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RICHARD W. WIERING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIF.  
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10 UNITED STATES DISTRICT COURT FOR  
11 THE NORTHERN DISTRICT OF CALIFORNIA

DMR

12 U.S. EQUAL EMPLOYMENT  
13 OPPORTUNITY COMMISSION,

) Case No.:

) **CV 11 3162**  
) **COMPLAINT**

14 Plaintiff,

15 vs.

) **CIVIL RIGHTS - EMPLOYMENT**  
) **DISCRIMINATION**

16 ABERCROMBIE & FITCH STORES, INC.  
17 dba HOLLISTER, HOLLISTER CO.  
18 CALIFORNIA, LLC

) **JURY TRIAL DEMAND**

19 Defendants.  
20

21 NATURE OF THE ACTION

22 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil  
23 Rights Act of 1991 to correct unlawful employment practices on the basis of religion and to  
24 provide appropriate relief to Umme-Hani Khan who was adversely affected by such practices.  
25 Ms. Khan is Muslim. As alleged below, Abercrombie & Fitch Stores, Inc. dba Hollister  
26 (hereinafter "Abercrombie & Fitch") and Hollister Co. California LLC (hereinafter "Hollister")  
27 unlawfully discriminated against Ms. Khan by failing to accommodate her sincerely held  
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1 religious belief and practice of wearing a hijab (head scarf) and by firing her because of her  
2 religion, Islam.

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4 JURISDICTION AND VENUE

5 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and  
6 1345. This action is authorized and instituted pursuant to Sections 706(f)(1) and (3) of Title VII  
7 of the Civil Rights Act of 1964, as amended (Title VII), 42 U.S.C. §2000e-5(f)(1) and (3), and  
8 Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

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10 2. The employment practices alleged to be unlawful were and are now being committed  
11 within the County of San Mateo in the State of California which is within the jurisdiction of the  
12 United States District Court for the Northern District of California. Venue is therefore proper in  
13 the United States District Court for the Northern District of California.

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15 INTRADISTRICT ASSIGNMENT

16 3. This action is appropriate for assignment to the San Francisco Division of this Court as  
17 the alleged unlawful practices were and are now being committed in San Mateo County, which is  
18 within the jurisdiction of the San Francisco Division.

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20 PARTIES

21 4. Plaintiff, the Equal Employment Opportunity Commission (“EEOC” or “Commission”),  
22 is the agency of the United States of America charged with the administration, interpretation, and  
23 enforcement of Title VII and is expressly authorized to bring this action by sections 706(f)(1)  
24 and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

25  
26 5. At all relevant times, Defendant Abercrombie & Fitch has been and is now an Ohio  
27 limited liability corporation doing business in the State of California and the City of San Mateo  
28 and has continuously had at least fifteen employees.

1 6. At all relevant times, Defendant Abercrombie & Fitch has continuously been an  
2 employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g),  
3 and (h) of Title VII, 42 U.S.C. §2000e-(b), (g), and (h).

4 7. At all relevant times, Defendant Hollister has been and is now a California limited  
5 liability corporation doing business in the State of California and the City of San Mateo and has  
6 continuously had at least fifteen employees.

7 8. At all relevant times, Defendant Hollister has continuously been an employer engaged in  
8 an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII,  
9 42 U.S.C. §2000e-(b), (g), and (h).

10 9. All of the acts and failures to act alleged herein were duly performed by and attributable  
11 to all Defendants, each acting as a successor, agent, alter ego, employee, indirect employer, joint  
12 employer, integrated enterprise and/or under the direction and control of the others, except as  
13 specifically alleged otherwise. Said acts and failures to act were within the scope of such agency  
14 and/or employment, and each Defendant participated in, approved and/or ratified the unlawful  
15 acts and omissions by the other Defendants complained of herein. Whenever and wherever  
16 reference is made in this Complaint to any act by a Defendant or Defendants, such allegations  
17 and reference shall also be deemed to mean the acts and failures to act of each Defendant acting  
18 individually, jointly, and/or severally.  
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23 STATEMENT OF CLAIMS

24 10. More than thirty days prior to the institution of this lawsuit, Umme-Hani Khan filed a  
25 charge of discrimination with the Commission alleging violations of Title VII by Defendants.  
26 The Commission has issued a Letter of Determination finding reasonable cause to believe that  
27 Defendants Abercrombie & Fitch and Hollister collectively discriminated against Umme-Hani  
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1 Khan because of her religion and therefore violated Title VII. Prior to instituting this lawsuit, the  
2 Commission attempted to eliminate the unlawful employment practices alleged herein and to  
3 effect voluntary compliance with Title VII through informal methods of conciliation, conference  
4 and persuasion within the meaning of Section 706(b) of Title VII, 42 U.S.C. §§2000e-5(b) and  
5 2000e-6. All conditions precedent to the institution of this lawsuit have been fulfilled.  
6

7 11. Since at least February 2010, Defendants have engaged in unlawful employment  
8 practices at their San Mateo California location in violation of Section 703(a)(1) of Title VII, 42  
9 U.S.C. §2000e-2(a)(1). Ms. Khan is Muslim. In accordance with her religious beliefs, Ms. Khan  
10 wears a hijab in public and when she is in the presence of men who are not members of her  
11 immediate family. Defendants hired Ms. Khan to work as an Impact Associate at Hillsdale Mall  
12 in San Mateo, California, on October 5, 2009. Ms. Khan was wearing a religious head scarf  
13 called a hijab when she was interviewed and hired. Ms. Khan worked for Defendants without  
14 incident, wearing her hijab, from October 2009 until February 2010. On or about February 11,  
15 2010, Defendants' District Manager, Adam Chmielewski, observed Ms. Khan wearing a hijab in  
16 the store. On or about February 15, 2010, at Mr. Chmielewski's request, Ms. Khan explained  
17 that she believes that her religion, Islam, requires her to wear the hijab while in public. Ms.  
18 Chmielewski suspended Ms. Khan that same day. Mr. Chmielewski consulted with corporate  
19 Human Resources Director, Amy Yoakum and they determined collectively that Ms. Khan could  
20 not continue working for Defendants while wearing a hijab because to do so violated Defendants  
21 grooming policy known as the "Look Policy." Thereafter, Defendants fired Ms. Khan effective  
22 February 23, 2010. These actions constitute discrimination against Ms. Khan on the basis of  
23 religion.  
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1 12. The effect of the practices complained of in paragraph 11 above has been to deprive Ms.  
2 Khan of equal employment opportunities and otherwise to adversely affect her status as an  
3 employee because of her religion, Islam.

4 13. The unlawful employment practices complained of in paragraph 11 above were and are  
5 intentional.

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7 14. The unlawful employment practices complained of in paragraph 11 above were and are  
8 committed with malice and/or reckless disregard for the federally protected rights of Ms. Khan.

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10 PRAYER FOR RELIEF

11 WHEREFORE, the Commission respectfully requests that this Court:

12 A. Grant a permanent injunction enjoining Defendants, Abercrombie & Fitch and  
13 Hollister, their officers, successors, assigns, and all persons in active concert or participation  
14 with them, from engaging in any employment practices which discriminate on the basis of  
15 religion.

16 B. Order Defendants to institute and carry out policies, practices, and programs  
17 which provide equal employment opportunities for their employees of all religions and which  
18 eradicate the effects of their past and present unlawful employment practices.

19 C. Order Defendants to make whole Ms. Khan by providing compensation for past  
20 and future pecuniary losses resulting from the unlawful employment practices described above,  
21 with interest, in amounts to be determined at trial.

22 D. Order Defendants to make whole Ms. Khan by providing compensation for past  
23 and future non-pecuniary losses caused by the above unlawful conduct, including pain and  
24 suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and  
25 humiliation, in amounts to be determined at trial.

26 E. Order Defendants to pay Ms. Khan punitive damages for its malicious and  
27 reckless conduct described above, in amounts to be determined at trial.

28 F. Grant such further relief as the Court deems necessary and proper.

1 G. Award the Commission its costs in this action.

2 JURY TRIAL DEMAND

3 The Commission requests a jury trial on all questions of fact raised by its complaint.

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13 Dated: June 25, 2011

/s/ William R. Tamayo  
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15 Regional Attorney

16 Dated: 6/27/11

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18 Supervisory Trial Attorney

19 Dated: 6/27/11

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