual, corporate, associate or otherwise. Fierro is informed  
23 and believes, and thereon alleges that each defendant designated as a Doe is legally responsible  
24 in some manner for the events and happenings referred to herein, and directly and proximately  
25 caused the injuries and damages alleged herein. Fierro will amend this Complaint to allege the  
26 true names and capacities of the Doe defendants when they are ascertained.

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1 **III.**

2 **FACTUAL ALLEGATIONS**

3 **Background Facts**

4 14. Defendant Garcia is currently the assemblyperson representing California's 58<sup>th</sup>  
5 Assembly District and has been since 2012. The 58<sup>th</sup> Assembly District is located in Los  
6 Angeles County and includes portions of the cities of Artesia, Bell Gardens, Bellflower, Cerritos,  
7 Commerce, Downey, Montebello, Norwalk, and Pico Rivera.

8 15. Defendant Quirk-Silva is currently the assemblyperson representing California's  
9 65<sup>th</sup> Assembly District and has been since 2016. The 65<sup>th</sup> Assembly District is located in  
10 Orange County and includes portions of Anaheim, Buena Park, Cypress, Fullerton, Garden  
11 Grove, La Palma, and Stanton.

12 16. From December 2012 to July 2016, Fierro was employed by the State of  
13 California as a principal field representative for Assemblyman Ian Calderon, who represented the  
14 57<sup>th</sup> District. Fierro left his employment with the State of California in July 2016.

15 17. Fierro now runs his own consulting firm working with public agencies and  
16 candidates for elected office. Fierro works with public agencies and candidates all over  
17 California.

18 **The Sexual Assault**

19 18. On or around August 2014, while Fierro was a principal field representative for  
20 Assemblyman Calderon, he was invited to the annual Legislative Softball Game. After working  
21 in the member's Capitol office during the day, Fierro and his coworkers carpooled to Raley Field  
22 in Sacramento, where the game was to take place. Fierro sat in the bleachers and watched the  
23 game with other Assembly staff members from Calderon's office

24 19. When the game ended, Fierro went down to the field with the other staff members  
25 and entered the dugout to say hello to Assemblyman Calderon. After saying hello,  
26 Assemblyman Calderon left the dugout to join others who were participating in the ALS Ice  
27 Bucket Challenge out on the field. Fierro waited in the dugout for the others to finish.

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1           20.     At that point, Defendant Garcia entered the dugout and approached Fierro. She  
2 said hello to Fierro and commented that it was nice that he had been able to fly up to Sacramento  
3 for the game, and engaged in other small talk. Fierro greeted her in response, initially  
4 unconcerned. However, after a few moments, Fierro realized that Defendant Garcia was  
5 severely inebriated. During their exchange, Garcia put her hand on Fierro's left forearm and  
6 held onto his arm. When she did not immediately let go, Fierro initially thought she was holding  
7 on to him to keep her balance, and did not say anything. However, Defendant Garcia then  
8 moved her hand up to Fierro's upper back and stroked him lightly as she spoke. At this point,  
9 Fierro was extremely uncomfortable. Defendant Garcia then dropped her hand and grabbed  
10 Fierro's buttocks, at which point he immediately turned to walk away from her. As he did,  
11 Garcia grabbed at his crotch. Shocked and uncomfortable, Fierro quickly exited the dugout.

12           21.     After leaving the dugout, Fierro rejoined his coworkers. They drove together to  
13 Simon's Bar and Café, where staffers and members were congregating after the game. Sometime  
14 after Fierro and his coworkers arrived, Defendant Garcia walked in with then-Assembly Speaker  
15 Toni Atkins. Defendant Garcia appeared to be more inebriated than earlier when she assaulted  
16 Fierro and appeared to be leaning on people for assistance walking. When his coworkers  
17 commented on Garcia's state, Fierro privately recounted what happened earlier in the dugout to  
18 one co-worker.

19           22.     Within a few days of returning to the Los Angeles area, Fierro also described the  
20 event to a former coworker from Assemblyman Calderon's office who at that point was a staff  
21 member in Defendant Garcia's district office.

22           23.     In fear of retaliation and losing his job, Fierro did not initially make any official  
23 report of the sexual assault by Defendant Garcia.

#### Reporting of the Assault

24           24.     In early 2018, other allegations against Defendant Garcia started to become  
25 public. At the same time, Garcia was making public statements regarding the #metoo movement  
26 and her supposed support for victims, and Fierro decided he could no longer remain silent in the  
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1 face of her hypocrisy. He reported the sexual assault to Asm. Ian Calderon on January 12, 2018.  
2 The next week, Asm. Calderon reported the assault to the Assembly Rules Committee.

3 **Sham Investigation and Discrimination Against Fierro as a Male Victim**

4 25. The State Assembly and Assembly Rules Committee (collectively, the  
5 “Assembly”) launched a so-called “investigation” into Fierro’s complaint. From the outset,  
6 however, it was apparent that the investigation was nothing but a sham and was biased against  
7 him as a man. To begin with, shortly after the assault was reported and the “investigation”  
8 begun, House Speaker Anthony Rendon personally called assembly members and urged them to  
9 support Garcia in the wake of Fierro’s accusations against her. Moreover, in contrast to  
10 situations where male assemblymen were accused by female accusers and were pressured by  
11 their colleagues to resign their positions, Defendant Garcia was treated with deference and  
12 allowed to voluntarily take a leave of absence during the investigation.

13 26. Upon information and belief, the Assembly hired its outside litigation law firm, a  
14 firm that is obviously biased to protect its client rather than to discover the truth, to oversee the  
15 investigation.

16 27. The Assembly investigation concluded in May 2018, with the Assembly  
17 announcing that the investigator was “not able to substantiate by a preponderance of the  
18 evidence, the allegations” despite the disturbing fact that the investigator never even bothered to  
19 interview several of the witnesses whose names Fierro had provided. In fact, it was clear that the  
20 entire investigation was a sham and Fierro timely appealed the finding with the Assembly’s  
21 Rules Committee.

22 28. Not only was Defendant Garcia allowed to voluntarily take a leave of absence  
23 during the initial investigation, she was then allowed to return to work while Fierro’s appeal was  
24 pending.

25 29. In stark contrast to the leniency that Defendant Garcia received while standing  
26 accused of sexual assault, male Senators and Assemblymen have been forced to resign amid  
27 sexual harassment allegations in the wake of the #metoo movement. On information and belief,  
28 legislative leadership urged these male Senators and Assemblymen to resign before their

1 respective investigations were concluded or reported. Notably, Defendant Garcia publicly and  
2 aggressively called for her colleagues who were accused of sexual misconduct to resign.

3 30. Since Fierro's complaint has been made public, he has received continued  
4 hostility for his complaint. Additionally, other male victims who have spoken out publicly have  
5 endured this same hostility. In contrast, women victims are not treated in this same hostile  
6 manner for their complaints.

7 31. In or around June 2018, in response to Fierro's appeal, the Assembly announced  
8 that it would reopen the investigation and retained a new investigator. Again, the Assembly's  
9 outside litigation law firm oversaw this ongoing investigation and appeals process.

10 32. While the second investigation was ongoing, on or around September 24, 2018, it  
11 was made public that two female democratic colleagues of Defendant Garcia, Assemblywoman  
12 Laura Friedman and state Senator Holly Mitchell both donated a substantial amount of money to  
13 Defendant Garcia's re-election campaign. Shockingly, Assemblywoman Friedman is the chair  
14 of the Joint Legislative Subcommittee on Sexual Harassment Prevention and Response, while  
15 state Senator Mitchell is a vice-chair. Even more shocking, each donated this money within days  
16 of Governor Jerry Brown's signing of a law funding in excess of \$1.5 million for new  
17 investigative procedures and protections for harassment victims. While Assemblywoman  
18 Friedman and state Senator Mitchell are supposed to be advocates of victims, their donations and  
19 support of Defendant Garcia during investigation into her sexual assault and misconduct is  
20 indicative of the attitude in the State Assembly – support and advocacy for victims of sexual  
21 assault only extends to female victims. Assemblymembers Garcia, Sharon Quirk-Silva, and  
22 Friedman, as well as Senator Mitchell were all proponents of the legislative whistle blower act  
23 passed in February of 2018.

24 33. Assemblywoman Friedman and state Senator Mitchell, champions of victims of  
25 harassment, are clearly only champions of victims who are female. State Senator Mitchell was  
26 even quoted in Politico stating that “from my perspective...[Asm. Garcia] was cleared of all  
27 sexual harassment allegations” after the initial investigation and Assemblywoman Friedman  
28 (also in Politico) stated that she “certainly hopes the investigation clears her.” These statements

1 and donations are evidence of retaliatory and discriminatory conduct against males who are  
2 victims and a bias towards woman who are accused of sexual misconduct.

3 34. As further evidence of the biased nature of the investigation, in October 2018,  
4 while Fierro's claim was still being investigated, the Assembly's outside litigation firm who was  
5 overseeing the ongoing investigation made a contribution to Defendant Garcia's 2018 re-election  
6 campaign.

7 35. Shortly after Garcia's re-election in November 2018, the Assembly's outside law  
8 firm notified Fierro of the results of the re-opened investigation. The investigation concluded  
9 that:

10 Assemblymember Cristina Garcia, while in a state of inebriation,  
11 encountered Mr. Fierro in the dugout of the 2014 legislative softball game,  
12 grabbed his arm for support, put her hand on his back, and was overly  
13 familiar with him in a way that she would not have been had she been  
14 sober.

15 The investigation further found that the "substantiated conduct...violates the Assembly's  
16 Policy Against Sexual Harassment."

17 36. Shortly after the investigation concluded that Defendant Garcia had violated the  
18 Assembly's Policy Against Sexual Harassment, she was given new committee assignments in  
19 December 2018.

20 37. On information and belief, at least one other man who was interviewed by the  
21 second investigator told her that he himself had been the victim of a sexual assault by Garcia.  
22 However, the Assembly has refused to provide Fierro a copy of the investigation report, claiming  
23 that it is protected by attorney-client privilege despite the fact that the investigation was ordered  
24 by the Assembly Rules Committee, was conducted with state resources, and would otherwise be  
25 subject to the Public Records Act.

26 38. From the outset, Fierro's accusations as a male victim against a female predator  
27 were not taken seriously. The California State Assembly and Assembly Rules Committee  
28 employed a blatant gender bias in its handling and investigation of Fierro's claim in sharp



1 contrast to the manner in which females who make accusations against men in the Assembly or  
2 State Senate are treated. The Assembly is seemingly unwilling to view men as victims and  
3 Garcia as a predator, despite her history of inappropriate behavior and the finding that she  
4 violated the Assembly's Policy Against Sexual Harassment.

5 **Retaliation by Defendants Garcia and Quirk-Silva**

6 39. Ever since Fierro first complained of being sexually assaulted by Defendant  
7 Garcia, he has been subjected to and continues to be subject to retaliation by Defendant Garcia  
8 and Defendant Quirk-Silva and their colleagues and supporters.

9 40. Defendant Garcia and her supporters, including Assemblywoman Sharon Quirk-  
10 Silva, have on at least one occasion attempted to pressure one of Fierro's consulting clients,  
11 threatening that if he continued to hire or work with Fierro then they would withhold or  
12 withdraw crucial endorsements in the elections that took place in early November 2018.

13 41. Defendant Quirk-Silva herself made a direct threat to one of Fierro's clients, who  
14 was running for Fullerton City Council, an area which falls within Defendant Quirk-Silva's 65th  
15 Assembly District. As is routine in political campaigns, Fierro's client began soliciting  
16 endorsements from local elected officials and community leaders early in his campaign,  
17 including seeking an endorsement from Defendant Quirk-Silva and her husband, Jesús Silva,  
18 who currently serves on the Fullerton City Council. These conversations were cordial and  
19 productive until Quirk-Silva and Silva discovered that the client was working with Fierro. On or  
20 around May 25, 2018, Mr. Silva messaged Fierro's client on iMessage, asking him who was  
21 running his campaign. When the client replied that it was Mr. Fierro, Mr. Silva responded "Is  
22 that the guy that is accusing Cristina?" On June 14, 2018, Mr. Silva again messaged Fierro's  
23 client, asking him to meet with him that same day. At the meeting, Mr. Silva expressed strong  
24 concern that the client had contracted with Fierro's firm for services, reminding the client,  
25 "We're strong supporters of Cristina," in reference to himself and his wife, Defendant Quirk-  
26 Silva. The next day, June 15, 2018, Fierro's client received a text message from Defendant  
27 Quirk-Silva insisting that she needed to talk to him about working with Fierro. She texted: "I  
28 want to find a time to talk.... I did not know you were working with Danny Fierro – this is a

1 huge is (sic) for me.” Implicit in Quirk-Silva’s and Silva’s statements was that working with  
2 Fierro could have a negative impact on Defendant Quirk-Silva’s decision whether to give  
3 Fierro’s client her endorsement.

4 42. On or around June 16, 2018, Fierro’s client spoke with Quirk-Silva. In the  
5 conversation, Defendant Quirk-Silva directed the client to “get rid” of Fierro because of his  
6 accusations against Defendant Garcia, telling the client it was in his best interest. One of Quirk-  
7 Silva’s district staffers was present and witnessed this conversation. The apparent threat was so  
8 shocking that Fierro’s client asked the Quirk-Silva’s staffer to confirm what he had just heard,  
9 that he was being told to fire Fierro, which she did.

10 43. On or around June 26, 2018, Fierro met with a senior staff member with the  
11 Democratic Party of Orange County, to discuss several of Fierro’s clients’ races and the county  
12 party endorsement process. The senior staffer informed Fierro that he was aware of Defendant  
13 Quirk-Silva’s attempt to interfere with Fierro’s client, stating that it was “fucked up.” The senior  
14 staffer continued and requested that if Fierro was going to “do anything” in regards to Defendant  
15 Quirk-Silva, he wait until after the November General Election because “it would be better for  
16 everyone involved.” It was apparent to Fierro that there was a concerted effort by Defendant  
17 Quirk-Silva to attempt to silence Fierro through party operatives and discourage Fierro from  
18 making her retaliatory actions towards him known, especially prior to the November 6, 2018  
19 election. On information and belief, Fierro believes that Defendant Quirk-Silva continues to  
20 retaliate against Fierro.

21 44. On or around September 26, 2018, Fierro’s client was having coffee with an  
22 associate in the patio area of a Starbucks store in Fullerton, California. Mr. Silva approached the  
23 store and observed Fierro’s client. Mr. Silva approached the table aggressively and began  
24 shouting obscenities at Fierro’s client, accusing him and Fierro of “trying to take Sharon and me  
25 down.” When Fierro’s client tried to ask Silva what he was talking about Silva continued yelling  
26 at him, shouting at him to "Get the fuck out of my face!"

27 45. Defendant Garcia has also been actively retaliating against Fierro since the time  
28 of his accusations against her, interfering with his business and livelihood. On or around

1 February 7, 2018 2018, the ABC Unified School District, headquartered in the City of Cerritos,  
2 issued a Request for Proposals (RFP) for public relations services related to the potential  
3 placement of a bond measure before the voters in the November 2018 General Election. Fierro's  
4 Firm was invited to submit a proposal, and chose to submit a joint proposal with a nationally  
5 recognized public affairs firm that specializes in assisting public agencies pass bonds and tax  
6 increases. On or around March 20, 2018, the Board of Education awarded the contract to AMN  
7 Key Solutions, notwithstanding a withering series of articles by the Los Cerritos Community  
8 News regarding the firm. When one of the trustees asked senior trustee Maynard Law why the  
9 Board awarded the contract to the more expensive and less regarded firm rather than award it to  
10 Fierro's firm, Law answered, "Cristina wouldn't like that." The trustee understood from Mr.  
11 Law's comment that Defendant Garcia had communicated her preference to school board  
12 trustees that Fierro's firm should not be hired.

13 46. On or around July 17, 2018, Defendant Garcia dispatched her state-employed  
14 district office field representative to attend the board meeting in which the Board of Trustees  
15 placed the bond resolution on the ballot. The field representative was there in his obvious  
16 official capacity, as indicated by the Board President's public recognition of him as a  
17 representative of Defendant Garcia from the dais. According to one of the trustees who was  
18 present, Garcia's field representative approached the dais to speak with senior trustee Maynard  
19 Law when the meeting adjourned. When Mr. Law mentioned to Garcia's field representative  
20 that Fierro's firm was engaged in discussions with the campaign committee-in-formation, the  
21 field representative told Mr. Law that Defendant Garcia and her office could find him a different  
22 consultant to run the bond campaign rather than Fierro's firm, and that it would not be difficult to  
23 find someone. In attempting to interfere with Fierro's ongoing contractual negotiations,  
24 Defendant Garcia's field representative was acting as her agent on her behalf. Moreover,  
25 Garcia's field representative is an employee of the State Assembly and State of California, paid  
26 and managed through the Assembly Committee on Rules even while assigned to and directly  
27 supervised by Defendant Garcia's office.

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1 time to appeal the Assembly’s decision had not run. Subsequent, the re-opened investigation  
2 ultimately determined that she in fact was in the dugout with Fierro, touched him, was “overly  
3 familiar” with him, and violated the Assembly’s Policy Against Sexual Harassment.

4 52. Defendant Garcia knew that her statements about not being in the dugout after the  
5 softball game and denying that she touched Fierro were false and would be interpreted to mean  
6 that Fierro was the one who was lying. In making her false statements, Garcia has denigrated  
7 and disparaged Fierro, causing him economic harm and harm to his reputation.

8 **FIRST CAUSE OF ACTION**

9 **Retaliation in Violation of 42 U.S.C. 1983**  
10 **(Against Defendant Assemblywoman Cristina Garcia and Defendant Assemblywoman**  
11 **Sharon Quirk-Silva, and Does 1-20)**

12 53. Plaintiff Fierro re-alleges and incorporates herein by reference all prior  
13 paragraphs of this Complaint with the same force and to the same effect as though set forth at  
14 length herein.

15 54. Pursuant to 42 U.S.C. § 1983, “Every person, who under color of any statute,  
16 ordinance, regulation, custom or usage of any state or territory or the District of Columbia  
17 subjects or causes to be subjected any citizen of the United States or other person within the  
18 jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the  
19 constitution and law shall be liable to the party injured in an action at law, suit in equity, or other  
20 appropriate proceeding for redress ...”

21 55. Under 42 U.S.C. § 1983, Plaintiff Fierro seeks damages against Defendants  
22 Garcia and Quirk-Silva and their respective staff, as well as DOES 1-20 (collectively,  
23 “Individual Defendants”) for violation of Plaintiff Fierro’s right to free speech guaranteed by the  
24 First and Fourteenth Amendments to the United States Constitution.

25 56. The jurisdiction of this Court is predicated on 28 U.S.C §§ 1331 and 1343.

26 57. Plaintiff Fierro in this action is a citizen of the United States, and a resident of  
27 Orange County, California

28 58. The Individual Defendants are persons for the purposes of 42 U.S.C. § 1983.

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1           59.     The Individual Defendants were acting under the color of state law in their  
2 capacity as members of the California State Assembly for the State of California and/or staff of  
3 assembly members were acting as employees of the California Legislature.

4           60.     The Individual Defendants were at all times mentioned acting in the course and  
5 scope of their employment as assemblymembers and/or employees of the California Legislature.

6           61.     The Individual Defendants at all times mentioned were acting under color of state  
7 law.

8           62.     The Individual Defendants are sued in their individual capacity.

9           63.     In or around early 2018, Plaintiff Fierro made his first complaint against  
10 Defendant Garcia. Plaintiff Fierro has subsequently spoken publically in the media about the  
11 sexual assault by Defendant Garcia. In doing so, Plaintiff Fierro was exercising his free speech  
12 right under the First Amendment.

13           64.     Plaintiff Fierro has been retaliated against by the Individual Defendants because  
14 of his complaint and subsequent public statements in the media about the sexual assault by  
15 Defendant Garcia.

16           65.     In or around June 2018, Defendant Quirk-Silva expressed her displeasure to one  
17 of Plaintiff Fierro's clients for his choosing to work with Plaintiff Fierro, threatening to withhold  
18 crucial endorsements from Plaintiff Fierro's client in direct retaliation for Fierro's accusation  
19 against Defendant Garcia.

20           66.     On information belief, Defendant Garcia and other state employees interfered  
21 with Plaintiff Fierro's business, causing others to not hire his firm in response to requests for  
22 proposals in direct retaliation for Plaintiff Fierro making a complaint of sexual assault against  
23 her.

24           67.     At the time of the Individual Defendants' retaliation against Plaintiff Fierro,  
25 Plaintiff Fierro had a constitutional right to free speech guaranteed by the First and Fourteenth  
26 Amendments of the United States Constitution by complaining to the State of California, the  
27 California State Assembly, and the Assembly Rules Committee of sexual assault by Defendant  
28 Garcia and by publically speaking to the media about the sexual assault



1 75. Plaintiff Fierro in this action is a citizen of the United States, and a resident of  
2 Orange County, California.

3 76. As set forth in this Complaint, Defendants the State of California, the California  
4 State Assembly, Assembly Rules Committee, and DOES 1-20 (collectively, “Entity  
5 Defendants”) are at all times mentioned in this Complaint government agencies, organized and  
6 existing under the laws of the State of California with the capacity to sue and be sued.

7 77. The Entity Defendants were acting under color of state law.

8 78. The Entity Defendants discriminated against Plaintiff Fierro because of his gender  
9 in the response to his complaint against Defendant Garcia, including during the so-called  
10 investigation conducted by Defendant the California State Assembly.

11 79. As set forth in this Complaint, the Entity Defendants discriminated against  
12 Plaintiff Fierro because of his gender in choosing to believe Defendant Garcia’s recollections of  
13 the events surrounding the sexual assault even though the investigation found that Defendant  
14 Garcia was in a state of inebriation.

15 80. Plaintiff Fierro is informed and believes and thereon alleges that the so-called  
16 investigation conducted into Fierro’s complaint was a sham, including but not limited to the fact  
17 that a number of witnesses identified by Plaintiff Fierro were never interviewed during the initial  
18 investigation.

19 81. As set forth in this Complaint, Plaintiff Fierro is informed, believes, and thereon  
20 alleges that the Entity Defendants discriminated against Plaintiff Fierro as a male complainant in  
21 regards to the leniency extended to Defendant Garcia. On information and belief, Defendant  
22 Garcia was allowed to return to work even while there is an ongoing investigation and kept her  
23 opulent committee chair office.

24 82. Plaintiff Fierro is informed, believes, and thereon alleges that Defendants  
25 discriminated against Fierro as a male victim.

26 83. Plaintiff Fierro is informed, believes, and thereon alleges that Plaintiff Fierro’s  
27 allegation against Defendant Garcia was a motivating factor in the actions taken against Plaintiff  
28 Fierro by the Entity Defendants.



1 84. Plaintiff Fierro is informed, believes, and thereon alleges that the Entity  
2 Defendants have a practice, policy, and custom of discriminating against males during  
3 investigations into sexual assault and that he was subjected to discrimination because of these  
4 practices.

5 85. Furthermore, Plaintiff Fierro is informed, believes, and thereon alleges that the  
6 Entity Defendants have consistently failed to provide a fair process to males either as victims or  
7 accused during investigations of complaints of sexual harassment or assault.

8 86. At the time of the Defendants' gender discrimination against Plaintiff, Plaintiff  
9 Fierro had a constitutional right to equal protection under the Fourteenth Amendment.

10 87. As a direct, foreseeable, and proximate result and a substantial factor of the Entity  
11 Defendants' conduct as alleged herein, Plaintiff Fierro has suffered anxiety, stress, loss of sleep,  
12 loss of his reputation, and has suffered and will continue to suffer economic loss through the loss  
13 of business income.

14 88. As a direct, foreseeable, and proximate result of the Defendants' conduct as  
15 alleged herein, Plaintiff Fierro has incurred special and general damages, the precise amount of  
16 which will be proven at trial.

17 **THIRD CAUSE OF ACTION**

18 **Retaliation under the Fair Employment and Housing Act - Government Code § 12940(h)  
19 (Against All Defendants)**

20 89. Plaintiff Fierro re-alleges and incorporates herein by reference all prior  
21 paragraphs of this Complaint with the same force and to the same effect as though set forth at  
22 length herein.

23 90. At all times hereto, the FEHA ("Fair Employment and Housing Act") was in full  
24 force and effect on Defendants the State of California, the California State Assembly, and the  
25 Assembly Rules Committee and Assemblymembers Cristina Garcia and Sharon Quirk-Silva  
26 (collectively "Defendants"), pursuant to California Government Code sections 12900 et seq.

27 91. California Government Code section 12940(h) states that it is unlawful "for any  
28 employer, labor organization, employment agency, or person to discharge, expel, or otherwise  
discriminate against any person because the person has opposed any practices forbidden under

1 this part or because the person has filed a complaint, testified, or assisted in any proceeding  
2 under this part.”

3 92. As set forth in this Complaint, Plaintiff Fierro engaged in activities protected  
4 under Government Code section 12940, including reporting to his former boss Assemblymen Ian  
5 Calderon who reported to the Defendant California State Assembly and Assembly Rules  
6 Committee, government agencies, by and through its agents and employees, a sexual assault by  
7 Defendant Garcia which occurred during Plaintiff Fierro’s employment as a principal field  
8 representative for the California State Assembly.

9 93. As set forth in this Complaint, after engaging in protected activity, Plaintiff Fierro  
10 was subjected to retaliation.

11 94. As a result of his complaint, Plaintiff Fierro has been and continues to be  
12 retaliated against by the Defendants.

13 95. In or around June 2018, and continuing, Defendant Quirk-Silva retaliated against  
14 Plaintiff Fierro and continues to retaliate against him for his accusations against Defendant  
15 Garcia by threatening and harassing one of Plaintiff Fierro’s clients in order to intimidate or  
16 influence him to stop doing business with Plaintiff Fierro.

17 96. On information belief, Defendant Garcia and other state employees interfered  
18 with Plaintiff Fierro’s business, causing others to not hire his firm in response to requests for  
19 proposals in direct retaliation for Plaintiff Fierro making a complaint of sexual assault against  
20 her.

21 97. Plaintiff Fierro is informed and believes and thereon alleges that his protected  
22 activities were substantially motivating factors in the retaliation taken against him by  
23 Defendants.

24 98. Defendants violated the FEHA by retaliating against Plaintiff Fierro for exercising  
25 Plaintiff Fierro’s protected rights and thus the actions of all Defendants caused by and were in  
26 retaliation for the activity of Plaintiff set forth above in violation of California Government Code  
27 section 12940(h).

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1 disability, mental disability, medical condition, genetic information, marital status, sex, gender,  
2 gender identity, gender expression, age, sexual orientation, or military and veteran status of any  
3 person, to refuse to hire or employ the person or to refuse to select the person for a training  
4 program leading to employment, or to bar or to discharge the person from employment or from a  
5 training program leading to employment, or to discriminate against the person in compensation  
6 or in terms, conditions, or privileges of employment.”

7 107. FEHA prevents discrimination based on sex and gender and also obligates  
8 employers to conduct an objective and thorough investigation without discrimination when a  
9 complaint for violation of the statute occurs.

10 108. Plaintiff Fierro was discriminated against, in violation of FEHA, on the basis of  
11 his sex/gender as a male.

12 109. As set forth in this Complaint, Defendants the State of California, the California  
13 State Assembly, Assembly Rules Committee, and DOES 1-20, employees of Defendants the  
14 State of California, the California State Assembly, and the Assembly Rules Committee  
15 (collectively, “Entity Defendants”) discriminated against Plaintiff in the response to his  
16 complaint against Defendant Garcia, including during the so-called investigation conducted by  
17 the Defendants California State Assembly and Assembly Rules Committee.

18 110. The Entity Defendants have been and are continuously discriminating against  
19 Plaintiff Fierro as a male making an accusation of sexual assault against a female during the  
20 entire investigation process.

21 111. As set forth in this Complaint, the Entity Defendants discriminated against  
22 Plaintiff Fierro on the basis of his sex/gender in choosing to believe Defendant Garcia’s  
23 recollections of the events surrounding the sexual assault even though the investigator failed to  
24 interview a number of witnesses identified by Fierro during the initial investigation and even  
25 though the investigation found that Defendant Garcia was in a state of inebriation at the time of  
26 the assault.

27 112. As set forth in this Complaint, Plaintiff Fierro is informed and believes and  
28 thereon alleges that the Entity Defendants discriminated against Plaintiff Fierro as a male

1 complainant in regards to the leniency extended to Defendant Garcia. On information and belief,  
2 Defendant Garcia was allowed to return to work even while there is an ongoing investigation and  
3 kept her opulent committee chair office.

4 113. Plaintiff Fierro is informed and believes and thereon alleges that the Entity  
5 Defendants have a practice and policy of discriminating against males during investigations into  
6 sexual harassment and assault and that he was subjected to discrimination because of these  
7 practices.

8 114. Furthermore, Plaintiff Fierro is informed and believes and thereon alleges that the  
9 Entity Defendants have consistently failed to provide a fair process to males either as victims or  
10 accused during investigations of complaints of sexual harassment or assault.

11 115. Plaintiff is informed and believes and thereon alleges that Plaintiff Fierro's status  
12 as a male was a motivating reason and/or factor in the decisions to subject Plaintiff to the  
13 mentioned actions of discrimination.

14 116. As a direct and proximate result of Entity Defendants' conduct as alleged herein,  
15 Plaintiff Fierro has been and continues to be harmed by Entity Defendants' discrimination.

16 117. As a direct, foreseeable, and proximate result and a substantial factor of the Entity  
17 Defendants' conduct as alleged herein, Plaintiff Fierro has suffered anxiety, stress, loss of sleep,  
18 loss of his reputation, and has suffered and will continue to suffer economic loss through the loss  
19 of business income.

20 118. As a direct, foreseeable, and proximate result of the Entity Defendants' conduct as  
21 alleged herein, Plaintiff Fierro has incurred special and general damages, the precise amount of  
22 which will be proven at trial.

23 **FIFTH CAUSE OF ACTION**

24 **Violation of California Government Code Section 9149.30, et seq.**  
25 **(Against Defendant Assemblywoman Cristina Garcia and Defendant Assemblywoman**  
26 **Sharon Quirk-Silva, and Does 1-20)**

27 119. Plaintiff Fierro re-alleges and incorporates herein by reference all prior  
28 paragraphs of this Complaint with the same force and to the same effect as though set forth at  
length herein.

1            120. The Legislative Employee Whistleblower Protection Act was introduced in 2018  
2 by the California Legislature and found “in addition to existing retaliation protections under  
3 Section 1102.5 of the Labor Code and under the California Fair Employment and Housing Act  
4 ... it is necessary to establish a specific process for legislative employees who report legal and  
5 ethical violations, so that they may do so without fear of retribution.” Cal. Gov’t Code §9149.31

6            121. Plaintiff Fierro is a “legislative employee” within the meaning of Cal. Gov’t Code  
7 §9149.32.

8            122. Pursuant to California Government Code section 9149.34 “An individual who  
9 intentionally retaliates against a legislative employee for having made a protected disclosure is  
10 subject to a fine not to exceed ten thousand dollars (\$10,000) and imprisonment in a county jail  
11 for a period not to exceed one year.”

12            123. Furthermore, “In addition to all other penalties, rights, and remedies provided by  
13 law, an individual or entity that intentionally retaliates against a legislative employee for having  
14 made a protected disclosure is liable in a civil action for damages brought by a legislative  
15 employee.” Cal. Gov’t Code §9149.35.

16            124. Defendants Assemblymembers Cristina Garcia and Sharon Quirk-Silva and  
17 DOES 1-20, retaliated against Plaintiff Fierro after he made a complaint of sexual assault against  
18 Defendant Garcia which took place during his employment as a legislative employee.

19            125. In or around June 2018, and continuing, Defendant Assemblymember Quirk-Silva  
20 retaliated against Plaintiff Fierro and continues to retaliate against him for his accusations against  
21 Defendant Garcia by threatening and harassing one of Plaintiff Fierro’s clients in order to  
22 intimidate or influence him to stop doing business with Plaintiff.

23            126. On information belief, Defendant Garcia and other state employees interfered  
24 with Plaintiff Fierro’s business, causing others to not hire his firm in response to requests for  
25 proposals in direct retaliation for Plaintiff Fierro making a complaint of sexual assault against  
26 her.

27            127. “Retaliation” within the meaning of this code section means to “take any action  
28 that would dissuade a reasonable individual from making or supporting a protected disclosure,

1 including issuing a reprisal, threatening, coercing, or taking any similarly improper action  
2 against a legislative employee who makes a protected disclosure.”

3 128. Defendants Assemblymembers Cristina Garcia and Sharon Quirk-Silva have  
4 intentionally retaliated against Plaintiff Fierro for his complaint against Defendant Garcia.

5 129. Defendants Assemblymembers Cristina Garcia and Sharon Quirk-Silva have  
6 acted with malice in retaliating against Plaintiff Fierro.

7 130. As a direct, foreseeable, and proximate cause of the retaliation by Defendants  
8 Assemblymembers Garcia and Quirk-Silva and their staff, Plaintiff Fierro has suffered anxiety,  
9 stress, loss of sleep, loss of his reputation, and has suffered and will continue to suffer economic  
10 loss through the loss of business income.

11 131. As a direct, foreseeable, and proximate result of the Entity Defendants’ conduct as  
12 alleged herein, Plaintiff Fierro has incurred special and general damages, the precise amount of  
13 which will be proven at trial.

14 132. Pursuant to California Government Code section 9149.35(b), upon the finding of  
15 liability, Plaintiff Fierro is entitled to recover reasonable attorney’s fees and costs.

16 **SIXTH CAUSE OF ACTION**

17 **Intentional Interference with Prospective Economic Relations  
18 (Against All Defendants)**

19 133. Plaintiff Fierro re-alleges and incorporates herein by reference all prior  
20 paragraphs of this Complaint with the same force and to the same effect as though set forth at  
21 length herein.

22 134. Plaintiff Fierro is informed and believes and thereon alleges that Plaintiff was in a  
23 prospective business relationship that likely would have resulted in an economic benefit of a job  
24 to Plaintiff.

25 135. Plaintiff Fierro is informed and believes and thereon alleges that Defendant  
26 Assemblymembers Cristina Garcia and Sharon Quirk-Silva (collectively, the “Individual  
27 Defendants”) knew of this relationship.

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1           136. Plaintiff Fierro is informed and believes and thereon alleges that Defendant  
2 Quirk-Silva personally contacted one of Plaintiff's clients in attempt to deter that client from  
3 continuing using Plaintiff as a consultant.

4           137. Plaintiff Fierro is informed and believes and thereon alleges that Defendant  
5 Garcia's staff attempted to interfere with Plaintiff's proposals to the Board of trustees in order to  
6 get them to not hire Plaintiff's firm. Upon information and belief, Plaintiff alleges that  
7 Defendant Garcia's staff acted at her direction in taking these actions.

8           138. Plaintiff Fierro is informed and believes and thereon alleges, that this interference  
9 was made as a direct result of Plaintiff's complaint regarding being assaulted by Defendant  
10 Garcia.

11           139. Plaintiff Fierro is informed and believes and thereon alleges that the statements  
12 made by and at the direction of Defendants Garcia and Quirk-Silva interfered with Plaintiff's  
13 business and economic relationships.

14           140. Defendants Garcia and Quirk-Silva's conduct was a substantial and the only  
15 factor in causing Plaintiff Fierro's harm and damages. Plaintiff Fierro is informed and believes  
16 and thereon alleges that because of Individual Defendants conduct, Plaintiff Fierro did not  
17 receive business for consulting jobs and was not awarded bids because of his accusation against  
18 Defendant Garcia.

19           141. Plaintiff Fierro alleges that Defendant the California State Assembly is  
20 vicariously liable for the actions of its agents and employees, and that Defendant the California  
21 State Assembly is vicariously liable for the actions of Defendants Garcia and Quirk Silva and  
22 Does 1-20 as alleged herein.

23           142. As a direct, foreseeable, and proximate result of the Individual Defendants'  
24 conduct as alleged herein, Plaintiff Fierro has incurred special and general damages, the precise  
25 amount of which will be proven at trial

26           143. As a direct result of the interference, Plaintiff Fierro has been harmed and injured  
27 in loss of his reputation, and has suffered and will continue to suffer economic loss through the  
28 loss of business income.



1 144. The acts of the Individual Defendants, and each of them were willful and  
2 malicious. Plaintiff Fierro is therefore entitled to punitive damages.

3 145. Defendants will continue to disrupt Plaintiff Fierro's active and potential business  
4 relationships to Plaintiff Fierro's irreparable injury.

5 **SEVENTH CAUSE OF ACTION**

6 **Defamation**

7 **(Against Assemblymember Garcia, the State of California, the California State  
8 Assembly, the Assembly Rules Committee, and Does 1-20)**

9 146. Plaintiff Fierro re-alleges and incorporates herein by reference all prior  
10 paragraphs of this Complaint with the same force and to the same effect as though set forth at  
11 length herein.

12 147. Plaintiff Fierro is informed and believes and thereon alleges that Defendant  
13 Garcia has intentionally, and knowingly spread slanderous, false and defamatory statements  
14 about Plaintiff Fierro in the press after Plaintiff Fierro's complaint about Defendant Garcia's  
15 sexual assault against him.

16 148. Among other things, on or around February 9, 2018, Defendant Garcia issued a  
17 false statement on her website stating "I did not engage in the behavior I am accused of." On  
18 February 19, 2018, the Washington Post quoted Garcia, stating: "... these accusations are  
19 simply not true....I believe these accusations are part of a concerted effort to discredit my person  
20 and record as a legislator." On or around February 20, 2018, Defendant Garcia falsely stated that  
21 following the softball game she left with some staff members and was not present in the dugout  
22 with Plaintiff. On or around On or around May 16, 2018, Defendant Garcia released a news  
23 release stating that she had been "exonerated" prior to the conclusion of investigation into her  
24 sexual assault against Plaintiff. The import of these statements was the inference that Plaintiff is  
25 a liar.

26 149. Listeners and readers of the above media outlets reasonably understood that the  
27 statements were about Plaintiff Fierro. Additionally, at the time Defendant Garcia made these  
28 statements, the public was well aware that Plaintiff Fierro was the one Defendant Garcia was  
referring to because of the widespread media coverage.

1 150. Listeners and readers of the above media outlets reasonably understood that the  
2 statements meant that Defendant Garcia was not in the dugout after the softball game and  
3 furthermore that Plaintiff Fierro is lying.

4 151. Plaintiff Fierro is informed and believes and thereon alleges that these statements  
5 were published through different forms of media including television, radio, internet, and  
6 newsprint.

7 152. Plaintiff Fierro is informed and believes and thereon alleges that Defendant  
8 Garcia knew and intended that her false and defamatory statements would be replicated in print,  
9 radio, and all other forms of media. Additionally, Defendant Garcia knew or should have known  
10 that as an Assemblymember, her statements, including those to the press, would be widely  
11 disseminated and that they would carry weight beyond that of the average person.

12 153. Defendant Garcia's statements were false in that she was actually in the dugout  
13 after the softball game and that she was not "exonerated" from sexual assault while the  
14 investigation was ongoing.

15 154. Plaintiff Fierro is informed and believes and thereon alleges that these statements  
16 and their inference regarding Plaintiff Fierro were defamatory.

17 155. Plaintiff Fierro is informed and believes and thereon alleges that Defendant  
18 Garcia knowingly and purposefully made these statements knowing that the statements were  
19 false or recklessly disregarded the truth or falsity of the statements and knowing that Plaintiff  
20 Fierro's professional reputation would be harmed as a result.

21 156. Plaintiff Fierro alleges that Defendants the California State Assembly is  
22 vicariously liable for the actions of its agents, employees, partners joint venture members, and/or  
23 independent contractors, and that the California State Assembly is vicariously liable for the  
24 actions of Defendant Garcia and Does 1-20 as alleged herein.

25 157. As a direct, foreseeable, and proximate result of Defendant Garcia's conduct and  
26 statements as alleged, Plaintiff Fierro has suffered anxiety, stress, loss of sleep, loss of his  
27 reputation, and has suffered and will continue to suffer economic loss through the loss of  
28 business income.

1 158. As a direct, foreseeable, and proximate result of the Entity Defendants' conduct as  
2 alleged herein, Plaintiff Fierro has incurred special and general damages, the precise amount of  
3 which will be proven at trial.

4 159. Plaintiff Fierro is informed and believes and thereon alleges that Defendant  
5 Garcia committed the acts alleged herein maliciously, fraudulent, and oppressively, and with the  
6 wrongful intention of injuring Plaintiff Fierro, and acted with improper and evil motive  
7 amounting to malice. Alternatively, Defendant Garcia's conduct and statements were carried out  
8 in conscious disregard for Plaintiff Fierro's rights. As a result, Plaintiff Fierro is entitled to  
9 punitive damages against Defendant Garcia.

10 160. As a direct, foreseeable, and proximate result of Defendant's false and defamatory  
11 statements, Plaintiff was harmed.

12 **PRAYER FOR RELIEF**

13 **WHEREFORE**, Plaintiff prays for judgment against Defendants State of  
14 California, the California State Assembly, the Assembly Rules Committee, Assemblywoman  
15 Cristina Garcia, Assemblywoman Sharon Quirk-Silva, and Does 1 through 20, on each of the  
16 causes of action set forth above, as follows:

- 17 1. For general damages according to proof;
- 18 2. For all special damages according to proof;
- 19 3. For loss of past and future earnings and loss of earning capacity according  
20 to proof;
- 21 4. For punitive damages against only the non-government entity Defendants  
22 Garcia and Quirk-Silva, and Does 1-20;
- 23 5. For costs of suit herein;
- 24 6. For attorneys' fees, as permitted by law;
- 25 7. For prejudgment interest as permitted by law; and

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8. For such other and further relief as the Court deems proper and just.

Dated: February 1, 2019

DAL SOGLIO & MARTENS LLP

By:           /s/ Robin D. Dal Soglio            
Robin D. Dal Soglio  
Attorneys for Plaintiff Daniel Fierro