

employees that pumped breast milk. Ms. Pham’s breastfeeding practices quickly became inappropriate workplace chatter. As detailed below, male superiors and male co-workers volunteered offensive and derogatory commentary to Ms. Pham about following her physician’s advice to breast-feed her newborn.

4. Perversely, at the same time that Morgan Stanley was busy firing Ms. Pham because she dared to “have it all” and complained about being treated differently once she became pregnant, Morgan Stanley was busy touting its purported commitment to women’s advancement to shareholders and clients. Ms. Pham was fired on September 18, 2018, just as Morgan Stanley publicized the fact that it was flying its “highest ranking women” from around the world to New York for a 2-day summit on September 25, 2018, allegedly to help solve its problem advancing women into top echelons.¹

5. Morgan Stanley cannot have it both ways: it cannot posture about a willingness to talk about “what it can do” to help women, while at the same time allow its own executives to subject childbearing women to blatant, unabated systemic discrimination.² As the facts of this

¹ See <https://www.bloomberg.com/news/articles/2018-09-25/morgan-stanley-gathers-its-top-women-to-plan-lifting-their-ranks> (“On September 25, 2018, Morgan Stanley will host more than 350 people to discuss the lack of gender diversity at Morgan Stanley;” although Morgan Stanley has not published internal statistics in recent years, it is reported that “women currently account for just 19% of Morgan Stanley’s managing directors and only three women sit on the 17-member operating committee, the firm’s most-senior governing body.”)

² Unless otherwise noted, the terms “childbearing,” “maternity” or “maternity status” in this Complaint refer to the period of pregnancy, and/or time immediately prior to and after childbirth, and/or the average period after childbirth that women breastfeed newborns. See <https://www.cdc.gov/breastfeeding/data/facts.html>. The American Academy of Pediatrics (“AAP”) recommends that infants be exclusively breastfed for the first six months, with continued breastfeeding alongside introduction of appropriate complementary foods for one year or longer. The Centers for Disease Controls and Prevention (“CDC”) list “unsupportive work policies and lack of parental leave” as a factor influencing women’s decision to breastfeed for less than six months.

case make clear, Morgan Stanley is doing nothing more than shirking its responsibility by paying lip-service to a problem it contends is really an *industry problem*.

6. To be the trailblazer that Morgan Stanley purports to be, it must be an industry leader when it comes to all of its employees – not just for men and childless women. In this face-time industry, deeply rooted male experiences dictate the linear trajectory path of success. There is no reason why time-adjusted productivity metrics cannot be developed that allow women like Ms. Pham who excel in finance to have children at a point in their lives when biology gives them the greatest probability to bear healthy children.

7. Federal, state and city laws mandate that employers cannot subject female employees to unlawful discriminatory practices. Yet, it painfully continues to take place, day in and day out. Rather than lead, Morgan Stanley continues to slow the advancement of women through systemic discrimination.

Why Doesn't Morgan Stanley Halt this Senseless Discrimination *Today*?

8. It is no secret that the investment world can be demanding and ruthless for both men and women. For the small percentage of women that keep pace with their male peers during their first 10-15 years of their careers and prepare for the ladder of promotion, as did Ms. Pham, a cruel biological reality sets in.³

³ Upon belief, such ingrained protocols likely contribute to Morgan Stanley's willingness to cover insurance costs that it extends to young women willing to undergo fertility treatments and freeze their eggs. In 2015 while Ms. Pham was an Associate, a senior female employee cautioned Ms. Pham and another junior female to be mindful of the promotional timeline in terms of childbearing, and to take advantage of the fact that **Morgan Stanley supports egg-freezing**. Such backhanded support rings hollow when the data from the American College of Obstetricians and Gynecologists is clear that a woman is most fertile between the ages of 15 and 30; the rate of pregnancy sharply declines to just 25% by mid-30s, and about 90% of women age 40 and over cannot conceive naturally. Sadly, despite aggressive advertising from infertility clinics, according to the Center for Disease Control and Prevention, the success rate of assisted reproductive technology after the age of 40 is 7% or less.

9. At the precise time when Morgan Stanley starts making meaningful decisions about opportunities and advancement for employees, female employees hit their biological prime for childbearing. The timing of the ladder of success at Morgan Stanley is critical because decisions made after an employee has 12-14 years of experience, for example, often dictate an employee's future at Morgan Stanley in terms of compensation, position and therefore, power. At Morgan Stanley, it is men, not women, who hold the power and therefore make the "rules" when it comes to performance metrics and advancement opportunities. It is men, not women, at Morgan Stanley who decide the "when" for purposes of placing an employee up for promotion.

10. The data is staggering about how even small adverse decisions influenced by an employee's pregnancy status, maternity leave or breast-feeding knock women off the compensation trajectories that their male peers take for granted. This data has been published and widely accessible for almost two decades. See [The Myth Of "Having it All"](#) Harvard Business Review, 2002, Sylvia Ann Hewlett, citing extensive data from multiple research projects funded by groups such as Ernst & Young, Merck and the National Parenting Association showing the predictability of women's loss in money and power when viewed against the overlap in prime fertility averages.⁴

11. Once women experience this derailment, the men at Morgan Stanley outpace women at shocking levels. It is a feedback loop that rewards men that become fathers by giving them greater compensation and power, while penalizing female employees who experience childbirth.⁵

⁴ <https://hbr.org/2002/04/executive-women-and-the-myth-of-having-it-all>.

⁵ See **The Fatherhood Bonus & The Motherhood Penalty: Parenthood and the Gender Gap in Pay**, Michelle J. Budig, PhD., Third Way Next, http://content.thirdway.org/publications/853/NEXT_-_Fatherhood_Motherhood.pdf

12. Morgan Stanley is in the business of crunching numbers and assessing risk. If the senior male leaders of Morgan Stanley truly cared about advancing women to leadership, these men already would have designed and implemented effective data-driven policies to allow women to overcome the additional hurdles placed on female employees than male employees.

13. As detailed below, from the moment Morgan Stanley executives became aware that Ms. Pham became pregnant, her ability to succeed and “have it all” at Morgan Stanley vanished. The question is not *whether* other pregnant or breast-feeding employees at Morgan Stanley suffered similar professional damage, but *how many* women paid the price for systemic mistreatment.

14. The senior male executives that hold the power at Morgan Stanley must force their managers to adhere to the federal, state and municipal laws in place. When managers fail to do so, discipline from the top echelon must be swift and meaningful.

15. The laws meant to protect female vice presidents like Chau Pham are already on the books. Morgan Stanley just needs to follow them.

Morgan Stanley Has Known About This Discrimination for Years

16. Importantly, the EEOC previously commenced a class-wide lawsuit against Morgan Stanley alleging discrimination in promotion and compensation that involved many of the same allegations of systemic bias against female employees in this Charge. Specifically, the EEOC's lawsuit alleged that Morgan Stanley discriminated against women in its Institutional Equity Division (“IED”) with respect to promotion, compensation and the terms, conditions and privileges of employment. *EEOC, et al., v. Morgan Stanley & Co., et al.*, No. 01 Civ. 8421 (S.D.N.Y. Sept. 10, 2001). In 2004, a settlement was reached in the form of a Consent Decree, pursuant to which Morgan Stanley established a fund of \$40 million to compensate female

employees that submitted similar claims of discrimination. As part of the settlement, Morgan Stanley agreed to designate at least \$2 million towards internal programs designed to enhance the compensation and promotional opportunities for female employees within Morgan Stanley. The lead class representative, Allison Schieffelin, received \$12 million as part of the Consent Decree.⁶

Morgan Stanley Uses the Secret Cloak of Confidential Arbitration to Further Impair Women's Advancement at Morgan Stanley

17. Morgan Stanley is a leading global financial services firm providing investment banking, securities, wealth management and investment management services. With offices in more than 41 countries, it employs more than 55,000 people.

18. Being an employer of that magnitude and scope carries with it a moral obligation to lead by example and be at the forefront of social justice movements.

19. As experienced by Ms. Pham, no reasonable woman returning from maternity leave would expect to suffer disparagement, marginalization and accusations of poor performance because she stayed home with her newborn after childbirth, or because she nursed her baby and needed to pump breast milk at work.

20. Worse, no reasonable woman would expect that Morgan Stanley wants its employees to agree to mandatory arbitration agreements.

21. Forced arbitration as a term of employment means that women at Morgan Stanley that experience gender discrimination, pregnancy discrimination, sexual harassment or

⁶ See <https://www.eeoc.gov/eeoc/newsroom/release/7-12-04.cfm>. Sadly, the Consent Decree provided for an outside monitor to supervise Morgan Stanley's efforts towards the advancement of women for only three years after the settlement.

discrimination because of a need to pump breast milk during work, must hide their legal claims from the public.

22. Secret arbitration is the opposite of transparency. Forced arbitration does not empower women nor help them advance. It does the opposite.

23. Shamefully, Morgan Stanley continues to reap the PR benefits of its leadership “summits” geared to address the glaring absence of women in its leadership, despite the fact that its executives know full well the intentional efforts Morgan Stanley takes to silence stories like that of Ms. Pham and other women through mandatory arbitration agreements.

24. Morgan Stanley has systematically attempted to force individual arbitration on employees since at least 2005, for all types of discrimination protected under federal, state and municipal laws. It is well-known that employees who are told that it is the company policy to litigate all claims, including discrimination claims in confidential arbitration, do not believe any meaningful choice exists to object to such a policy.

25. In addition to justified employee fear that asking Morgan Stanley to exclude them from the mandatory arbitration policy will “rock the boat” and perhaps cast them as a troublemaker, most employees do not even know that Morgan Stanley’s forum is confidential arbitration.

26. Even in the wake of the #MeToo movement and the public’s realization that forcing women into arbitration is both tremendously harmful and contrary to all notions of justice, Morgan Stanley disgracefully continues the practice.

27. While numerous companies, including Uber Technologies, Inc., Microsoft, Google and Kirkland & Ellis, are voluntarily doing away with arbitration agreements, Morgan

Stanley continues to deny female employees a basic and constitutional right to a jury of their peers in court.

28. Morgan Stanley cannot hold itself out to shareholders, investors, prospective employees, current employees and clients as a company that is genuinely interested in advancing female employees when it is hiding from public accountability and transparency.

29. Morgan Stanley could make the decision today to cease from forcing arbitration going forward and release the thousands of employees bound by silence.

30. Upon belief, over 35,000 employees at Morgan Stanley are subject to confidential arbitration.

31. Notwithstanding Morgan Stanley's attempts to silence Ms. Pham and other similarly situated female employees, Ms. Pham intends to cast light on the bias that has caused harm to the following proposed classes of female employees:

Title VII Class

All female employees that have or will be employed at Morgan Stanley in the U.S. that have been or will be pregnant, including those female employees that have been or will be pregnant and had pregnancy complications that required workplace accommodations; and those female employees that have been or will take maternity leave at any time from the earliest date actionable under the limitations period until the date of judgment in violation of Title VII of the Civil Rights Act of 1964 ("Title VII") as amended, 42 U.S.C. §§ 2000e, *et seq.*, and PDA (the "Title VII Class").

NYS Subclass and NYC Subclass

All female employees that have or will be employed at Morgan Stanley in the state of New York (the "NYS Subclass") or in New York City (the "NYC Subclass") that have been or will be pregnant, including those female employees that have been or will be pregnant and had pregnancy complications that required workplace accommodations; and those female employees that have been or will take maternity leave at any time from the earliest date actionable under the limitations period until the date of judgment.

Breast Pumping Class

All female employees that have or will be employed at Morgan Stanley in the state of New York that have needed to or will need to pump breast milk during work hours (the “Breast Pumping Class”) at any time from the earliest date actionable under the limitations period until the date of judgment.

32. Accordingly, Ms. Pham now brings this Charge of Discrimination on behalf of herself against Morgan Stanley, as well as on behalf of all other similarly situated female employees (the “Class”) at Morgan Stanley who have been discriminated against as set forth in the above-proposed classes.

PARTIES

33. Claimant Chau Pham is a former Vice President within Morgan Stanley’s Fixed Income Division, who currently lives in New York, New York. At all relevant times, Ms. Pham met the definition of “employee” and/or “eligible employee” under all applicable statutes.

34. Respondent Morgan Stanley is a corporation with its principal place of business in New York, New York, and is duly organized under the laws of the State of Delaware. At all relevant times, Morgan Stanley met the definition of “employer” and/or “eligible employer” under all applicable statutes.

35. Respondent Samer Oweida is a Managing Director at Morgan Stanley in New York. At all relevant times, he met the definition of “employer” and/or “eligible employer” under all applicable statutes.

36. Respondent David Greenberg is an Executive Director at Morgan Stanley in New York. At all relevant times, he met the definition of “employer” and/or “eligible employer” under all applicable statutes.

FACTUAL ALLEGATIONS

May 2015: Ms. Pham Joins Morgan Stanley

37. Ms. Pham is the youngest child born to working-class immigrant parents from Vietnam. Because of sheer determination and relentless application, Ms. Pham earned admission to Stanford University and was able to attend and graduate due to multiple merit scholarships she earned.

38. After graduating from Stanford, Ms. Pham worked at, *inter alia*, J.P. Morgan Securities, Inc. and Goldman Sachs for four years. In May 2015, Ms. Pham joined Morgan Stanley as an Associate in the Fixed Income Division, Foreign Exchange Real Money Sales team.

39. At that time, Ms. Pham reported to Mr. Greenberg, a white male who has worked at Morgan Stanley since 1997. Mr. Greenberg reported to Stephen Zannetos and Phoebe Donham.

40. Ms. Pham's stellar performance garnered her praise. By way of example only, Ms. Pham received top client ranks, strong performance reviews and was a top performer on her sales desk. Among other metrics demonstrating her strong performance, Ms. Pham had the strongest client interaction numbers on her team in 2016 and 2017, and significantly grew her overall sales production.

41. In January 2017, Ms. Pham was promoted to Vice President.

July 2017: Ms. Pham Becomes Pregnant

42. In July 2017, Ms. Pham became pregnant.

43. In August 2017, Mr. Oweida, a childless male in his mid-thirties, moved to Ms. Pham's team and was named the head of the New York Foreign Exchange and Emerging

Markets Sales team. Mr. Oweida, a former managing director at Credit Suisse, came to Morgan Stanley in October 2016 as a managing director. Ms. Pham continued to report to Mr. Greenberg, who now reported to Mr. Oweida. Mr. Oweida reported to Joseph Anderson, managing director and head of NY Macro Sales.

44. After undergoing fertility treatments for months, and having to make numerous trips to doctors' offices during weekdays, Ms. Pham was ecstatic to learn of her pregnancy.

45. Unfortunately, because Ms. Pham had heard through office chatter about other female employees at Morgan Stanley who were discriminated against after becoming pregnant, she understandably was hesitant to notify human resources about her pregnancy.

46. By way of example only, Ms. Pham was aware that after announcing their pregnancies, other women at Morgan Stanley had accounts suddenly removed from them, had compensation reduced and were pressured to return to work sooner than they were ready to from maternity leave. Ms. Pham's understanding from other employees was that many of these women were too afraid to complain or speak out for fear of losing their jobs completely.

47. Reasonably, Ms. Pham also was hesitant to inform her direct supervisor, Mr. Greenberg. By way of example only, Ms. Pham knew that Mr. Greenberg had refused a request from a female executive at Morgan Stanley to set up a meeting with a client because she was pregnant. Mr. Greenberg believed that because this female executive was pregnant and inevitably would be out on maternity leave, he did not see the "value" in setting up the meeting. Mr. Greenberg relented and set up the meeting only after the female executive pressured him and "explained" that she had months left to go before childbirth.

48. Prior to Ms. Pham becoming pregnant, horrifically, Mr. Greenberg told her that his “biggest fear” was that Ms. Pham and her teammate Sarah Wolter would become pregnant at the same time.

49. Worse, Ms. Pham was told by another female employee at Morgan Stanley that her senior male manager, Mirko Stiglich, responded to news of her pregnancy by telling her that her compensation would be decreased by up to one-third for the year. Purportedly, the drastic pay decrease was in proportion to Mr. Stiglich’s calculation of how long she would be “out” on maternity leave. Upon belief, this female employee went to human resources to discuss the discriminatory and retaliatory treatment.

50. Although the above-described warnings were more than sufficient to cause trepidation about disclosing her pregnancy, Ms. Pham received an ominous warning on the issue from the Chief Head of HR, Jeffrey Brodsky. In 2016, at a Morgan Stanley-sponsored event for women, Mr. Brodsky stressed to Ms. Pham and the room full of female employees, the importance of making sure they specifically communicated with their managers **if they intended to return to work after maternity leave or not.**

51. Incredulously, Mr. Brodsky told the women it was important because the issue would be “on their [managers] minds” and their managers *needed to know*. Presumably, Mr. Brodsky believed that the best way for Morgan Stanley to bypass the discrimination laws in place to protect female employees was for the women themselves to “voluntarily” raise the subject with management.

52. In case the women in attendance with Ms. Pham failed to understand what was being said, Mr. Brodsky further told them that “no one thinks twice” about whether a male employee who is about to become a father will continue working – of course he will.

53. Taking this warning from the Chief Head of HR himself to heart, Ms. Pham intentionally made it a point to tell coworkers and managers about how much she was committed to returning to Morgan Stanley after maternity leave.

Morgan Stanley Unlawfully Discriminates Against Ms. Pham After She becomes Pregnant

54. By November 2017, although some people knew already, Ms. Pham began to share news of her pregnancy with some coworkers.

55. Shortly thereafter, Mr. Greenberg took away one of Ms. Pham's accounts, PIMCO, and gave it to a junior member of the team, an Analyst named Abigail Richardson. Not surprisingly, Ms. Richardson was under 30 years, childless and not married. PIMCO is categorized as a "supercore" or "most important account" for Morgan Stanley. There was no reasonable basis for this decision, nor did Mr. Greenberg feel obligated to provide one to Ms. Pham despite the fact that she had been working on PIMCO and receiving 30% of the sales credit since 2016.

56. Also around this time, Mr. Greenberg excluded Ms. Pham from a meeting involving another client, TIAA. Prior to announcing her pregnancy, Ms. Pham was included in meetings and social events with TIAA.

December 2017: First Negative Performance Review

57. As part of this textbook tale of discrimination, shortly after people on her team knew she was pregnant, Ms. Pham received her first negative performance review.

58. When Ms. Pham questioned Mr. Greenberg about her sudden negative performance review, Mr. Greenberg told her that Mr. Oweida instructed him to give her the negative review. As part of the review, Mr. Greenberg acknowledged that Ms. Pham's overall production was higher.

59. Although Mr. Oweida had moved to lead their team in August, Ms. Pham's primary reporting remained directly to Mr. Greenberg. The review caused her to wonder whether she should have joined in with Mr. Oweida's regular after-work drinking outings with junior employees at places such as LAVO. But by the time Mr. Oweida was named Head of the team, Ms. Pham already was pregnant. Moreover, although she was aware that some junior employees generated face time with Mr. Oweida by joining him outside while he smoked, due to her pregnancy, Ms. Pham was unwilling to suffer second-hand smoke.

60. In or about early January 2018, Ms. Pham became aware that the percentage of sales credits allocated to her from an account, Capital Group, inexplicably was reduced. Again, no justification was provided.

61. Also around this time, Ms. Pham learned that her total compensation for 2017 would be kept flat.

Attempting to Prevent More Discrimination, Ms. Pham Complains

62. On February 27, 2018, Mr. Greenberg notified Ms. Pham that he intended to further strip accounts away from her, and warned her to be prepared to discuss her accounts in relation to an email he circulated to the team regarding "account changes."

63. Understandably alarmed, Ms. Pham immediately reached out to Mr. Oweida to request that he actively be involved in any account redistribution. She made sure he understood that she was worried that it would be unfair and discriminatory because of her pregnancy.

64. Ms. Pham personally met with Mr. Oweida about these issues and complained about accounts being taken away from her, as well as her exclusion from opportunities such as the TIAA meeting. Ms. Pham told Mr. Oweida such decisions were suspect and appeared to be

based on her pregnancy. Ms. Pham wanted assurances from Mr. Oweida that no further discriminatory actions would be taken against her because she was pregnant.

65. Rather than take these complaints seriously, Mr. Oweida brushed off Ms. Pham's concerns and labeled her "paranoid." Incredulously, Mr. Oweida proceeded to defend Mr. Greenberg to Ms. Pham, including by making clear that Mr. Greenberg had the right and discretion to invite whomever he wanted to client meetings. Mr. Oweida offered Ms. Pham his conclusory opinion that her account losses and any redistributions were made without any unlawful motive.

66. Unlawfully ignoring the fact that Ms. Pham had just made a protected complaint to Mr. Oweida about Mr. Greenberg's conduct, Mr. Oweida subsequently called a meeting with Mr. Greenberg and Ms. Pham to discuss the issues she raised.

67. Horrifically, Mr. Oweida and Mr. Greenberg took turns raising their voices at Ms. Pham and berating her.

68. Morgan Stanley's HR personnel learned of Ms. Pham's protected complaints.

69. On March 9, March 28 and April 11, 2018, Ms. Pham met with HR to discuss her complaints of discriminatory treatment based on her pregnancy. Afraid of being penalized further, Ms. Pham emphasized to HR that she simply wanted a "peaceful pregnancy and stress-free maternity leave." No action was taken by HR.

70. In April 2018, days before Ms. Pham was scheduled to go on maternity leave, Mr. Oweida had her assign coverage of her accounts. Mr. Oweida told Ms. Pham that team members covering her accounts would receive credit for any sales that came in while she was on maternity leave.

71. Ms. Pham knew that this loss of sales credits on accounts she was assigned was unlawful. She also believed that male employees that availed themselves of paternity leave were not forced to lose sales credits. Employees taking leave for other reasons, such as a co-worker who attended classes for her MBA, were not penalized and forced to lose sales credits to coworkers.

72. Although Mr. Oweida was careful to assure Ms. Pham that all of her accounts would be returned to her after she returned from maternity leave, Ms. Pham was worried about the veracity of his promise.

73. Ms. Pham secured Mr. Oweida's promise that her performance metrics for 2018 would be annualized based on the time during which she was actively working on accounts, and not based on her time on leave. This was critical because by this time, Ms. Pham's production numbers showed positive growth year-over-year on her accounts.

Ms. Pham is Penalized Further and Marginalized for Pumping Breast Milk

74. Ms. Pham worked up until her due date, April 13, 2018. She gave birth to her daughter on April 15, 2018.

75. On April 18, 2018, another female employee was brought onto the team as a Vice President. Upon belief, this employee, Lauren Hubert came from a different, less demanding sales desk at Morgan Stanley, and had less experience with the FX Real Money Sales team's client base as compared to Ms. Pham.

76. A week later, Kristin Zekis joined the FX Real Money Sales team, and would serve as Mr. Greenberg's manager.

77. In July 2018, Ms. Wolter, a vice president similarly situated to Ms. Pham, left the team for another department. Ms. Wolter's accounts were redistributed for coverage purposes

amongst the team members that were present at the sales desk at the time. Because Ms. Pham was on leave, she was excluded. Without explanation, when Ms. Pham returned in late August, she was not assigned any of Ms. Wolter's accounts.

78. However, a newly hired female associate in her twenties received at least one of Ms. Wolters's accounts.

79. Before she returned from leave, Ms. Pham spoke to Ms. Zekis on the phone about certain reasonable work accommodations she would need in connection with pumping breast milk.

80. Ms. Pham made clear that she needed to pump about every 3.5 hours. Therefore, given the long days on the desk, Ms. Pham expected to pump at least three times each day. On August 27, 2018, when she returned, Ms. Pham added her pumping schedule to both her team's Outlook calendar, as well as Morgan Stanley's shared Outlook calendar for mothers who needed to pump breast milk. Ms. Pham calendared 30-minute blocks for the pumping sessions. in order to reserve those times in the lactation room.

81. When Ms. Pham returned from maternity leave, she was distraught to learn that three of her former accounts would be permanently reassigned to others on her team. Outrageously, Ms. Pham was told that she would not be receiving a single new account, despite the fact that all of Ms. Wolter's former accounts had been reassigned.

82. Upon her return, Ms. Pham met with Ms. Zekis. At this meeting, Ms. Zekis presented Ms. Pham with a production report that purported to show mostly negative production on her accounts year over year. Ms. Pham expressed her surprise at this report because the majority of her accounts had positive year over year growth numbers at the time she left for maternity leave.

83. Clearly, despite Mr. Oweida's claim that Ms. Pham's production numbers would be annualized with her weeks of leave accounted for, this did not happen. Not only did Morgan Stanley strip Ms. Pham of sales credits and accounts, but it also manipulated her numbers to make it appear that her production was down when it knew her overall production was higher.

84. Seemingly, getting pregnant and experiencing childbirth can be a tangible performance deficiency at Morgan Stanley.

85. Further, less than one week after being back at work, Mr. Oweida and Mr. Greenberg excluded Ms. Pham from a sales meeting. Mr. Greenberg told Ms. Pham to stay on the sales desk. When Ms. Pham learned that Mr. Greenberg was leaving early to attend a workout class in New Jersey, she got up go to the meeting. Again, he told her to sit back down.

86. Furthermore, not long after her return to work, it was clear that Ms. Pham's breastfeeding practices had become inappropriate workplace chatter.

87. By way of example only, Aki Abiola, an Executive Director on the U.K. Real Money Sales Team, and a former coworker of Mr. Oweida's at Credit Suisse, commented, in sum and substance, to Ms. Pham that there is "nothing wrong with [baby] formula." Mr. Abiola told Ms. Pham, in sum and substance, that his son was "supplemented with formula." This was offensive to Ms. Pham who was trying to provide her newborn with the nourishment that her physician said was extremely important.

88. Moreover, knowing that Ms. Pham planned to bring and pickup her daughter from daycare starting September 17, 2018, Mr. Abiola also told Ms. Pham that he decided to hire a nanny as opposed to putting his newborn in daycare. Ms. Pham received permission from her manager that she would begin arriving after 7:00 am because daycare opened at 7:00 am.

89. Similarly, Mr. Greenberg offered his own disparaging comments to Ms. Pham about breast pumping.

90. By way of example only, multiple times, Mr. Greenberg asked Ms. Pham “What’s wrong with formula?”, and “How long do you plan to do this [pump/breastfeed]?” and “Are you sure you want to keep doing this [pumping]?”

91. Other Morgan Stanley employees openly compared Ms. Pham to another female employee who pumped breast milk and said that this other woman only pumped once a day – not three times a day.

92. In sum, Ms. Pham was made to feel like she was not a team player or dedicated to work simply because she was breastfeeding her daughter.

Three Weeks After Ms. Pham Returns From Maternity Leave, Morgan Stanley Fires Her

93. Without warning, on September 18, 2018, a mere **22 days** after she returned from maternity leave, Ms. Pham was fired.

94. Although she pressed HR and Mr. Oweida for the basis of her termination, no explanation was provided. When Ms. Pham attempted to discuss the decision, Mr. Oweida left the room. After Mr. Oweida left, Ms. Pham was alone with a single HR employee who presented her with documents and a proposed agreement to sign.

95. Although Morgan Stanley never gave Ms. Pham a reason, she learned that some of her former clients were told that her termination was the result of “firm-wide reductions.”

96. Upon belief, Ms. Pham was the only member of the North American foreign exchange sales team terminated in September. Although it was widely known that Mr. Greenberg had made numerous “out trades” or costly errors in executing and recording client transactions, in 2017, he was spared termination.

Aiding and Abetting Claims

97. Although Ms. Pham believes that the conduct engaged in by Mr. Oweida and Mr. Greenberg set forth above was fostered, ratified and allowed to occur based on policies, practices and messaging from the male-dominated executive leadership at Morgan Stanley, she respectfully includes individual claims against her male supervisors under the relevant aiding and abetting provisions of the New York State Human Rights Law, N.Y. Executive Law §§ 290 *et seq.* (“NYSHRL”), and the New York City Human Rights Law, N.Y. City Administrative Code §§ 8-101 *et seq.* (“NYCHRL”).

CLASS CLAIMS

98. This Charge, filed individually on behalf of Ms. Pham, and as a proposed Class, is intended to exhaust all administrative remedies for all class based gender discrimination claims brought pursuant to Title VII, NYSHRL, NYCHRL and New York Labor Law, § 206-c, including pregnancy discrimination, maternity leave related discrimination and discrimination against female employees that need to pump breast milk at work.

99. Ms. Pham files this Charge for claims under Title VII on behalf of the following proposed Class:

Title VII Class

All female employees that have or will be employed at Morgan Stanley in the U.S. that have been or will be pregnant, including those female employees that have been or will be pregnant and had pregnancy complications that required workplace accommodations; and those female employees that have been or will take maternity leave at any time from the earliest date actionable under the limitations period until the date of judgment in violation of Title VII and PDA (the “Title VII Class”).

100. Ms. Pham files this Charge for claims under NYSHRL and NYCHRL on behalf of the following proposed Class:

NYS Subclass and NYC Subclass

All female employees that have or will be employed at Morgan Stanley in the state of New York (the “NYS Subclass”) or in New York City (the “NYC Subclass”) that have been or will be pregnant, including those female employees that have been or will be pregnant and had pregnancy complications that required workplace accommodations; and those female employees that have been or will take maternity leave at any time from the earliest date actionable under the limitations period until the date of judgment.

101. Ms. Pham files this Charge for claims under New York Labor Law on behalf of the following proposed Class:

Breast Pumping Class

All female employees that have or will be employed at Morgan Stanley in the state of New York that have needed to or will need to pump breast milk during work hours (the “Breast Pumping Class”) at any time from the earliest date actionable under the limitations period until the date of judgment.

102. Morgan Stanley routinely violates protections guaranteed to nursing mothers under New York Department of Labor regulations, including NYLL, Section 206-c. Pursuant to these regulations, nursing mothers are entitled to breaks of at least 20 minutes or more, once every three hours, for up to three years after the birth of a child.

103. Ms. Pham seeks, through this Charge on behalf of the above-defined Class, all relief available, including injunctive and equitable relief, all monetary and punitive damages available, or other legal relief pursuant to Title VII, the NYSHRL, the NYCHRL and NYLL.

104. By requesting that the EEOC investigate the above described claims on a Class basis, as defined, Ms. Pham intends this Charge to toll the applicable statute of limitations for all potential Class members, nationwide, in New York state and city, for all similar claims.

Specifically, Claimant requests that the EEOC allow all potential Class members to rely on this Charge for purposes of asserting their related claims.

Morgan Stanley’s Discriminatory Employment Practices Against Female Employees Who Experience Pregnancy, Childbirth, Maternity Leave and Pump Breast Milk During Work Hours

105. Morgan Stanley operates on a male-centric leadership basis. Women are absent from meaningful executive leadership positions such that the overwhelming decision-making authority is in the hands of men. Such a gross absence of women from senior management effectively suggests discrimination on its face.

106. It is within this context of male-centric leadership that the systemic gender and maternity-based discrimination was allowed to develop and flourish. The discriminatory employment practices that disproportionately affect pregnant and maternity status women at Morgan Stanley include, *inter alia*:

- Discretionary, subjective protocols that disfavor pregnant employees, pregnant employees that require accommodations due to pregnancy related complications, and/or employees that avail themselves of maternity leave;
- Discretionary, subjective protocols that disfavor employees that nurse after childbirth and need to pump breast milk at work;
- Discretionary, subjective protocols that relate to requests for time off, work absences or requests not to travel made by pregnant employees and/or nursing mothers;
- Discretionary, subjective protocols that disfavor pregnant employees, pregnant employees that require accommodations due to pregnancy related complications, and/or employees that avail themselves of maternity leave, and/or employees that nurse after childbirth and need to pump breast milk at work that result in unfair or invalid performance evaluations, which in turn, negatively impact compensation and promotion; and
- Repeat systemic marginalization and indifference to maternity-status employees that complain about discriminatory treatment.

107. This Charge and the claims on behalf of Ms. Pham and the Classes present common questions of law and facts about *inter alia*, whether Morgan Stanley:

- Treated pregnant employees differently from similarly situated non-pregnant employees that resulted in unequal and adverse treatment of pregnant employees in violation of federal, state and city law;
- Regularly failed to make reasonable accommodations for pregnant employees that required medically necessary absences;
- Implemented discretionary, subjective protocols and treatment that disfavors pregnant employees, pregnant employees that require accommodations due to pregnancy related complications, and/or employees that avail themselves of maternity leave, including through subjecting them to unlawful treatment in terms of promotions, advancement opportunities, compensation increases, title/position advancement and leadership positions;
- Implemented discretionary, subjective protocols and treatment that disfavors employees that nurse after childbirth and need to pump breast milk at work;
- Implemented discretionary, subjective protocols that relate to requests for time off, work absences or requests not to travel made by pregnant employees and/or nursing mothers;
- Implemented discretionary, subjective protocols and treatment that disfavors pregnant employees, pregnant employees that require accommodations due to pregnancy related complications, and/or employees that avail themselves of maternity leave, and/or employees that nurse after childbirth and need to pump breast milk at work that result in unfair or invalid performance evaluations, which in turn, negatively impact compensation and promotion;
- Regularly allowed management to retaliate against employees needing to pump breast milk during the workday, including by subjecting such employees to adverse work conditions as compared to similarly situated employees not needing to pump breast milk at the workplace;
- Engaged in patterns, practices and/or policies fostering and resulting in systemic unlawful discrimination against female employees with respect to their need or desire to pump and/or store breast milk;
- Engaged in repeat systemic marginalization and indifference to maternity-status employees that complained about discriminatory treatment; and
- Failed to meaningfully investigate or remedy complaints about maternity status discrimination or otherwise ignored such complaints.

108. The patterns, practices and policies described in this complaint demonstrate that discrimination is an ongoing, prevalent problem that is common for female employees during the

childbearing experience. The above-described allegations show that such unlawful conduct is part of Morgan Stanley's operating patterns, practices and policies.

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Respectfully submitted,

WIGDOR LLP

By: 
Jeanne M. Christensen

Tanvir H. Rahman

85 Fifth Avenue
New York, New York 10003
Telephone: (212) 257-6800
Facsimile: (212) 257-6845
jchristensen@wigdorlaw.com
trahman@wigdorlaw.com