

No. 18-80080

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

KATHERINE MOUSSOURIS, et al.,
Plaintiffs-Petitioners,

v.

MICROSOFT CORPORATION,
Defendant-Respondent.

PETITION TO APPEAL FROM THE U.S. DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
JAMES L. ROBERT, DISTRICT JUDGE • CASE No. 2:15-CV-01483-JLR

**AMICI CURIAE BRIEF OF IMPACT FUND, EQUAL RIGHTS ADVOCATES,
QUEEN'S BENCH BAR ASSOCIATION OF THE SAN FRANCISCO BAY AREA,
AND 29 OTHER ORGANIZATIONS IN SUPPORT OF
PLAINTIFFS-PETITIONERS' PETITION FOR PERMISSION TO APPEAL
DENIAL OF CLASS CERTIFICATION**

Filed with Consent of All Parties

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ADDITIONAL AMICI

- A Better Balance
- Alianza Nacional de Campesinas
- American Civil Liberties Union
- American Association of University Women
- Asian Americans Advancing Justice – Asian Law Caucus
- Asian American Legal Defense and Education Fund
- California Women Lawyers
- California Women’s Law Center
- Center for WorkLife Law at the University of California, Hastings College of the Law
- Disability Rights Education & Defense Fund
- Equal Justice Society
- Equal Pay Today
- International Action Network for Gender Equity & Law
- Lambda Legal Defense and Education Fund, Inc.
- Legal Aid at Work
- Legal Momentum
- Legal Voice
- Mexican American Legal Defense and Educational Fund
- Muslim Advocates
- National Center for Law and Economic Justice
- National Center for Lesbian Rights
- National Employment Law Project
- National Women’s Law Center
- Public Advocates, Inc.
- Public Counsel
- Southwest Women’s Law Center
- Washington Lawyers’ Committee for Civil Rights and Urban Affairs
- Women Employed
- Women’s Law Project

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rules 26.1 and 29(a)(4)(A) of the Federal Rules of Appellate Procedure, the following Amici represent that they each have no parent corporations and they each have no publicly held companies that hold 10% or more of its stock:

- A Better Balance
- Alianza Nacional de Campesinas
- American Civil Liberties Union
- American Association of University Women
- Asian Americans Advancing Justice – Asian Law Caucus
- Asian American Legal Defense and Education Fund
- California Women Lawyers
- California Women’s Law Center
- Center for WorkLife Law at the University of California, Hastings College of the Law
- Disability Rights Education & Defense Fund
- Equal Justice Society
- Equal Pay Today
- Equal Rights Advocates
- Impact Fund
- International Action Network for Gender Equity & Law
- Lambda Legal Defense and Education Fund, Inc.
- Legal Aid at Work
- Legal Momentum
- Legal Voice
- Mexican American Legal Defense and Educational Fund
- Muslim Advocates
- National Center for Law and Economic Justice
- National Center for Lesbian Rights
- National Employment Law Project
- National Women’s Law Center
- Public Advocates, Inc.
- Public Counsel

- Queen’s Bench Bar Association of the San Francisco Bay Area
- Southwest Women’s Law Center
- Washington Lawyers’ Committee for Civil Rights and Urban Affairs
- Women Employed
- Women’s Law Project

July 26, 2018

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**Impact Fund, Equal Rights Advocates,
Queen’s Bench Bar Association of the
San Francisco Bay Area and 29
Additional Organizations**

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INTEREST OF AMICI¹

Amici organizations, described in Appendix A, are each committed to ensuring civil rights and workplace equality.

SUMMARY OF ARGUMENT

Petitioners have ably explained why this Court should permit an interlocutory appeal of the district court's order denying class certification. Amici write separately to highlight one manifest legal error in the order that warrants interlocutory review.

By applying a mechanical, mathematical standard to evaluate the anecdotal evidence, the district court erroneously ignored substantial evidence illustrating the kind of biased decision-making challenged in the suit. In conjunction with statistical and other evidence explaining the challenged pay and promotion policies, petitioners submitted eleven declarations from female employees and evidence of hundreds of internal complaints of gender bias. As the Supreme Court has explained,

¹ No party's counsel authored this brief in whole or in part. No counsel or party contributed money to fund its preparation or submission. No person other than *amici* and their counsel contributed money for its preparation or submission. All parties have consented to the filing of this brief.

anecdotal evidence like this can persuasively bring “the cold numbers convincingly to life” in a Title VII action. *Teamsters v. United States*, 431 U.S. 324, 339 (1977). These narratives illustrate how the policies work.

The district court ignored the purpose for which the anecdotal evidence was offered and instead treated it as a species of statistical evidence, *counting* the declarations rather than analyzing whether they corroborated the existence of common questions in light of the totality of the evidence. It faulted plaintiffs for failing to submit a sufficient number of declarations, proportionate to the size of the class, corresponding to specific job categories, and representative of every state in which Microsoft operated. The lower court erected an arbitrary numerical threshold for anecdotal evidence in Title VII class actions that is not supported by Rule 23(a) or case law, including the Supreme Court’s decision in *Wal-Mart Stores v. Dukes*, 564 U.S. 338, 358 n.9 (2011).

The district court’s artificial legal standard for anecdotal evidence is particularly pernicious in the context of systemic gender discrimination litigation like this case. In a workplace where pay and promotions depend on the subjective goodwill of supervisors, female employees who have spent years carefully building their careers and

professional reputations will be wary of publicly supporting litigation against their employer. Women may also be reluctant to accuse their managers of sexism where the biased judgments that have inhibited their advancement are subtle or undocumented. This reticence will be particularly acute in industries, like tech, where women have traditionally been underrepresented. Mandating a minimum number of litigation declarations with specific geographic and departmental distribution, while at the same time ignoring hundreds of formal complaints of gender bias, frustrates the vindication of anti-discrimination laws and permits barriers to women's advancement to remain firmly in place.²

ARGUMENT

I. Immediate Review of the District Court's Order is Warranted to Clarify the Proper Role of Anecdotal Evidence.

In support of class certification, petitioners offered eleven declarations to bolster statistical and other evidence about the

² This case focuses on gender discrimination but the erroneous treatment of anecdotal evidence will also adversely affect certification of classes challenging systemic race discrimination, as well as cases for other protected groups.

challenged policies. In its decision, the district court entirely discounted this anecdotal evidence in its analysis of commonality under Rule 23(a)(2). It did not analyze whether the substance of the declarations corroborated other evidence proffered about the challenged pay and promotion policies. Instead, the court merely counted the declarations and calculated the ratio of declarations to putative class members (“1 for every 959 class members”), which it compared to what it believed was the acceptable *Teamsters* ratio (“1 for every 8 class members”). Order at 56-57.³ The court also found that the declarations did not represent every state, Stock Level, and job within the class. While acknowledging that the anecdotes provided “examples of serious misconduct,” the district court ruled that they are “simply not enough to demonstrate that Microsoft operated under a general policy of discrimination towards over 8,600 female employees across 41 states holding thousands of unique positions.” *Id.* at 57-58. This analysis is legally flawed.

Nothing in the language of Rule 23(a)(2) supports the district court’s imposition of a numerical floor or a representativeness

³ When the named plaintiffs’ declarations were included, the ratio was “1 for every 785 class members.” Order at 57 n.22.

requirement for anecdotal declarations in civil rights class actions. The Supreme Court has cautioned that district courts are not free to impose requirements for class certification for particular categories of cases beyond the express requirements of Rule 23. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 399 (2010) (“Rule 23 provides a one-size-fits-all formula for deciding the class-action question.”). That is exactly what the district court did here.

The district court’s analysis is also plainly at odds with Supreme Court precedent. In the seminal *Teamsters v. United States*, the U.S. Supreme Court first articulated the standard for proving systemic pattern-or-practice claims of discrimination under Title VII. The Court held that discriminatory intent may be inferred from a showing that discrimination is “the [employer’s] standard operating procedure – the regular rather than the unusual practice.” *Id.* at 336. Importantly, the Court concluded that that showing may be made based upon statistics alone. *Id.* at 339-40.

The Court then explained that anecdotal accounts from workers about their personal experiences could “bolster” those statistics and bring “the cold numbers convincingly to life.” *Id.* at 339. While the Court noted

that the plaintiff had offered “40 specific incidents” of discrimination, there was no discussion of the number of witnesses who testified to these incidents (i.e., whether some witnesses testified to multiple incidents or 40 to just one incident each) or how the number of “incidents” compared to the total number of affected minority workers. *Id.* at 338. In other words, the Court did not treat anecdotal evidence as another form of statistical proof establish any arithmetic benchmark. Indeed, because statistics alone could prove liability, the anecdotal proof was not necessary at all.

That point was further underscored by the Supreme Court in *Wal-Mart Stores v. Dukes*, which addressed the standards for certification of a Title VII class action. In evaluating whether the evidence supported commonality, the Court observed that “a discrimination claimant is free to supply as few anecdotes as he wishes.” 564 U.S. at 358 n.9. The Court dismissed the dissent’s suggestion that the opinion had created a rule that anecdotal accounts must be “proportionate to the size of the class” as “not quite accurate.” *Id.* Instead, the Court highlighted the unique nature of the *Wal-Mart* facts in which there were “literally millions of

employment decisions” at issue that could not be explained by a “few anecdotes.” *Id.*

This is a far cry from establishing a mandatory benchmark for anecdotal evidence. Indeed, if the *Wal-Mart* Court had intended to hold that the ratio of anecdotes to class members in *Teamsters* (1 to 8) was a required minimum benchmark both at the liability and class certification stage of a systemic discrimination case, the result would be an arbitrary cap on the size of discrimination class cases and a free pass for large employers engaged in a widespread pattern of discrimination. Indeed, using the *Teamsters* ratio, the plaintiffs in *Wal-Mart* would have had to collect 187,500 declarations, spread across 3,400 stores and 50 states. The Court plainly did not intend to set a numerical bar, which would eviscerate the efficiency of class litigation. The high court’s observations regarding the anecdotal declarations in *Wal-Mart* were explicitly tied to the unusual nature of that case. *Id.*

Consistent with this Supreme Court precedent, this Court has recognized that anecdotal declarations serve as qualitative illustrations of how policies or practices are implemented in a civil rights class action, not a form of statistically representative proof. In *Parsons v. Ryan*, 289

F.R.D 513 (D. Ariz. 2013), *aff'd* 754 F.3d 657 (9th Cir. 2014), the district court certified a class of 33,000 inmates housed in Arizona's ten state prison complexes, who challenged seventeen practices related to medical, dental, and mental health care as well as isolation units and submitted fourteen anecdotal declarations in support. 289 F.R.D. at 515, 525. This Court affirmed and rejected the State's argument that the commonality evidence only established "isolated" incidents. 754 F.3d at 684 n.28, 690. This Court observed that the declarations were submitted not as individual claims, but as "evidence of the defendants' unlawful policies and practices, and as examples of the serious harm to which all inmates in ADC custody are allegedly exposed." *Id.* at 672. Notably, no comparison of the number of declarations to class members was conducted by either court nor was there any analysis of whether the accounts represented inmates from every facility or each challenged practice.

Courts in this Circuit and elsewhere have concluded that anecdotal evidence supported a finding of commonality in civil rights class actions after *Wal-Mart* without computing the ratio of declarations to class members. Instead, these courts analyzed the substance of the testimony

to determine if it supported a commonality finding. *See e.g. Menocal v. GEO Group, Inc.*, 320 F.R.D. 258, 263 n.1 (D. Colo. 2017); *aff'd*, 882 F.3d 905, 911 (10th Cir. 2018) (eight anecdotal declarations supported class of 50,000 immigrant detainees certified to challenge work requirements); *Chen-Oster v. Goldman, Sachs & Co.*, 325 F.R.D (S.D.N.Y. 2018) (class of up to 2,300 women challenging discretionary pay and promotion systems certified); *Sellars v. CRST Expedited, Inc.*, 321 F.R.D. 578, 600 (N.D. Iowa 2017) (eight declarations from female truck drivers supported certification of issues in hostile work environment and retaliation classes); *Ellis v. Costco Wholesale Corp.*, 285 F.R.D. 492, 517-18 (N.D. Cal. 2012) (in challenge to discretionary promotion practices, court relied on employee declarations submitted by both parties in addition to expert and party admissions, to find commonality satisfied).

Here, the district court failed to consider the substance of the declarations submitted. Had it done so, it would have recognized that they persuasively illustrate how Microsoft's policies facilitated gender bias, animating the "cold numbers." *See e.g. Sowinska Decl.*, ¶ 7 (ECF 245) (male manager lowered female employee's performance rating for Calibration Process because she and the team of women she managed did

not smile enough and were “not fun”); Muenchow Decl. ¶ 6 (ECF 243) (female manager would not advocate assertively for her female reports during Calibration meetings because she felt she would be perceived as too aggressive).

The district court also refused to credit the declarations because they did not represent every state in which Microsoft operates (“only 5 of the 41 states”). Order at 57. This mechanical computation ignored that 90% of the class members’ work was performed in Washington State, and 72% at the Redmond headquarters. Farber Expert Rebuttal Report, ¶ 4 (ECF 359-10). Moreover, there was no evidence that the relevant policies differed by state. *Cf. Wal-Mart*, 564 U.S. at 359-60 (class subjected to “variety of regional policies that all differed”). Where, as here, the same company-wide policies control pay and promotion for all class members uniformly, declarations for each state and job position are unnecessary to establish commonality.

The district court’s erroneous treatment of the anecdotal evidence was exacerbated by its refusal to assign any weight to the 238 internal complaints of gender bias. The court dismissed them in a single sentence because plaintiffs failed to provide “evidence regarding whether that

number is unusual for a company like Microsoft with hundreds of thousands of employees.” Order at 60. Again, this suggests that the weight to be assigned to this evidence was nothing more than a mathematical equation, i.e., how Microsoft’s ratio of complaints to employees compared to that of a company with a comparable number of employees. That simplistic calculus ignores the substance and quality of the complaints and implies that, so long as all large companies have roughly equal numbers of female employees complaining about gender discrimination, their concerns have no legal significance. Like the declarations, the internal complaints illustrate a work culture in which women were devalued and corroborate other evidence offered in support of commonality.⁴

The district court’s analytical errors are compounded by yet another more fundamental error: the court evaluated petitioners’ anecdotal evidence standing on its own, rather than as one component of the totality of the circumstantial evidence to establish commonality. *See id.*

⁴ The district court was provided with extensive details about the nature of the complaints as well as a collection of full investigative files. ECF Nos. 391-1, 391-3, 391-4.

at 56 (“Plaintiffs’ anecdotal evidence also do not constitute the necessary ‘substantial proof.’”). With circumstantial evidence of discriminatory intent, “[a]ny individual piece of evidence can seem innocuous when viewed alone, but gains an entirely different meaning when considered in context.” *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204, 233 (4th Cir. 2016). Concluding that a district court erred in finding that two election laws were not enacted with racially discriminatory intent, the *McCrory* court explained that the “error resulted from the court’s consideration of each piece of evidence in a vacuum, rather than engaging in the totality of the circumstances analysis” *Id.* Here, the district court made precisely this error – evaluating the anecdotal evidence in isolation. This, combined with the counting rather than weighing of anecdotal declarations of gender discrimination, warrants intervention.

II. The District Court’s Erroneous Analysis of Anecdotal Evidence Will Imperil Efforts to Combat Systemic Gender Discrimination.

Erecting an arbitrary evidentiary hurdle for cases challenging systemic gender discrimination is particularly troubling given that female employees are often reluctant to complain about or to their superiors. Professional women who have invested years building their

educational and professional qualifications will be understandably reticent to jeopardize their hard-earned achievements. Legal protections against retaliation will do little to assuage this fear in a workplace like Microsoft's, where female employees can find themselves sidelined by a supervisor's determination that they are not a good "fit" or lack commitment. Studies have repeatedly confirmed that many women are reluctant to report workplace harassment, including within the tech industry.⁵ Former employees may face an additional barrier if they

⁵ Sheelah Kolhatkar, *The Tech Industry's Gender-Discrimination Problem*, *The New Yorker* (November 20, 2017), <https://www.newyorker.com/magazine/2017/11/20/the-tech-industrys-gender-discrimination-problem> ("Almost forty per cent [of women working in tech surveyed in 2015] said that they didn't report [unwanted advances] because they feared retaliation."); Testimony of Mindy Bergman, *Workplace Harassment: Examining the Scope of the Problem and Potential Solutions*, Meeting of the E.E.O.C. Select Task Force on the Study of Harassment in the Workplace (June 15, 2015), https://www.eeoc.gov/eeoc/task_force/harassment/testimony_bergman.cfm ("It is actually unreasonable for employees to report harassment to their companies because minimization and retaliation were together about as common as remedies. . . [R]eporting is a gamble that is not worth taking. . ."); Lilia M. Cortina & Vick J. Magley, *Raising Voice, Risking Retaliation: Events Following Interpersonal Mistreatment in the Workplace*, 8 *J. Occupational Health Psychol.* 247, 255 (2003) (75 percent of employees who decided to speak out against workplace mistreatment faced either professional or social retaliation).

APPENDIX OF AMICI

A Better Balance is a national non-profit legal advocacy organization based in New York, NY and Nashville, TN founded with the goal of ensuring that workers can meet the conflicting demands of their jobs and family needs, and that women and mothers can earn the fair and equal wages they deserve, without compromising their health or safety. Through legislative advocacy, litigation, research, and public education, A Better Balance has advanced many pioneering solutions on the federal, state, and local levels designed to combat gender-based discrimination and level the playing field for women and families. The organization also runs a free legal clinic in which the discriminatory treatment of women in violation of Title VII and other state and local laws can be seen firsthand.

Alianza Nacional de Campesinas (Alianza de Campesinas) is the first national farmworker women's organization in the United States. It was founded in 2011 by current and former farmworker women, as well as women who hail from farmworker families to unify the farmworker women's struggle, elevate farmworker women's leadership and by advancing farmworker women's policy priorities through a national

movement. Alianza aims to create broader visibility and advocate for changes that ensure farmworker women's human rights. It is also dedicated to securing social, environmental, economic, and gender justice for farmworker women, including ending wage theft and closing the pay gap. Alianza has also focused on ending and addressing violence against women, improving general labor protections and advancing policies that promote healthier workplaces, homes, and communities for farmworker women and their families.

The **American Civil Liberties Union (ACLU)** is a nationwide, nonprofit, nonpartisan organization with more than 1.75 million members dedicated to the principles of liberty and equality embodied in the Constitution and our nation's civil rights laws. The ACLU, through its Women's Rights Project, has long been a leader in legal advocacy aimed at ensuring women's full equality and ending discrimination against women in the workplace, including sexual harassment, pregnancy and caregiver discrimination, and discrimination against women in male dominated fields.

American Association of University Women (AAUW) was founded in 1881 by like-minded women who had challenged society's

conventions by earning college degrees. Since then it has worked to increase women's access to higher education and equal employment opportunities. Today, AAUW has more than 170,000 members and supporters, 1,000 branches, and 800 college and university partners nationwide. AAUW plays a major role in mobilizing advocates nationwide on AAUW's priority issues to advance gender equity. In adherence with its member-adopted Public Policy Program, AAUW supports equitable access and advancement in employment, pay equity, as well as vigorous enforcement of employment discrimination statutes including the ability to bring class actions to challenge systemic discrimination.

Asian Americans Advancing Justice – Asian Law Caucus (ALC) was founded in 1972 with a mission to promote, advance, and represent the legal and civil rights of Asian and Pacific Islanders, with a particular focus on low-income members of those communities. ALC is part of a national affiliation of Asian American civil rights groups, with offices in Los Angeles, Chicago, Washington DC, and Atlanta. ALC's advocacy includes direct services and class-action litigation for low-wage

immigrant workers on a range of workplace issues, including race, national origin, and gender discrimination.

The Asian American Legal Defense and Education Fund (AALDEF), founded in 1974, is a national organization that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all. AALDEF's litigation includes class action claims of discrimination in employment and voting and non-payment of minimum wage and overtime pay.

California Women Lawyers (CWL) is a non-profit organization that was chartered in 1974. CWL is the only statewide bar association for women in California and maintains a primary focus on advancing women in the legal profession. Since its founding, CWL has worked to improve the administration of justice, to better the position of women in society, to eliminate all inequities based on sex, and to provide an organization for collective action and expression related to those purposes. CWL participates as amicus curiae in a wide range of cases to

secure the equal treatment of women and other classes of persons under the law.

The **California Women's Law Center (CWLC)** is a statewide, nonprofit law and policy center dedicated to advancing the civil rights of women and girls through impact litigation, advocacy and education. CWLC's issue priorities include gender discrimination, violence against women, and women's health. Since its inception in 1989, CWLC has placed an emphasis on eliminating all forms of gender discrimination, including discrimination and harassment against women in the workplace, and CWLC remains dedicated to end practices contributing to the gender wage gap.

The **Center for WorkLife Law at the University of California, Hastings College of the Law**, is a national research and advocacy organization widely recognized as a thought leader on gender bias and discrimination at work. WorkLife Law collaborates with employers, employees, and lawyers representing both constituencies to conduct research and offer practical tools to ensure women's equal treatment in the workplace.

The **Disability Rights Education & Defense Fund (DREDF)** is a national nonprofit law and policy organization dedicated to protecting and advancing the civil rights of people with disabilities. Based in Berkeley, California, DREDF has remained board- and staff-led by people with disabilities since its founding in 1979. DREDF pursues its mission through education, advocacy and law reform efforts, and is nationally recognized for its expertise in the interpretation of federal disability civil rights laws. As part of its mission, DREDF works to ensure that people with disabilities have the legal protections, including effective legal remedies, necessary to vindicate their right to be free from discrimination. The federal Americans with Disabilities Act (ADA) and other disability civil rights laws build on and explicitly incorporate the expansive remedies of other statutory nondiscrimination protections.

The **Equal Justice Society (EJS)** is transforming the nation's consciousness on race through law, social science, and the arts. A national legal organization focused on restoring constitutional safeguards against discrimination, EJS's goal is to help achieve a society where race is no longer a barrier to opportunity. Specifically, EJS is working to fully restore the constitutional protections of the Fourteenth

Amendment and the Equal Protection Clause, which guarantees all citizens receive equal treatment under the law. We use a three-pronged approach to accomplish these goals, combining legal advocacy, outreach and coalition building, and education through effective messaging and communication strategies. Our legal strategy aims to broaden conceptions of present-day discrimination to include unconscious and structural bias by using cognitive science, structural analysis, and real-life experience.

Equal Pay Today, a project of the Tides Center, is an innovative collaboration of women's legal and workers' rights organizations working at the local, state, and federal level to close the gender wage gap and engage new and diverse constituencies in the fight for equal pay. We have members in nearly every region of the country and six state projects in California, Illinois, Minnesota, New Mexico, Pennsylvania, and Washington State. Understanding that many factors contribute to the gender wage gap, we focus on combating pay discrimination, pay secrecy, occupational segregation, pregnancy and caregiver discrimination, wage theft, and an inadequate minimum wage.

Equal Rights Advocates (ERA) is a national non-profit civil rights organization dedicated to protecting and expanding economic and educational access and opportunities for women and girls. Since its founding in 1974, ERA has litigated numerous class action and civil rights cases challenging gender discrimination at work and in school, including *Dukes v. Wal-Mart Stores, Inc.* Through litigation and other advocacy efforts, ERA has helped to secure workplace protections and conferred significant benefits on large groups of women and girls. ERA also provides free legal assistance to individuals facing discrimination and other unfair or unlawful treatment on the job and at school through our national Advice and Counseling program. ERA has participated as amicus curiae in scores of cases involving the interpretation and application of Title VII of the Civil Rights Act, Rule 23 of the Federal Rules of Civil Procedure, and other legal rules and laws affecting workers' rights and access to justice.

The **Impact Fund** is a non-profit legal foundation that provides funding for impact litigation, offers innovative training and support, and serves as counsel in impact litigation across the country. The Impact Fund has served as counsel in a number of major civil rights class actions,

including cases enforcing workers' rights and challenging employment discrimination, wage-and-hour violations, lack of access for those with disabilities, and violations of fair housing laws.

International Action Network for Gender Equity & Law (IANGEL) is an international network of lawyers dedicated to advancing gender equality and protecting the human and civil rights of women and girls, through peaceful legal means. IANGEL advances its mission by connecting lawyers, law firms, and legal associations willing to donate their advocacy, skills, and energy to the organizations and individuals working on these issues nationally and around the world.

Lambda Legal Defense and Education Fund, Inc. (Lambda Legal) is the nation's oldest and largest legal organization whose mission is to achieve full recognition of the civil rights of LGBT people and those living with HIV through impact litigation, education, and policy.

Legal Aid at Work (LAAW) (formerly the Legal Aid Society – Employment Law Center), founded in 1916, is a public interest legal organization that advances justice and economic opportunity for low-income people and their families at work, in school, and in the community. Since 1970, Legal Aid has represented low-wage clients in

cases involving a broad range of employment-related issues, including class actions and sex discrimination cases. LAAW's interest in preserving the protections afforded employees by this country's antidiscrimination laws is longstanding.

Legal Momentum is a leading national non-profit civil rights organization that for nearly 50 years has used the power of the law to define and defend the rights of girls and women. Legal Momentum has worked for decades to ensure that all employees are treated fairly in the workplace, regardless of their gender or sexual orientation. Legal Momentum has litigated cutting-edge gender-based employment discrimination cases, including *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998), and has participated as amicus curiae on leading cases in this area, including *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998), *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998), and *Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993).

Legal Voice is a nonprofit public interest organization in the Pacific Northwest that works to advance the legal rights of women and girls through litigation, legislation, and public education on legal rights. Since its founding in 1978 as the Northwest Women's Law Center, Legal

Voice has been at the forefront of efforts to combat sex discrimination in the workplace, in schools, and in public accommodations. In addition, Legal Voice has worked to advance women's economic security by supporting policies that help women in the workplace, including paid family and medical leave, paid leave for survivors of gender-based and intimate partner violence, pregnant workers' rights, and equal pay.

Mexican American Legal Defense and Educational Fund (MALDEF) is the leading national civil rights organization representing the legal interests of Latinos living in the United States through litigation, advocacy, and educational outreach. MALDEF's mission is to foster sound public policies to safeguard the civil rights of all Latinos living in the United States and to enable the Latino community to participate fully in our society. MALDEF has litigated many cases under state and federal law to ensure equal treatment of Latinos, including many class actions in the areas of education, employment, immigrant rights, and voting rights.

Muslim Advocates is a national legal advocacy and educational organization that works on the frontlines of civil rights to guarantee freedom and justice for Americans of all faiths. Muslim Advocates

advances these objectives through litigation, including class actions, and through other legal advocacy, policy engagement, and civic education. Muslim Advocates also serves as a legal resource for the American Muslim community, promoting the full and meaningful participation of Muslims in American public life.

The National Center for Law and Economic Justice (NCLEJ) has decades of experience in securing and maintaining legal protections for those members of our society adversely impacted by income inequality. The NCLEJ has litigated in federal courts nationwide to secure rights under civil rights statutes, frequently litigating class actions through Federal Rule of Civil Procedure 23. Through litigation, policy analysis, and support for grassroots organizing, NCLEJ seeks to improve the economic security of low-income families, individuals, and communities across the nation, with a particular focus on preserving due process of law.

The National Center for Lesbian Rights (NCLR) is a national non-profit legal organization dedicated to protecting and advancing the civil rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education.

Since its founding in 1977, NCLR has played a leading role in securing fair and equal treatment for LGBT people and their families in cases across the country involving constitutional and civil rights. NCLR has a particular interest in promoting equal opportunity for LGBT people in the workplace through legislation, policy, and litigation, and represents LGBT people in employment and other cases in courts throughout the country.

The National Employment Law Project (NELP) is a non-profit legal organization with over 45 years of experience advocating for the employment and labor rights of low-wage and unemployed workers. NELP seeks to ensure that all workers, and especially the most vulnerable ones, receive the full protection of labor and employment laws, including protections against discrimination, regardless of an individual's status. These same workers face severe barriers to enforcing their workplace rights, making collective and class action mechanisms vital to upholding workplaces free from discrimination. NELP has litigated and participated as amicus curiae in numerous cases in circuit and state and U.S. Supreme Courts addressing the importance of equal access to labor and employment protections for all workers.

The **National Women’s Law Center (NWLC)** is a nonprofit legal advocacy organization dedicated to the advancement and protection of women’s legal rights and the rights of all people to be free from sex discrimination. Since its founding in 1972, NWLC has focused on issues of key importance to women and girls, including economic security, employment, education, and health, with special attention to the needs of low-income women and those who face multiple and intersecting forms of discrimination. NWLC has participated as counsel or amicus curiae in a range of cases before the Supreme Court and the federal Courts of Appeals to secure equal treatment and opportunity in all aspects of society through enforcement of the Constitution and laws prohibiting discrimination. NWLC has long sought to ensure that rights and opportunities are not restricted on the basis of gender and that all individuals enjoy the full protection against sex discrimination promised by federal law.

Public Advocates, Inc., is a non-profit, public interest law firm and one of the oldest public interest law firms in the nation. Public Advocates uses diverse litigation and non-litigative strategies to handle exclusively policy and impact cases to challenge the persistent,

underlying causes and effects of poverty and discrimination. Its work currently focuses on achieving equality in education, housing, and transportation; in the past the organization has addressed systemic harms in employment, prisons, consumer rights, welfare benefits and health care among other issue areas.

Public Counsel is the largest pro bono law firm in the nation and the Southern California affiliate of the Lawyers' Committee for Civil Rights Under Law. Its 71 attorneys and 50 support staff – along with over 5,000 volunteer lawyers, law students, and legal professionals – assist more than 30,000 low-income individuals, families, and community organizations every year. Public Counsel addresses systemic poverty and civil rights issues through impact litigation, direct services, and policy advocacy. Our practice areas include veterans' rights, children's rights, community development, consumers' rights, immigrants' rights, and housing and homelessness.

Queen's Bench Bar Association of the San Francisco Bay Area is a nonprofit voluntary membership organization made up of judges, lawyers, and law students in the San Francisco Bay Area. Established in 1921, Queen's Bench is one of the oldest women's bar

associations in the country. Queen's Bench seeks to advance the interests of women in law and society, and to serve the professional needs of women lawyers, judges, and law students. Queen's Bench has a strong and demonstrated interest in the preservation of the Constitutional right to equal protection of the laws.

The **Southwest Women's Law Center** is a non-profit policy and advocacy Law Center founded in 2005 with a focus on advancing economic opportunities for women and girls in the state of New Mexico. We work to ensure that women have equal access to programs and opportunities to help ensure they can adequately care for their families. Foremost in our work is ensuring that women are the recipients of fair and equal pay. The Southwest Women's Law Center has been a strong advocate for fair pay for women in the workplace for many years.

The **Washington Lawyers' Committee for Civil Rights and Urban Affairs** provides legal services to address discrimination and endeavors to create legal, economic, and social equity on a broad range of issues. The Committee is engaged in class action litigation that addresses, among other issues, discrimination in employment, public accommodations, and housing.

Women Employed's mission is to improve the economic status of women and remove barriers to economic equity. Since 1973, the organization has assisted thousands of working women with problems of discrimination and harassment, monitored the performance of equal opportunity enforcement agencies, and developed specific, detailed proposals for improving enforcement efforts, particularly on the systemic level. Women Employed strongly believes that pay discrimination is one of the main barriers to achieving equal opportunity and economic equity for women in the workplace.

The Women's Law Project (WLP) is a nonprofit public interest law firm with offices in Philadelphia and Pittsburgh, Pennsylvania. The WLP's mission is to create a more just and equitable society by advancing the rights and status of women throughout their lives. To meet these goals, the WLP engages in high impact litigation, policy advocacy, public education, and individual counseling. Founded in 1974, the WLP has a long and effective track record on a wide range of legal issues related to women's health, legal, and economic status. Economic justice and equality for women is a high priority for WLP.

