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CASE# CV2009-001416
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TOTAL AMOUNT 301.00
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8 Attorney for the Plaintiff

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 RICHARD BOCK, a single person,)
12)
13 Plaintiff,)

No. CV2009-001416

14 v.)

COMPLAINT

15 PHOENIX SYMPHONY; PHOENIX)
16 SYMPHONY ASSOCIATION, an Arizona)
17 non-profit corporation; EDWIN WOLF and JANE)
18 DOE WOLF, husband and wife; MARYELLEN)
19 GLEASON and JOHN DOE GLEASON, wife and)
20 husband; MICHAEL CHRISTIE and JANE DOE)
21 CHRISTIE, husband and wife; JAY GOOD and)
22 JANE DOE GOOD, husband and wife,)

23 Defendant(s).)

24 Comes Now, Plaintiff, Richard Bock, by and through undersigned counsel and for his
25 complaint, alleges as follows:

PARTIES AND JURISDICTION

1. Plaintiff, Richard Bock (hereinafter "Bock"), was at all times relevant to this
complaint a resident of Phoenix, Arizona, Maricopa County.

2. Defendant Phoenix Symphony (hereinafter "The Symphony") is a tradename of
Defendant Phoenix Symphony Association (hereinafter "The Association"), which is a non-

1 profit corporation doing business in the state of Arizona.

2 3. Defendants Maryellen Gleason and Edwin Wolf (hereinafter "Gleason" and "Wolf")
3 are members and employees of The Symphony and The Association board and at all times
4 relevant acted within the scope of their employment therein.

5 4. Defendant Michael Christie (hereinafter "Christie") is the music director of the
6 Symphony and at all times relevant acted within the scope of his employment.

7 5. Defendant Jay Good (hereinafter "Good") is the orchestra manager of the Symphony
8 and at all times relevant acted within the scope of his employment.

9 6. The actions complained of herein occurred within the State of Arizona, County of
10 Maricopa.

11 7. Subject matter jurisdiction is proper pursuant to the Arizona Civil Rights Act,
12 Arizona Revised Statutes, Title 41..

13 8. All Defendants are subject to the personal jurisdiction of this Court.

14 9. Pursuant to Arizona Revised Statutes, Title 41, Arizona Civil Rights Act, venue is
15 proper within this Court.
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17 **GENERAL ALLEGATIONS**

18 10. Plaintiff realleges the allegations as contained in paragraphs 1 through 9, as if fully
19 set forth herein.

20 11. Bock became a member of the Symphony in September, 1984 and entered into a
21 written contract to perform on a yearly basis which was renewed every season until the 2008-
22 2009 season.

23 12. Bock was the principal cellist for the American Symphony Orchestra at age 18,
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1 having been chosen for that position by Leopold Stokowski.

2 13. Bock was the principal cellist for the Buffalo Philharmonic from 1981-1984, and was
3 the principal cellist for The Phoenix Symphony from 1984 through the 2007 season.

4 14. Beginning with the 1984 season through the 2006-2007 season, Bock's performance
5 with The Symphony was exemplary, performing solo's every season.

6 15. Beginning in February, 2007, Christie began to levy unfounded complaints against
7 Bock regarding his play as a cellist.

8 16. After a rehearsal on March 1, 2007, Good told Bock that Christie wanted to meet
9 with Bock, and when Bock entered Christie's dressing room, he was met by Good, Christie and
10 Personnel Manager Wanser, all who complained of Bock's performances.

11 17. The aforementioned meeting was clearly an official meeting, wherein Bock was
12 given no notice, and which was contrary to Bock's employment contract.

13 18. On July 29, 2007, Bock filed charge #540-2007-04093 with the Equal Employment
14 Opportunity Commission (hereinafter "EEOC"), alleging age discrimination and since filing that
15 charge, Bock has been retaliated against.

16 19. On October 3, 2007, The Symphony held a meeting with the orchestra committee,
17 during which Wolf indicated that 8 musicians had filed age discrimination claims and indicated
18 that he considered the filing of those claims underhanded, out of order, that it must stop and that
19 punishment and termination of the musicians would be considered.

20 20. During the October 3, 2007 meeting, Gleason said she would go to her former
21 employer, Q-West Communications, to obtain the telephone numbers of the complaining
22 musicians.

1 21. On October 25, 2007, immediately prior to the evening's concert, Bock was given
2 his progress report, which was to have been completed the week before and was told he must
3 respond to that report by the October 26, 2007 scheduled meeting.

4 22. The foregoing was contrary to the requirements of Bock's employment contract.

5 23. The progress report contained false allegations of poor performance and absent a
6 proper response time period, was retaliatory.

7 24. On October 29, 2007, Bock requested the audio recordings of his alleged poor
8 performances from Good, but his request was denied.

9 25. Bock's rights as a musician with The Symphony are governed by the seasonal
10 contract entered into by all musicians with The Symphony.

11 26. On November 27, 2007, Bock filed a second discrimination charge against The
12 Symphony with the EEOC claiming age discrimination and retaliation.

13 27. On September 26, 2008, the EEOC issued a Dismissal/Notice of Rights to Bock on
14 the discrimination charge, #540-2008-00646.

15 28. Shortly thereafter, The Symphony, in writing, agreed to extend the statute of
16 limitations on Bock's charge to January 15, 2009.

17 29. On or about May 28, 2008, a mediation was held between Bock and the Defendants
18 and a written agreement was reached between the parties. That agreement was later voided by
19 the Defendants and on August 1, 2008, Bock filed EEOC claim #540-2008-03988.

20 30. On January 14, 2009, Bock was discharged as an employee of The Symphony and he
21 was replaced with a younger, less experienced cellist. The reason for his termination per
22 Gleason, was due to his filing of the EEOC claims against The Symphony, allegedly in violation
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1 of Arizona Law, and the breach of confidentiality of a mediation proceeding. Defendants'
2 reason for termination is itself an unlawful employment practice, per §A.R.S. 41-1464(A).

3
4 **COUNT ONE**
(Discrimination)

5 31. Plaintiff realleges the allegations as contained in paragraphs 1 through 30 as if fully
6 set forth herein.

7 32. The acts committed by the Defendants and Defendant's employees, as more fully set
8 forth hereinabove, were such that they resulted in their violation of Arizona Civil Rights Act,
9 Title 41, Arizona Revised Statutes.

10 33. Plaintiff has suffered from Defendants' purposeful discrimination in that Plaintiff has
11 experienced unfair and inconsistent treatment in comparison to other younger employees and
12 was ultimately terminated to be replaced by a much younger person.

13 34. As a direct and proximate result of Defendants' purposeful discrimination, Plaintiff
14 has suffered from periods of loss of work, loss of pay, loss of pay increases, emotional distress,
15 and damaged professional reputation.

16 35. As a direct and proximate result of Defendants' purposeful discrimination, Plaintiff
17 has suffered undue stress and anxiety from the unlawful termination of his employment with
18 Defendant, which has manifested in the forms of loss of sleep, loss of appetite and physical
19 illness.
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21
22 **COUNT TWO**
(Hostile Work Environment)

23 36. Plaintiff realleges the allegations as contained in paragraphs 1 through 35, as if fully
24 set forth herein.
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1 younger employees and was ultimately terminated to be replaced by a much younger person.

2 44. As a direct and proximate result of Defendants' wrongful cessation of Plaintiff's
3 employment, Plaintiff has suffered from periods of loss of work, loss of pay, loss of pay
4 increases, emotional distress, and damaged professional reputation.

5 45. As a direct and proximate result of Defendants' wrongful cessation of Plaintiff's
6 employment, Plaintiff has suffered undue stress and anxiety from the unlawful termination of his
7 employment with Defendant, which has manifested in the forms of loss of sleep, loss of appetite
8 and physical illness.

9
10 **WHEREFORE**, Plaintiff requests judgment against Defendants as follows:

- 11 1. For compensatory damages, plus special and incidental damages in such a sum as
12 may be proven at trial;
- 13 2. For punitive damages in such a sum as may be necessary to punish the Defendants
14 for their wrongful acts in such a sum to be proven at trial;
- 15 3. For costs incurred in pursuing this lawsuit;
- 16 4. For attorney's fees associated with pursuing this lawsuit; and
- 17 5. For such other and further relief as the Court deems just and proper under the
18 circumstances.
- 19

20 DATED this 15th day of January, 2009.

21 **LAW OFFICE OF GREG CLARK**

22 By: _____

23 Greg Clark

24 Attorney for Plaintiff Richard Bock