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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO / OAKLAND DIVISION

EDUARDO GONZALEZ, ANTHONY  
 OCAMPO, ENCARNACION  
 GUTIERREZ, JOHAN MONTOYA,  
 JUANCARLOS GOMEZ-MONTEJANO,  
 JENNIFER LU, AUSTIN CHU, IVY  
 NGUYEN, and ANGELINE WU, on  
 behalf of themselves and all others  
 similarly situated,

Plaintiffs,

v.

ABERCROMBIE & FITCH CO.,

Defendant.

**CLASS ACTION COMPLAINT FOR  
 INJUNCTIVE AND DECLARATORY  
 RELIEF AND DAMAGES, FOR  
 VIOLATIONS OF 42 U.S.C. § 1981;  
 CALIFORNIA FAIR EMPLOYMENT AND  
 HOUSING ACT**

**DEMAND FOR JURY TRIAL**

1 Individual and Representative Plaintiffs Eduardo Gonzalez, Anthony Ocampo,  
2 Encarnacion Gutierrez, Johan Montoya, Juancarlos Gomez-Montejano, Jennifer Lu, Austin Chu,  
3 Ivy Nguyen, and Angeline Wu (collectively "Plaintiffs") on behalf of themselves and all others  
4 similarly situated, allege, upon personal knowledge as to themselves and information and belief  
5 as to other matters, as follows:

6 **INTRODUCTORY STATEMENT**

7 1. Defendant Abercrombie & Fitch Company ("A&F," "Abercrombie," or  
8 "the Company") is a national retail clothing seller that discriminates against minority individuals,  
9 including Latinos, Asian Americans, and African Americans (hereinafter, collectively,  
10 "minorities") on the basis of race, color, and/or national origin, with respect to hiring, firing, job  
11 assignment, compensation and other terms and conditions of employment by enforcing a  
12 nationwide corporate policy of preferring white employees for sales positions, desirable job  
13 assignments, and favorable work schedules in its stores throughout the United States.

14 2. Abercrombie recruits, hires, and maintains a disproportionately white sales  
15 force (called Brand Representatives) who act as salespeople and recruiters of other potential  
16 Brand Representatives.

17 3. Abercrombie systematically refuses to hire qualified minority applicants as  
18 Brand Representatives to work on the sales floor and discourages applications from minority  
19 applicants. To the extent that it hires minorities, it channels them to stock room and overnight  
20 shift positions and away from visible sales positions, keeping them out of the public eye. In  
21 addition, Abercrombie systematically fires qualified minority Brand Representatives in  
22 furtherance of its discriminatory policies or practices.

23 4. Abercrombie implements its discriminatory employment policies and  
24 practices in part through a detailed and rigorous "Appearance Policy," which requires that all  
25 Brand Representatives must exhibit the "A&F Look." The "A&F Look" is a virtually all-white  
26 image that Abercrombie uses not only to market its clothing, but also to implement its  
27 discriminatory employment policies or practices.

28 5. When people who do not fit the "A&F Look" inquire about employment,

1 managers sometimes tell them that the store is not hiring, or may provide them with applications  
2 even though they have no intention of considering them for employment. If applicants who do  
3 not fit the "A&F Look" submit applications, managers and/or Brand Representatives acting at  
4 their direction sometimes throw them away without reviewing them.

5           6.       Abercrombie publishes and distributes to its employees a "Look Book" that  
6 explains the importance of the Appearance Policy and the "A&F Look," and that closely regulates  
7 the Brand Representatives' appearance. The Company requires its managers to hire and continue  
8 to employ only Brand Representatives who fit within the narrow confines of the "Look Book,"  
9 resulting in a disproportionately white Brand Representative workforce.

10           7.       Abercrombie also uses visual media to reinforce to managers responsible  
11 for recruitment, hiring, assignment, compensation, termination, and other terms and conditions of  
12 employment of Brand Representatives the importance of adhering to the virtually all-white A&F  
13 image in employment decisions. Each store prominently posts large photographs of models –  
14 virtually all of whom are white. In addition, the Company publishes and sells A&F Quarterly, a  
15 magazine/catalog featuring almost exclusively white models. Some stores also display A&F TV,  
16 a television program played on a loop featuring Brand Representatives who fit the "A&F Look."  
17 Again, almost every Brand Representative shown is white. Abercrombie corporate  
18 representatives and managers use these displays and publications to portray and promote the  
19 "A&F Look" to employees, customers, applicants, and potential applicants, to discourage and  
20 deter minority applicants, and to justify terminating minority employees.

21           8.       The Company rigorously maintains the "A&F Look" by careful scrutiny  
22 and monitoring of its stores by regional and district managers and corporate representatives.  
23 These managers and corporate representatives visit stores frequently to ensure, among other  
24 things, that the store is properly implementing the Company's discriminatory employment  
25 policies and practices. These visits are referred to as "blitzes." When managers or corporate  
26 representatives discover that minority Brand Representatives have been hired, they have directed  
27 that these Brand Representatives be fired, moved to the stock room or overnight shift, or have  
28 their hours "zeroed out," which is the equivalent of termination.

1                   9.       The Company also scrutinizes and enforces compliance with the "A&F  
2 Look" by requiring all stores to submit a picture of roughly 10 of their Brand Representatives  
3 who fit the "Look" to headquarters each quarter. The corporate officials then select roughly 15  
4 stores' pictures as exemplary models that perpetuate the Company's discriminatory employment  
5 policies and practices. They then disseminate these pictures to the over 600 A&F stores. The  
6 Brand Representatives in the pictures are almost invariably white. This practice and policy, like  
7 the others described above, constitutes an official directive to give preference to white Brand  
8 Representatives and applicants, and to discriminate against minority Brand Representatives and  
9 applicants.

10                   10.       The A&F image is not limited to appearance; the Company accomplishes  
11 its discriminatory employment policies or practices by defining its desired "classic" and "cool"  
12 workforce as exclusively white. It seeks to hire Brand Representatives who convey a certain  
13 image. This A&F image is decidedly non-minority. In order to perpetuate the A&F image,  
14 Abercrombie identifies specific colleges from which each store should recruit its employees, even  
15 though the Brand Representative position does not require any of the skills or abilities acquired in  
16 college, much less in any specific college. Abercrombie also encourages the recruitment and  
17 hiring of members of specified overwhelmingly white fraternities and sororities, and of students  
18 who participate in certain overwhelmingly white intercollegiate sports. However, the Company  
19 does not encourage recruitment from fraternities, sororities, or sports teams with significant  
20 minority populations. To further reinforce to store managers the importance of hiring white  
21 students who fit the Abercrombie image, the Company requires weekly reports on the number of  
22 Brand Representatives who attend targeted colleges and who fit the emphasis on  
23 fraternity/sorority membership and athletic team involvement.

24                   11.       This class action is accordingly brought by minority Brand Representatives  
25 and applicants for Brand Representative positions on behalf of themselves individually and all  
26 minority applicants and employees against whom Abercrombie has discriminated on the basis of  
27 race, color, and/or national origin. Abercrombie has maintained and continues to maintain a  
28 pervasive policy or practice of discrimination based on race, color, and/or national origin in

1 denying employment, desirable job assignments, job transfers, allocation of weekly hours,  
2 compensation, and other terms and conditions of employment to minorities in Abercrombie stores  
3 throughout the United States.

4 12. This action seeks an end to these discriminatory policies or practices, an  
5 award of backpay and front pay, as well as compensatory damages, punitive damages, and  
6 injunctive relief, including rightful place relief for all class members.

#### 7 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

8 13. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331  
9 and 1343.

10 14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b). Members  
11 of the Plaintiff class reside in California and throughout the United States. Defendant  
12 Abercrombie is a Delaware corporation licensed to do business in California. It has retail stores  
13 throughout California and this District. Many of the acts complained of occurred in this State and  
14 this District and gave rise to the claims alleged.

15 15. Intradistrict assignment is proper in the San Francisco/Oakland Division  
16 because some of the events and omissions that give rise to the claims of Plaintiff Anthony  
17 Ocampo occurred in San Mateo County.

#### 18 **PARTIES**

19 16. Plaintiff Eduardo Gonzalez is a minority resident of Palo Alto, California,  
20 where he is a student at Stanford University. He was denied a position as a Brand Representative  
21 at the Abercrombie store in the Valley Fair Mall in Santa Clara, California in August 2002, on  
22 account of his race, color, and/or national origin.

23 17. Plaintiff Anthony Ocampo is a minority resident of Palo Alto, California,  
24 where he is a student at Stanford University. He was denied a position as a Brand Representative  
25 at the Abercrombie store in the Hillsdale Shopping Center in San Mateo, California, in or around  
26 January 2000 on account of his race, color, and/or national origin. He was also denied a position  
27 as a Brand Representative at the Abercrombie Store in the Glendale Galleria in Glendale,  
28 California in June 2000 on account of his race, color, and/or national origin.

1                   18. Plaintiff Encarnacion Gutierrez is a minority resident of South San  
2 Francisco, California. He was denied a position as a Brand Representative at the Abercrombie  
3 store in the Third Street Promenade in Santa Monica, California in June or July 2001, on account  
4 of his race, color, and/or national origin.

5                   19. Plaintiff Johan Montoya is a minority resident of Goleta, California, where  
6 he is a student at the University of California at Santa Barbara. He was denied a position as a  
7 Brand Representative at the Abercrombie store in the Topanga Mall in Canoga Park, California in  
8 August or September 2002 on account of his race, color, and/or national origin.

9                   20. Plaintiff Juancarlos Gomez-Montejano is a minority resident of Los  
10 Angeles, California. He was employed as a Brand Representative at the Abercrombie store at the  
11 Third Street Promenade in Santa Monica, California, from November 1998 to April 1999, when  
12 he was terminated on account of his race, color, and/or national origin.

13                   21. Plaintiff Jennifer Lu is a minority resident of Irvine, California, where she  
14 is a student at the University of California at Irvine. She was employed as a Brand  
15 Representative in the Abercrombie store in the Crystal Court Mall in Costa Mesa, California,  
16 from September 2000 to February 2003, when she was terminated on account of her race, color,  
17 and/or national origin.

18                   22. Plaintiff Austin Chu is a minority resident of Irvine, California, where he is  
19 a student at the University of California at Irvine. He was employed as a Brand Representative in  
20 the Abercrombie store in the Crystal Court Mall in Costa Mesa, California from June 2001 to  
21 March 2003, when he was constructively discharged on account of his race, color, and/or national  
22 origin.

23                   23. Plaintiff Ivy Nguyen is a minority resident of Anaheim, California, where  
24 she is a student at the University of California at Irvine. She was employed as a Brand  
25 Representative in the Abercrombie store in the Crystal Court Mall in Costa Mesa, California,  
26 from June 2002 to February 2003, when she was terminated on account of her race, color, and/or  
27 national origin.

28                   24. Plaintiff Angeline Wu is a minority resident of Irvine, California where she



1 is a student at the University of California at Irvine. She was employed as a Brand  
 2 Representative in the Abercrombie store in the Crystal Court Mall in Costa Mesa, California,  
 3 from August 2002 to February 2003, when she was terminated on account of her race, color,  
 4 and/or national origin.

5           25. Defendant Abercrombie & Fitch Company is a Delaware corporation with  
 6 its principal place of business at 6301 Fitch Path, New Albany, Ohio. Abercrombie maintains  
 7 offices and does business in California, in this judicial District, and in this Division.  
 8 Abercrombie is a national retail clothing seller primarily marketing to teenagers and young adults.  
 9 According to the Company, it took in \$1.6 billion in revenue during fiscal year 2002, a 17%  
 10 increase over the previous year. As of the end of the first quarter of 2003 (ended May 3, 2003),  
 11 the Company operated 602 stores.

#### 12                                   CLASS ACTION ALLEGATIONS

13           26. Plaintiffs bring this Class Action pursuant to Fed. R. Civ. P. 23(a), (b)(2),  
 14 and (b)(3) on behalf of a class of all past, present, and future minority Abercrombie Brand  
 15 Representatives and applicants for Brand Representative positions with Abercrombie who have  
 16 been, continue to be, or in the future may be discouraged from applying or denied employment,  
 17 desirable job assignments, job transfers, desirable hours, compensation, and/or other terms and  
 18 conditions of employment on the basis of their race, color, and/or national origin, and/or who  
 19 have been terminated on account of the policies or practices complained of herein.

20           27. Plaintiffs are members of the class they seek to represent.

21           28. The members of the class identified herein are so numerous that joinder of  
 22 all members is impracticable. The number of class members is currently indeterminate, but is  
 23 certainly larger than can be addressed through joinder. By the end of FY 2003 (ended February 1,  
 24 2003), Abercrombie had approximately 22,000 employees. In addition, temporary employees are  
 25 hired during peak periods, such as the holiday season. Each of Abercrombie's 600-odd stores  
 26 employs very few minority Brand Representatives but each store, on average, annually receives  
 27 numerous applications from qualified minorities who are potential Brand Representatives; as a  
 28 result of Abercrombie's systematic discriminatory hiring practices, an unknown number of

1 minority applicants have also been deterred from applying. Thus, although the precise number of  
2 qualified minority applicants who are not hired and/or who are fired or otherwise discriminated  
3 against is currently unknown, it is far greater than can be feasibly addressed through joinder.

4           29. There are questions of law and fact common to the class, and these  
5 questions predominate over any questions affecting only individual members. Common  
6 questions include, among others: (1) whether Abercrombie's policies or practices discriminate  
7 against minority employees and applicants; (2) whether Abercrombie's use of the "A&F Look"  
8 and image as an employment policy or practice discriminates against minority applicants and  
9 employees; (3) whether Abercrombie's policies or practices violate 42 U.S.C. § 1981; and (4)  
10 whether compensatory and punitive damages, injunctive relief, and other equitable remedies for  
11 the class are warranted.

12           30. The representative Plaintiffs' claims are typical of the claims of the class.

13           31. The representative Plaintiffs will fairly and adequately represent and  
14 protect the interests of the members of the class. Plaintiffs have retained counsel competent and  
15 experienced in complex class actions, employment discrimination litigation, and the intersection  
16 thereof.

17           32. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)  
18 because Abercrombie has acted and/or refused to act on grounds generally applicable to the class,  
19 making appropriate declaratory and injunctive relief with respect to Plaintiffs and the class as a  
20 whole. The class members are entitled to injunctive relief to end Abercrombie's common,  
21 uniform, and unfair racially discriminatory personnel policies and practices.

22           33. Class certification is also appropriate pursuant to Fed. R. Civ. P. 23(b)(3)  
23 because common questions of fact and law predominate over any questions affecting only  
24 individual members of the class, and because a class action is superior to other available methods  
25 for the fair and efficient adjudication of this litigation. The class members have been damaged  
26 and are entitled to recovery as a result of Abercrombie's common, uniform, and unfair racially  
27 discriminatory personnel policies and practices. Abercrombie has computerized payroll and  
28 personnel data that will make calculation of damages for specific class members relatively



1 simple. The propriety and amount of punitive damages are issues common to the class.

## 2 CLAIMS OF REPRESENTATIVE PLAINTIFFS

### 3 Eduardo Gonzalez

4 34. Plaintiff Eduardo Gonzalez, a Latino male, is a student at Stanford  
 5 University. He applied for a position as a Brand Representative at the Abercrombie store in the  
 6 Valley Fair Mall in Santa Clara, California on August 7, 2002. An Abercrombie manager  
 7 suggested that he apply to work in the stock room or on the overnight crew in a non-sales  
 8 position. Nevertheless, Mr. Gonzalez returned to the store for a group interview for the Brand  
 9 Representative position on August 27, 2002. Mr. Gonzalez was not hired as a Brand  
 10 Representative. Mr. Gonzalez was qualified for the job. Indeed, immediately following his  
 11 Abercrombie interview, he crossed the hall within the same mall to apply for a job at Banana  
 12 Republic, a similar retail clothing store that competes directly with Abercrombie for customers  
 13 and employees. An employee of Banana Republic asked Mr. Gonzalez if he was interested in  
 14 applying to work as a manager. He applied to work as a sales associate, and is still employed by  
 15 Banana Republic in that capacity. Despite knowing of his qualifications, Abercrombie refused to  
 16 hire Mr. Gonzalez based on his race, color, and/or national origin.

17 35. Abercrombie has discriminated against Mr. Gonzalez on the basis of his  
 18 race, color and/or national origin by denying him employment because he is not white.

19 36. On or about April 25, 2003, Mr. Gonzalez filed a charge of discrimination  
 20 with the Equal Employment Opportunity Commission ("EEOC"). Mr. Gonzalez received a copy  
 21 of his Notice of Right to Sue from the California Department of Fair Employment and Housing  
 22 ("DFEH"), dated April 29, 2003. Attached to this Complaint as Exhibit A and incorporated by  
 23 reference, are copies of that charge and that notice.

### 24 Anthony Ocampo

25 37. Plaintiff Anthony Ocampo, a Filipino American male, is a student at  
 26 Stanford University. From December 1999 to January 2000, he worked part time as a Brand  
 27 Representative at the Abercrombie store in the Glendale Galleria in Glendale, California near his  
 28 family's home.

1           38. It is common practice at Abercrombie for college students to work at the  
2 Abercrombie near their family home during vacations, and then to transfer to a store near their  
3 college during the school year (or vice versa). Therefore, when Mr. Ocampo returned to  
4 Stanford, he attempted to apply for a position as Brand Representative at the Abercrombie store  
5 in the Hillsdale Shopping Center in San Mateo, California. Mr. Ocampo was told that he would  
6 be contacted regarding a stock person position, but not for the position of Brand Representative.  
7 Mr. Ocampo never was contacted for any position with Abercrombie, and when he contacted the  
8 manager there, he was told that he would have to reapply.

9           39. Later that year, when he returned home for summer vacation in June of  
10 2000, Mr. Ocampo applied to work once again at the Glendale Galleria Abercrombie. He was  
11 told that there were "too many Filipinos" working at that location. He was not even given the  
12 opportunity to submit a written application. Mr. Ocampo was qualified for the job of Brand  
13 Representative, in part based on his prior experience doing that exact job at the Abercrombie  
14 store in the Glendale Galleria. Abercrombie refused to hire Mr. Ocampo, despite knowing of his  
15 qualifications, based on his race, color, and/or national origin.

16           40. Abercrombie has discriminated against Mr. Ocampo on the basis of his  
17 race, color and/or national origin (a) by denying him employment because he is not white; and  
18 (b) by refusing to transfer him from one store to another on the same terms as white Brand  
19 Representatives.

20 **Encarnacion Gutierrez**

21           41. Plaintiff Encarnacion Gutierrez, a Latino male, graduated from the  
22 University of California at Los Angeles in 2002 with a B.S. in Civil Engineering and from the  
23 University of California at Berkeley in 2003 with an M.S. in Structural Engineering. He applied  
24 to work as a Brand Representative at the Abercrombie store in the Third Street Promenade in  
25 Santa Monica, California in June or July 2001, and later returned for a group interview.  
26 Mr. Gutierrez was qualified for the job. Abercrombie refused to hire Mr. Gutierrez, despite  
27 knowing of his qualifications, based on his race, color, and/or national origin.

28           42. During his initial visit to the store, Mr. Gutierrez observed that the staff

1 was virtually exclusively white. The manager who conducted the group interview was white. He  
2 asked no questions regarding prior work experience or relevant skills. During the interview, the  
3 manager asked a Filipino-American applicant whether he spoke English even though the  
4 applicant had already answered several questions and demonstrated his fluency in English.

5 Mr. Gutierrez saw the manager write "phil" next to the applicant's name.

6 43. Abercrombie has discriminated against Mr. Gutierrez on the basis of his  
7 race, color, and/or national origin by denying him employment because he is not white.

8 44. On or about May 21, 2002, Mr. Gutierrez filed a charge of discrimination  
9 with the EEOC. Attached to this Complaint as Exhibit B, and incorporated by reference, is a  
10 copy of that charge.

11 **Johan Montoya**

12 45. Plaintiff Johan Montoya, a Latino male, is a student at the University of  
13 California at Santa Barbara. He applied for a position as a Brand Representative at the  
14 Abercrombie store in the Topanga Mall in Canoga Park, California in August or September 2002,  
15 participated in a group interview for the job and submitted a paper application. He was qualified  
16 for the job, in part based on his prior work experience as a sales associate at another retail  
17 establishment in the same mall. Abercrombie refused to hire Mr. Montoya despite knowing of his  
18 qualifications, based on his race, color, and/or national origin.

19 46. Abercrombie has discriminated against Mr. Montoya on the basis of his  
20 race, color, and/or national origin by denying him employment because he is not white.

21 47. On or about April 22, 2003, Mr. Montoya filed a charge of discrimination  
22 with the EEOC. Mr. Montoya received a copy of his Notice of Right to Sue from the DFEH,  
23 dated April 29, 2003. Attached to this Complaint as Exhibit C and incorporated by reference, are  
24 copies of that charge and that notice.

25 **Juancarlos Gomez-Montejano**

26 48. Plaintiff Juancarlos Gomez-Montejano, a Latino male, worked as a Brand  
27 Representative at the Abercrombie store at the Third Street Promenade in Santa Monica,  
28 California from November 22, 1998 until August 1999, while he was a student at the University

1 of California at Los Angeles. During that time, he regularly worked roughly 10-15 hours per  
2 week. After noticing that his work hours had been reduced, Mr. Gomez-Montejano requested his  
3 personnel file. In August 1999 he learned that Company records showed that, unbeknownst to  
4 him, he had been fired from his position. He had never been previously informed of this  
5 termination, nor was he advised of any reasons for the termination.

6           49. In or around February or March 1999, Abercrombie representatives from  
7 Ohio corporate headquarters visited the store on a "blitz," and observed that there were  
8 photographs of each of the Brand Representatives posted in an employee area in the back. A  
9 corporate official pointed to the pictures of four or five minority Brand Representatives, including  
10 Mr. Gomez-Montejano, and directed store management to "zero them out." This expression is  
11 used within the Company to signify that the manager assigning work shifts should begin  
12 assigning that person zero hours each week. In the following weeks, Mr. Gomez-Montejano  
13 continued to inform his manager that he was available to work many hours a week, just as he had  
14 throughout his tenure at Abercrombie; however, each week he received a schedule giving him  
15 zero hours. Eventually, he realized that this "zeroed out" schedule might be permanent.  
16 Therefore, he requested his personnel file in July 1999, and, after his second request, received a  
17 copy of a company document stating that he had been terminated.

18           50. Abercrombie has discriminated against Mr. Gomez-Montejano on the basis  
19 of his race, color, and/or national origin by (a) terminating his employment because he is not  
20 white; and (b) refusing to give him desirable hours/assignments on the same terms as white Brand  
21 Representatives.

22           51. On or about December 21, 1999, Mr. Gomez-Montejano filed a charge of  
23 discrimination with the EEOC. Attached to this Complaint as Exhibit D, and incorporated by  
24 reference, is a copy of that charge. After investigating, the EEOC issued a Letter of  
25 Determination, finding that Abercrombie had discriminated against Mr. Gomez-Montejano and  
26 against "Latinos and Blacks, as a class." Attached to this Complaint as Exhibit E, and  
27 incorporated by reference, is a copy of that letter. On or about December 21, 1999, the DFEH  
28 issued to Mr. Gomez-Montejano a Notice of Right to Sue. Attached to this Complaint as

1 Exhibit F, and incorporated by reference, is a copy of that notice.

2 **Jennifer Lu**

3 52. Plaintiff Jennifer Lu is an Asian American female and a student at the  
4 University of California at Irvine. She worked as a Brand Representative at the Abercrombie  
5 store in the Crystal Court Mall in Costa Mesa, California from September 2000 to February 2003.  
6 She was entrusted with responsibilities that only the most trustworthy and more senior staff were  
7 given.

8 53. In or around January 2003, representatives from corporate and/or regional  
9 headquarters visited the Crystal Court Mall store on an inspection tour, or "blitz." These  
10 headquarters/regional representatives reiterated to the Store Manager and other managers the  
11 importance of having a predominantly white Brand Representative workforce, with fewer  
12 minorities. Specifically, corporate employees communicated this directive by pointing to a  
13 picture of a white male model hanging in the store, and making a statement to the effect of "This  
14 is the 'A&F Look' – you need to make your store look more like this." Soon after this "blitz," on  
15 or about February 8, 2003, roughly five Asian American Brand Representatives, including  
16 Plaintiffs Jennifer Lu, Austin Chu, Ivy Nguyen, and Angeline Wu were terminated and/or  
17 constructively discharged, and one African American Brand Representative was transferred to a  
18 behind-the-scenes stockroom position at another Abercrombie store. This action was not  
19 premised on any legitimate business consideration, such as a lessened need for Brand  
20 Representatives or poor work performance. The store hired approximately five to seven white  
21 Brand Representatives within two weeks of firing Ms. Lu.

22 54. On February 8, 2003, Ms. Lu learned that she had been fired. She  
23 informed the Store Manager that she was willing to be flexible with shift assignments, and that if  
24 the staffing needs picked up in the summer months or other peak shopping seasons, she would  
25 like to be considered. Mr. Richter told her that she was not needed at that time nor would she be  
26 needed in the future.

27 55. Abercrombie has discriminated against Ms. Lu on the basis of her race,  
28 color, and/or national origin by (a) terminating her employment because she is not white; and

1 (b) assigning her fewer hours than similarly-situated white Brand Representatives.

2 56. On or about April 22, 2003, Ms. Lu filed a charge of discrimination with  
3 the EEOC. Ms. Lu received a copy of her Notice of Right to Sue from the DFEH, dated April 29,  
4 2003. Attached to this Complaint as Exhibit G and incorporated by reference, are copies of that  
5 charge and that notice.

6 **Austin Chu**

7 57. Plaintiff Austin Chu is an Asian American male and a student at the  
8 University of California at Irvine. He worked as a Brand Representative at the Abercrombie store  
9 in the Crystal Court Mall in Costa Mesa, California from June 2001 to March 2003, when he was  
10 constructively discharged.

11 58. Immediately after the January corporate "blitz" visit described herein in the  
12 preceding paragraphs, Mr. Chu's hours were reduced from the usual 10-15 hours per week he had  
13 worked during his year and a half tenure to roughly zero hours per week. This "zeroing out"  
14 began on or about February 8, 2003 and lasted until approximately March 26, 2003, during which  
15 six-week period Mr. Chu was assigned only one four-hour shift (in contrast to his usual 60-90  
16 hours for such a six-week period), despite notifying his managers each week of his availability  
17 and interest in working the usual 10-15 hours per week. Mr. Chu attempted to gain more hours  
18 by offering to fill in for those who were unavailable, and he was denied the opportunity to work  
19 more hours. Because he was not assigned any hours to work, Mr. Chu tendered his resignation on  
20 March 26, 2003. Mr. Chu was known as one of the most effective Brand Representatives in the  
21 store due to his gregarious nature.

22 59. Abercrombie has discriminated against Mr. Chu on the basis of his race,  
23 color, and/or national origin by (a) constructively terminating his employment because he is not  
24 white; and (b) assigning him fewer hours than similarly-situated white Brand Representatives.

25 60. On or about April 22, 2003, Mr. Chu filed a charge of discrimination with  
26 the EEOC. Mr. Chu received a copy of his Notice of Right to Sue from the DFEH, dated  
27 April 29, 2003. Attached to this Complaint as Exhibit H and incorporated by reference, are  
28 copies of that charge and that notice.



**Ivy Nguyen**

61. Plaintiff Ivy Nguyen is an Asian American female and a student at the University of California at Irvine. She worked as a Brand Representative in the Abercrombie store in the Crystal Court Mall in Costa Mesa, California from approximately June 2002 until she was fired sometime during February 2003, shortly after the corporate "blitz" described herein in the preceding paragraphs.

62. Abercrombie has discriminated against Ms. Nguyen on the basis of her race, color, and/or national origin by (a) terminating her employment because she is not white; and (b) assigning her fewer hours than similarly-situated white Brand Representatives.

63. On or about June 16, 2003, Ms. Nguyen filed a charge of discrimination with the EEOC. Attached to this Complaint as Exhibit I and incorporated by reference, is a copy of that charge.

**Angeline Wu**

64. Plaintiff Angeline Wu is an Asian American female and a student at the University of California at Irvine. She worked as a Brand Representative at the Abercrombie store in the Crystal Court Mall in Costa Mesa, California from August 2002 to February 2003.

65. Ms. Wu worked approximately 5-10 hours a week, at least 2-3 shifts per week. Shortly after the corporate "blitz" described herein in the preceding paragraphs, Ms. Wu's hours were reduced and eventually "zeroed out." Ms. Wu was then terminated in February 2003.

66. Abercrombie has discriminated against Ms. Wu on the basis of her race, color, and/or national origin by (a) terminating her employment because she is not white; and (b) assigning her fewer hours than similarly-situated white Brand Representatives.

67. On or about April 17, 2003, Ms. Wu filed a charge of discrimination with the EEOC. Ms. Wu received a copy of her Notice of Right to Sue from the DFEH, dated April 22, 2003. Attached to this Complaint as Exhibit J and incorporated by reference, are copies of that charge and that notice.

**GENERAL POLICIES OR PRACTICES OF DISCRIMINATION**

68. The denials and abridgments of employment opportunities suffered by the

1 Representative Plaintiffs are part of a general policy or practice of discrimination on the basis of  
 2 race, color, and/or national origin in employment that has existed at Abercrombie throughout the  
 3 relevant time. These are not isolated examples of employment practices or individual decisions.  
 4 On the contrary, these incidents are representative of A&F's systematic discrimination against  
 5 minorities and in favor of white applicants and employees, to create an overwhelmingly white  
 6 Brand Representative workforce.

7 69. On September 13, 2001, the EEOC issued a Letter of Determination with  
 8 respect to the EEOC charge filed by Plaintiff Juancarlos Gomez-Montejano, stating,

9 The preponderance of the evidence supports Charging Party's claim  
 10 that he was denied a permanent position as a Brand Representative,  
 11 denied an assignment and terminated because of his national origin.  
 12 Moreover, evidence obtained during the course of the investigation  
 13 revealed that *Latinos and Blacks, as a class, were denied*  
 14 *permanent positions, denied assignments and treated in an unfair*  
 15 *manner with regard to recruitment based on their race and national*  
 16 *origin, and that Respondent failed to maintain employment records*  
 17 *as required by Title VII. Therefore, I have concluded that the*  
 18 *evidence is sufficient to establish a violation of the above-cited*  
 19 *statute.*

20 Attached hereto as Exhibit E (emphasis added).

21 70. The EEOC sent this letter to Mr. Gomez-Montejano and to Abercrombie.

22 71. The under-representation of minorities in Brand Representative positions  
 23 throughout Abercrombie's approximately 602 stores in the United States results from an  
 24 intentional policy and practice of discrimination on the basis of race, color, and/or national origin  
 25 in hiring, initial job assignment, weekly hours allocation, internal job transfer, inter-store transfer,  
 26 and termination.

27 72. Abercrombie has pursued policies or practices on a continuing basis that  
 28 have denied or restricted job opportunities to qualified minority applicants and employees.

73. Such discriminatory policies or practices include, without limitation:

a. reliance on subjective, arbitrary, standardless, and unvalidated  
 criteria in making hiring decisions, focusing on whether applicants properly reflect the  
 predominantly white "A&F Look" and image rather than whether they would be responsible,

1 effective Brand Representatives who could perform their jobs well;

2 b. reliance on subjective, arbitrary, standardless, and unvalidated  
3 criteria in making decisions in job assignments, weekly hour allocations, and ability to transfer  
4 between stores focusing on whether employees properly reflect the predominantly white “A&F  
5 Look” and image rather than whether they would be responsible, effective Brand Representatives  
6 who perform their jobs well;

7 c. shunting minority applicants and Brand Representatives to stock  
8 room and overnight shift positions where they are out of the public eye;

9 d. targeting white candidates for recruitment, both systemically (e.g.,  
10 recruiting visits to college campuses and/or targeting of specific sororities and fraternities) and  
11 individually (e.g., inviting individual customers in the store to apply to become Brand  
12 Representatives), but avoiding, ignoring, discouraging or dissuading equally qualified minorities  
13 from applying;

14 e. use of the “Look Book,” the A&F Quarterly, and wall posters as  
15 guidelines for management to select Brand Representatives on the basis of their appearance – e.g.,  
16 white – as opposed to their qualifications for the job;

17 f. use of corporate “blitzes” to monitor and enforce stores’  
18 compliance with the “A&F Look” and to weed out minority Brand Representatives; and

19 g. termination of employees based on race, color, and/or national origin  
20 without regard to their performance on the job.

21 **FIRST CLAIM FOR RELIEF**  
22 **(42 U.S.C. § 1981)**

23 74. Plaintiffs incorporate paragraphs 1 through 73 as alleged above.

24 75. This claim is brought on behalf of all Plaintiffs and the Class they  
25 represent.

26 76. Abercrombie has maintained an intentionally discriminatory system with  
27 respect to recruitment, hiring, job assignments, transfers, weekly hour allocations, and  
28 termination.

77. The foregoing conduct constitutes illegal intentional discrimination with respect to the making, performance, modification, and termination of contracts prohibited by 42 U.S.C. § 1981.

78. Plaintiffs request relief as hereinafter provided.

**SECOND CLAIM FOR RELIEF**  
**(California Fair Employment and Housing Act, Government Code § 12940, et seq.)**

79. Plaintiffs incorporate paragraphs 1 through 78 as alleged above.

80. This claim is brought on behalf of Eduardo Gonzalez, Encarnacion Gutierrez, Johan Montoya, Juancarlos Gomez-Montejano, Jennifer Lu, Austin Chu, Ivy Nguyen, and Angeline Wu and the subclass of California class members they represent.

81. Plaintiffs Eduardo Gonzalez, Johan Montoya, Juancarlos Gomez-Montejano, Jennifer Lu, Austin Chu, and Angeline Wu have received copies of their Right to Sue letters from the DFEH. The pendency of the EEOC investigations into Plaintiffs' charges tolled the time limits for filing civil actions pursuant to the Fair Employment and Housing Act. Plaintiffs have therefore timely complied with all prerequisites to suit.

82. Plaintiffs request relief as hereinafter provided.

**NOTICE OF FUTURE THIRD CLAIM FOR RELIEF**  
**(42 U.S.C. § 2000e, et seq.)**

83. Plaintiffs incorporate paragraphs 1 through 82 as alleged above.

84. Abercrombie has maintained a system that is intentionally discriminatory, subjective, standardless, and arbitrary with respect to recruitment, hiring, job assignment, transfer, weekly hour allocation, and termination. The system has an adverse disparate impact on minority applicants and employees. This system is not and cannot be justified by business necessity, but even if it could be so justified, less discriminatory alternatives exist that could equally serve any alleged necessity.

85. Abercrombie's discriminatory policies or practices described above have denied minority applicants and employees employment, job assignments, job transfers, and weekly hour allocations, resulting in the loss of past and future wages and other job benefits.

86. As noted above, the EEOC has determined that “the evidence is sufficient to establish” that Abercrombie has violated Title VII, because “Latinos and Blacks, as a class, were denied permanent positions, denied assignments and treated in an unfair manner with regard to recruitment based on their race and national origin.” Exhibit E.

87. In light of its ongoing investigation of Plaintiffs’ administrative charges, the EEOC has not yet issued right to sue letters to Plaintiffs. When the EEOC issues such letters, Plaintiffs intend to amend the instant Complaint to assert a claim for relief under Title VII of the Civil Rights Act of 1964, 42 U.S.C. sections 2000e, *et seq.*, because the foregoing policies or practices constitute intentional discrimination or unjustified disparate impact.

### **ALLEGATIONS REGARDING RELIEF**

88. Plaintiffs, and the class they seek to represent, have no plain, adequate, or complete remedy at law to redress the wrongs alleged herein, and the injunctive relief sought in this action is the only means of securing complete and adequate relief. Plaintiffs, and the class they seek to represent, are now suffering and will continue to suffer irreparable injury from defendant’s discriminatory acts and omissions.

89. Abercrombie’s actions have caused and continue to cause plaintiffs and all class members substantial losses in earnings, work experience, weekly hour allocations, and other employment benefits.

90. In addition, named plaintiffs and the class suffer and continue to suffer humiliation, embarrassment, and anguish, all to their damage in an amount according to proof.

91. Abercrombie performed the acts herein alleged with malice or reckless indifference. Plaintiffs and class members are thus entitled to recover punitive damages in an amount according to proof.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiffs and the class pray for relief as follows:

92. Certification of the case as a class action on behalf of the proposed class;

93. Designation of Representative Plaintiffs Eduardo Gonzalez, Anthony Ocampo, Encarnacion Gutierrez, Johan Montoya, Juancarlos Gomez-Montejano, Jennifer Lu,

1 Austin Chu, Ivy Nguyen, and Angeline Wu as representatives of the class;

2 94. Designation of Representative Plaintiffs' counsel of record as class  
3 counsel;

4 95. A declaratory judgment that the practices complained of herein are  
5 unlawful and violate 42 U.S.C. § 1981;

6 96. A preliminary and permanent injunction against Abercrombie and its  
7 officers, agents, successors, employees, representatives, and any and all persons acting in concert  
8 with them, from engaging in each of the unlawful policies, practices, customs, and usages set  
9 forth herein;

10 97. An order that Abercrombie institute and carry out policies, practices, and  
11 programs that provide equal employment opportunities for all minorities, and that it eradicate the  
12 effects of its past and present unlawful employment practices;

13 98. An order restoring plaintiffs and class members to their rightful positions at  
14 Abercrombie, or in lieu of reinstatements, an order for front pay benefits;

15 99. Back pay (including interest and benefits) for individual plaintiffs and class  
16 members;

17 100. All damages sustained as a result of Abercrombie's conduct, including  
18 damages for emotional distress, humiliation, embarrassment, and anguish, according to proof;

19 101. Exemplary and punitive damages in an amount commensurate with  
20 Abercrombie's ability to pay and to deter future conduct;

21 102. Costs incurred herein, including reasonable attorneys' fees to the extent  
22 allowable by law;

23 103. Pre-judgment and post-judgment interest, as provided by law; and

24 104. Such other and further legal and equitable relief as this Court deems  
25 necessary, just, and proper.  
26  
27  
28



1 Dated: June 16, 2003

Respectfully submitted,

2 Thomas A. Saenz  
3 Shaheena Ahmad Simons  
4 MEXICAN AMERICAN LEGAL DEFENSE AND  
5 EDUCATIONAL FUND

6 Julie Su  
7 Minah Park  
8 ASIAN PACIFIC AMERICAN LEGAL CENTER

9 Kimberly West-Faulcon  
10 Jyoti Nanda  
11 NAACP LEGAL DEFENSE AND EDUCATIONAL  
12 FUND, INC.

13 Bill Lann Lee  
14 Kelly M. Dermody  
15 Eve H. Cervantez  
16 Jahan C. Sagafi  
17 LIEFF, CARRASER, HEIMANN & BERNSTEIN, LLP

18 By:   
19 Bill Lann Lee

20 Attorneys for Plaintiffs Eduardo Gonzalez, Anthony  
21 Ocampo, Encarnacion Gutierrez, Johan Montoya,  
22 Juancarlos Gomez-Montejano, Jennifer Lu, Austin Chu,  
23 Ivy Nguyen, and Angeline Wu  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury as to all issues so triable.

Dated: June 16, 2003

Respectfully submitted,

Thomas A. Saenz  
Shaheena Ahmad Simons  
MEXICAN AMERICAN LEGAL DEFENSE AND  
EDUCATIONAL FUND

Julie Su  
Minah Park  
ASIAN PACIFIC AMERICAN LEGAL CENTER

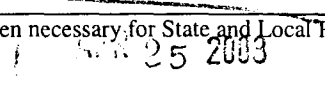

Kimberly West-Faulcon  
Jyoti Nanda  
NAACP LEGAL DEFENSE AND EDUCATIONAL  
FUND, INC.

Bill Lann Lee  
Kelly M. Dermody  
Eve H. Cervantez  
Jahan C. Sagafi  
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

By: 

Bill Lann Lee

Attorneys for Plaintiffs Eduardo Gonzalez, Anthony  
Ocampo, Encarnacion Gutierrez, Johan Montoya,  
Juancarlos Gomez-Montejano, Jennifer Lu, Austin Chu,  
Ivy Nguyen, and Angeline Wu

<b>CHARGE OF DISCRIMINATION</b>		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	340-2003-09802
<b>California Department of Fair Employment and Housing and EEOC</b> <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.)  Mr. Eduardo Gonzalez		HOME TELEPHONE (include area code)  (510) 782-3167	
STREET ADDRESS  27474 Capri Avenue, Hayward, CA 94545 P.O. Box 11375, Stanford, CA 94309		CITY, STATE AND ZIP CODE  DATE OF BIRTH  October 19, 1983	
<b>NAME OF THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one, list below.)</b>			
NAME  Abercrombie & Fitch at Valley Fair	NUMBER OF EMPLOYEES, MEMBERS  Cat. D (500+)	TELEPHONE (include area code)  408-551-0252	
STREET ADDRESS  2855 Stevens Creek Blvd., Space B585, Santa Clara, CA 95050		CITY, STATE AND ZIP CODE  COUNTY  SANTA CLARA	
NAME  Abercrombie & Fitch	NUMBER OF EMPLOYEES, MEMBERS  Cat. D (500+)	TELEPHONE (include area code)  614-283-6500	
STREET ADDRESS  6301 Fitch Path, New Albany, Ohio 43054		CITY, STATE AND ZIP CODE  COUNTY  FRANKLIN	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))  <input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST                      LATEST 8/7/02 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I. I am a Latino male. I was denied a position as a sales associate ("Brand Representative") at the Abercrombie &amp; Fitch store in the Valley Fair Mall in Santa Clara, California. I initially applied at the Valley Fair Mall store on August 7, 2002 and returned for a group interview on August 27, 2002. I was not hired nor was I ever contacted by Abercrombie.</p> <p>II. I believe that I have been discriminated against by Abercrombie on the basis of national origin, color, or race for the following reasons: I am qualified for the sales associate position. I am a Stanford University undergraduate who was looking for a part-time job at the time. On both August 7 and 27, 2002, I noticed that none of the sales associates at the Valley Fair Abercrombie were minority individuals, i.e., Latino, African American or Asian American. When I initially applied, an Abercrombie manager suggested that I apply to work in the stock room or on the late night crew in a non-sales position.</p> <p>III. I believe that Abercrombie has a pattern and practice of discriminating against minority individuals on the basis of national origin, color, or race in staffing sales positions in its stores nationwide. I bring this charge on behalf of myself and similarly situated minority individuals denied sales positions as a result of national origin, color, or race.</p>			
<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.		NOTARY - (When necessary for State and Local Requirements) <div style="text-align: center;">  </div>	
I declare under penalty of perjury that the foregoing is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
Date 6/26/2003 Eddie Gonzalez Charging Party (signature)		SIGNATURE OF COMPLAINANT <div style="text-align: center;">  </div> SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	

## DEPARTMENT OF FAIR EMPLOYMENT &amp; HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

☐ 1001 Tower Way, Suite 250  
Bakersfield, CA 93309  
H (805) 395-2729

Ms. Rachel Riddle  
Human Resources Director  
Abercrombie & Fitch  
6301 Fitch Path  
New Albany, OH 430054

EEOC Number: 340-2003-09802

Case Name: GONZALEZ, EDUARDO

Date: April 29, 2003

☐ 1320 E. Shaw Avenue, Suite 150  
Fresno, CA 93710  
C (559) 244-4760

## NOTICE TO COMPLAINANT AND RESPONDENT

☐ 611 West Sixth Street, Suite 1500  
Los Angeles, CA 90017  
B (213) 439-6799

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

☐ 1515 Clay Street, Suite 701  
Oakland, CA 94612-2512  
M (510) 622-2941

No response to the DFEH is required by the respondent.

☐ 2000 "O" Street, Suite 120  
Sacramento, CA 95814-5212  
E (916) 445-5523

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

☐ 350 W. Ash Street, Suite 950  
San Diego, CA 92101-3440  
D (619) 645-2681

## NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

☐ 121 Spear Street, Suite 430  
San Francisco, CA 94105  
A (415) 904-2303

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior, Municipal or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

☐ 111 North Market Street, Suite 810  
San Jose, CA 95113-1102  
G (408) 277-1277

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

Barbara J. Osborne  
Deputy Director  
Enforcement Field Operations

☐ 2101 E. Fourth Street, Suite 255-B  
Santa Ana, CA 92705-3855  
K (714) 558-4266

CHARGE OF DISCRIMINATION		AGENCY <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	CHARGE NUMBER 340A201971
Form is affected by the Privacy Act of 1974; See Privacy Act Statement before filing this form.			
California Department of Fair Employment and Housing State or Local Agency, if any		and EEOC	
NAME (Last, First, Middle) Carnación Gutierrez		HOME TELEPHONE (Include Area Code) 310-824-5394	
STREET ADDRESS 09 Stansbury Ave., Panorama City, CA 91402		CITY, STATE AND ZIP CODE DATE OF BIRTH 6-29-75	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME Abercrombie & Fitch		NUMBER OF EMPLOYEES, MEMBERS Unknown (25+)	TELEPHONE (Include Area Code) 310-899-2966
STREET ADDRESS 45 Third Street Promenade, Santa Monica, CA 90401		CITY, STATE AND ZIP CODE COUNTY Los Angeles	
TELEPHONE NUMBER (Include Area Code)			
STREET ADDRESS CITY, STATE AND ZIP CODE		COUNTY	
TYPE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST June/July 2001-continuing <input checked="" type="checkbox"/> CONTINUING ACTION	

PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

During the summer of 2001, I went to the Abercrombie & Fitch store located on the Third Street Promenade in Santa Monica, California, and I inquired about the availability of employment at the store. I received an application, which I was instructed to fill out. I was told to bring the completed application to a group interview on a set day of the week and time. I did return for the group interview, with my completed application. The group interview was conducted in the open area on the second floor of the store by a white male identified as the manager. There were seven or eight applicants sitting in a circle. The manager asked us to go around the circle and introduce ourselves, say something about ourselves, and indicate what job position we wanted to obtain. Each applicant did as instructed. The manager asked a very few follow-up questions of particular applicants. I do recall that he asked the first applicant to speak -- an Asian American male -- whether he spoke English even though his answer to the initial set of questions plainly demonstrated that he did in fact speak English. After we each responded, the manager told us that the interview was over and collected our applications. I have never been contacted about taking a position at the Abercrombie & Fitch store even though I never withdrew my application. I also have never received any sort of letter or communication indicating that my application was rejected or asking for any further information about my qualifications. Based on my observations of who works in the store, who was interviewed (more than half of those in my group interview were minorities), and the manager's interest in each applicant, I believe that I have not been hired or contacted because I am Latino.

<input type="checkbox"/> I want this charge filed with both the EEOC and the State or Local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the foregoing is true and correct.	NOTARY - (When necessary for State and Local Requirements) I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, Month, and year) May 13, 2002
DATE EEOC FORM 6 (Rev. 06/92)	Charging Party (Signature) May 13, 2002 MAY 21 2002 LOCAL AGENCY INTAKE

EXHIBIT B

## CHARGE OF DISCRIMINATION

AGENCY

CHARGE NUMBER

☐ FEPA☒ EEOC

340A201971

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

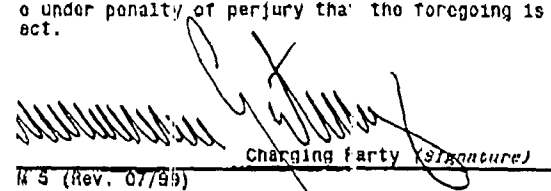
CA Dept. Fair Employment & Housing  
State or local Agency, if any

and EEOC

NAME (Indicate Mr., Ms., Mrs.)	HOME TELEPHONE (Include Area Code)	
Mr. Encarnacion Gutierrez	(310) 824-5394	
STREET ADDRESS	CITY, STATE AND ZIP CODE	DATE OF BIRTH
890 Stansbury Avenue, Panorama City, CA 91402		06/29/1975
NAME IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)		
NAME	NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (Include Area Code)
Abercrombie & Fitch Co.	Cat D (501 +)	(310) 899-2966
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY
131 3rd Street Promenade, Los Angeles, CA 90063		037
NAME	TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS	CITY, STATE AND ZIP CODE	COUNTY
CAUSE	DATE DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RETALIATION	EARLIEST LATEST	
<input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN	06/01/2001 05/21/2002	
<input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)	<input checked="" type="checkbox"/> CONTINUING ACTION	

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):  
Alleged Charge

During the summer of 2001, I went to the Abercrombie & Fitch store located on the Third Street Promenade in Santa Monica, California, and I inquired about the availability of employment at the store. I received an application, which I was instructed to fill out. I was told to bring the completed application to a group interview on a set day of the week and time. I did not turn for the group interview, with my completed application. The group interview was conducted in the open area on the second floor of the store by a white male identified as the manager. There were seven or eight applicants sitting in a circle. The manager asked us to go around the circle and introduce ourselves, say something about ourselves, and indicate what job position we wanted to obtain. Each applicant did as instructed. The manager asked a very few follow-up questions of particular applicants. I do recall that he asked the first applicant to speak and an Asian American male - whether he spoke English even though his answer to the initial set of questions plainly demonstrated that he did in fact speak English. After we each responded, the manager told us that the interview was over and collected our applications. I have never been contacted about taking a position at the Abercrombie & Fitch store even though I never withdrew my application. I also have never received any sort of letter or communication indicating that my application was rejected or asking for any further information about my qualifications. Based on my observations of who works in the store, who was interviewed (more than half of those in my group interview were minorities), and the manager's interest in each applicant, I believe that I have not been hired or contacted because I am Latino.

I want this charge filed with both the EEOC and the state or local agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the foregoing is true and correct.	NOTARY - (When necessary for State and Local, Board, or other)
	I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
 Date _____ Charging Party (Signature)	SIGNATURE OF COMPLAINANT
	SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)

RECEIVED

JUN 12 2002

INTAKE



**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

CHARGE NUMB

☐ FEPA☒ EEOC

340A20197

CA Dept. Fair Employment & Housing  
State or local Agency, if any

and EEOC

NAME (Indicate Mr., Ms., Mrs.)

HOME TELEPHONE (Include Area Code)

Mr. Encarnacion Gutierrez

(310) 324-5394

STREET ADDRESS

CITY, STATE AND ZIP CODE

DATE OF BIRTH

8909 Stansbury Avenue, Panorama City, CA 91402

06/29 1975

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMISSION, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

NUMBER OF EMPLOYEES, MEMBERS

TELEPHONE (Include Area Code)

Abercrombie &amp; Fitch Co.

Cat D (501 +)

(310) 899-2006

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

1346 3rd Street Promenade, Los Angeles, CA 90063

03

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

DATE DISCRIMINATION TOOK PLACE  
EARLIEST LATEST☒ RACE☒ COLOR☐ SEX☐ RELIGION☒ NATIONAL ORIGIN☐ RETALIATION☐ AGE☐ DISABILITY☐ OTHER (Specify)

06/01/2001 05/21 2002

☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

Amended Charge

During the summer of 2001, I went to the Abercrombie & Fitch store located on the Third Street Promenade in Santa Monica, California, and I inquired about the availability of employment at the store. I received an application, which I was instructed to fill out. I was told to bring the completed application to a group interview on a set day of the week and time. I did return for the group interview, with my completed application. The group interview was conducted in the open area on the second floor of the store by a white male identified as the manager. There were seven or eight applicants sitting in a circle. The manager asked us to go around the circle and introduce ourselves, say something about ourselves, and indicate what job position we wanted to obtain. Each applicant did as instructed. The manager asked a very few follow-up questions of particular applicants. I do recall that he asked the first applicant to speak -- an Asian American male -- whether he spoke English even though his answer to the initial set of questions plainly demonstrated that he did in fact speak English. After we each responded, the manager told us that the interview was over and collected our applications. I have never been contacted about taking a position at the Abercrombie & Fitch store even though I never withdrew my application. I also have never received any sort of letter or communication indicating that my application was rejected or asking for any further information about my qualifications. Based on my observations of who works in the store, who was interviewed (more than half of those in my group interview were minorities), and the manager's interest in each applicant, I believe that I have not been hired or contacted because I am Latino.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

NOTARY - (When necessary for State and Local Agencies)

I swear or affirm that I have read the above charge and it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(Month, day and year)

Date

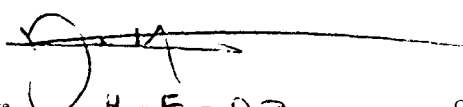
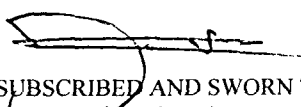
Charging Party (Signature)

EEOC FORM 5 (Rev. 07/99)

T-367 P.02/02 Job-438

1213894118

MAY-06-03 10:59 From:EEOC/LADO

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	340-2003-09730
<b>California Department of Fair Employment and Housing and EEOC</b> <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.) Mr. Johan Montoya		HOME TELEPHONE (include area code) 818-674-0904	
STREET ADDRESS 15415 Vanowen Street, #15, Van Nuys, CA 91406 6850 El Colegio, Goleta, CA 93117		CITY, STATE AND ZIP CODE DATE OF BIRTH July 7, 1984	
NAME OF THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one, list below.)			
NAME Abercrombie & Fitch at Topanga	NUMBER OF EMPLOYEES, MEMBERS Cat. D (500+)	TELEPHONE (include area code) 818-713-1391	
STREET ADDRESS 6600 Topanga Canyon Blvd., Space #83, Canoga Park, CA 91303	CITY, STATE AND ZIP CODE	COUNTY Los Angeles	
NAME Abercrombie & Fitch	NUMBER OF EMPLOYEES, MEMBERS Cat. D (500+)	TELEPHONE (include area code) 614-283-6500	
STREET ADDRESS 6301 Fitch Path, New Albany, Ohio 43054	CITY, STATE AND ZIP CODE	COUNTY Franklin	
CAUSE OF DISCRIMINATION BASED ONK (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST                      LATEST 8/7/02 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I. I am a Latino male. I was denied a position as a sales associate ("Brand Representative") at the Abercrombie &amp; Fitch store in the Topanga Mall in Canoga Park, California. I initially applied to work at that store in August or September 2002 and returned for a group interview the following Saturday afternoon. I was not hired nor was I ever contacted by Abercrombie.</p> <p>II. I believe that I have been discriminated against by Abercrombie on the basis of national origin, color, or race for the following reasons: I am qualified for the sales associate position. I am an undergraduate at the University of California at Santa Barbara who was looking for a part-time job at the time, having already worked for roughly 6 months as a sales associate at the Foot Action USA in the same mall (Topanga). On both visits to the store, I noticed that none of the sales associates at the Topanga Abercrombie were minority individuals, i.e., Latino, African American or Asian American.</p> <p>III. I believe that Abercrombie has a pattern and practice of discriminating against minority individuals on the basis of national origin, color, or race in staffing sales positions in its stores nationwide. I bring this charge on behalf of myself and similarly situated minority individuals denied sales positions as a result of national origin, color, or race.</p>			
<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.		NOTARY - (When necessary for State and Local Requirements)  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct.  <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">             Date 4-5-03         </div> <div style="text-align: center;">           Charging Party (signature)         </div> </div>		SIGNATURE OF COMPLAINANT  <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">             4-5-03         </div> <div style="text-align: center;">           SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE            (Day, month, and year)         </div> </div>	

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

Rachel Riddle  
Human Resources Director EEOC Number: 340-2003-09730  
Abercrombie & Fitch  
6301 Fitch Path  
New Albany, OH 43054

Case Name: MONTOYA, JUAN

Date: April 29, 2003

☐ 1001 Tower Way, Suite 250  
Bakersfield, CA 93309  
H (805) 395-2729

☐ 1320 E. Shaw Avenue, Suite 150  
Fresno, CA 93710  
C (559) 244-4760

☐ 611 West Sixth Street, Suite 1500  
Los Angeles, CA 90017  
B (213) 439-6799

☐ 1515 Clay Street, Suite 701  
Oakland, CA 94612-2512  
M (510) 622-2941

☐ 2000 "O" Street, Suite 120  
Sacramento, CA 95814-5212  
E (916) 445-5523

☐ 350 W. Ash Street, Suite 950  
San Diego, CA 92101-3440  
D (619) 645-2681

☐ 121 Spear Street, Suite 430  
San Francisco, CA 94105  
A (415) 904-2303

☐ 111 North Market Street, Suite 810  
San Jose, CA 95113-1102  
G (408) 277-1277

☐ 2101 E. Fourth Street, Suite 255-B  
Santa Ana, CA 92705-3855  
K (714) 558-4266

**NOTICE TO COMPLAINANT AND RESPONDENT**

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

**No response to the DFEH is required by the respondent.**

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

**NOTICE TO COMPLAINANT OF RIGHT-TO-SUE**

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior, Municipal or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

Barbara J. Osborne  
Deputy Director  
Enforcement Field Operations

M A L DEF.

# CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY ☐ FEPA ☒ EEOC  
CHANGE NUMBER 340A00452

CA Dept. Fair Employment & Housing and EEOC  
State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.) <b>Mr. Juan C. Gomez-Montejano</b>		HOME TELEPHONE (Include Area Code) <b>(310) 428-5909</b>	
STREET ADDRESS <b>411 Kelton Avenue Unit#329, Westwood, CA 90024</b>		DATE OF BIRTH <b>02/04/1979</b>	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)			
NAME <b>Abercrombie &amp; Fitch Co.</b>		NUMBER OF EMPLOYEES, MEMBERS <b>Cat C (201-500)</b>	TELEPHONE (Include Area Code) <b>(310) 899-2966</b>
STREET ADDRESS <b>1346 3rd Street Promenade, Los Angeles, CA 90063</b>		COUNTY <b>037</b>	
NAME		TELEPHONE NUMBER (Include Area Code)	
STREET ADDRESS		COUNTY	
CITY, STATE AND ZIP CODE		COUNTY	
CAUSE OF DISCRIMINATION BASED ON (check appropriate box(es)) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST <b>04/15/1999</b> LATEST <b>04/15/1999</b> <input type="checkbox"/> CONTINUING ACTION	

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

- I. In June 1999, I received a copy of my personnel file which indicated that on April 15, 1999 I was laid off from my position as Brand Representative. My employers never informed me of my layoff. I was initially hired by the Respondent on November 22, 1998.
- II. My layoff notice did not indicate why I was laid off but stated that I was eligible for rehire.
- III. I believe that I was laid off because of my National origin, Mexican which is in violation of Title VII of the Civil Rights Act of 1964, as amended.

RECEIVED

DEC 21 1999

EEOC/LADO  
INTAKE

<input type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the foregoing is true and correct.	NOTARY - (When necessary for state and local requirements)
	I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.  SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Month, day and year)

Signature of Charging Party (Signature)  
EO 12812 (Rev. 08/89)

CHARGING PARTY COPY



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Los Angeles District Office**

255 E. TEMPLE STREET, 4<sup>TH</sup> FLOOR  
LOS ANGELES, CALIFORNIA 90012  
1-800-669-4000  
(213)894-1000  
TDD (213)894-1121  
FAX (213)894-1118

Charge Number 340A00452

Juan C. Gomez-Monetjano  
411 Kelton Avenue, Unit #329  
Los Angeles, California 90024

Charging Party

Abercrombie & Fitch Co.  
1346 3<sup>rd</sup> Street Promenade  
Los Angeles, California 90063

Respondents

Abercrombie & Fitch Co.  
Four Limited Parkway East  
Reynoldsburg, Ohio 43068

**LETTER OF DETERMINATION**

By the authority vested in me by the Equal Employment Opportunity Commission (EEOC), I issue the following determination as to the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended. All requirements for coverage have been met.

Charging Party alleged that he was denied a permanent position as a Brand Representative, denied an assignment and terminated because of his national origin, Mexican-American. Charging Party further alleges that Latinos and Blacks, as a class, are discriminated against in recruitment, hiring, and assignment. Respondent denies the allegations of discrimination and contends the Charging Party was not denied a permanent position of Brand Representative, denied an assignment, or terminated based on his national origin.

The preponderance of the evidence supports Charging Party's claim that he was denied a permanent position as a Brand Representative, denied an assignment and terminated because of his national origin. Moreover, evidence obtained during the course of the investigation revealed that Latinos and Blacks, as a class, were denied permanent positions, denied assignments and treated in an unfair manner with regard to recruitment based on their race and national origin, and that Respondent failed to maintain employment records as required by Title VII. Therefore, I have concluded that the evidence is sufficient to establish a violation of the above-cited statute.

Respondent is reminded that Federal law prohibits retaliation against persons who have exercised their right to inquire or complain about matters they believe may violate the law. Discrimination against persons who have cooperated in EEOC investigations is also prohibited. These protections apply regardless of the EEOC's determination on the merits of the charge.

EXHIBIT F



**LOD****CHARGE NUMBER 340A00452****PAGE 2 OF 2**

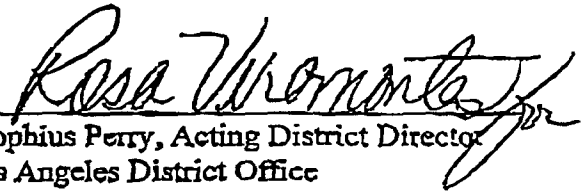
Having determined that there is reason to believe that violations have occurred, the EEOC now invites the parties to join with it in a collective effort toward a just resolution of this matter. If Respondent declines to enter into settlement discussions, or if for any other reason the EEOC's representative is unable to secure an acceptable settlement, the Director will so inform the parties in writing and advise them of the court enforcement alternative available to the charging party and the EEOC.

Investigator Karrie Maeda will be contacting you shortly to begin conciliation discussions. You can contact Investigator Maeda at (215) 894-1715.

On behalf of the Commission:

September 13, 2001

Date

  
Olophius Perry, Acting District Director  
Los Angeles District Office



STATE OF CALIFORNIA STATE AND CONSUMER SERVICE AGENCY

GRAY DAVIS, Governor

# DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

☐ 1001 Tower Way, Suite 250  
Bakersfield, CA 93309-1688  
H (805) 395-2728

Mr. Jim Wheelox  
Human Resources Manager  
Abercrombie & Fitch Co.  
3 Limited Parking  
Columbus, OH 43216

EEOC Number: 340A00452

Case Name: Mr. Juan C. Gomez-Montejano

☐ 1320 E. Shaw Avenue, Suite 150  
Fresno, CA 93710  
C (559) 244-4780

Date: December 21, 1999

## NOTICE TO COMPLAINANT AND RESPONDENT

☐ 811 West Sixth Street, Suite 1800  
Los Angeles, CA 90017-3119  
B (213) 438-8799

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

☐ 1519 Clay Street, Suite 701  
Oakland, CA 94612-2512  
M (510) 822-2941

No response to the DFEH is required by the respondent.

☐ 2000 "D" Street, Suite 120  
Sacramento, CA 95814-5212  
E (916) 446-5523

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

☐ 184B S. Business Center Dr., Suite 127  
San Bernardino, CA 92408-3426  
J (909) 383-4373

## NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

☐ 350 W. Ash Street, Suite 950  
San Diego, CA 92101-3440  
D (619) 645-2681

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior, Municipal or Justice Court. The civil action must be filed within one year of this letter. This right may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

☐ 458 Golden Gate Avenue, Suite 7800  
San Francisco, CA 94102-7008  
A (415) 703-4178

The DFEH does not retain case records beyond three years after a complaint is filed.

☐ 111 North Market Street, Suite 810  
San Jose, CA 95113-1102  
G (408) 277-1277

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

☐ 28 Civic Center Plaza, Suite 838  
Santa Ana, CA 92701-4010  
K (714) 558-4288

Sincerely,

☐ 1732 Palma Drive, Suite 200  
Ventura, CA 93003-5798  
L (805) 654-4914

Barbara J. Osborn  
Deputy Director  
Enforcement Field Operations

EXHIBIT F

DFEH-200-02 (8/99)

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	310-2003-09736
<b>California Department of Fair Employment and Housing and EEOC</b> <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.)		HOME TELEPHONE (include area code)	
Ms. Jennifer Lu		(405) 209-8931	
STREET ADDRESS CITY, STATE AND ZIP CODE		DATE OF BIRTH	
163 Exeter, Apt # 163, Irvine, CA 92612		March 3, 1982	
<b>NAME OF THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one, list below.)</b>			
NAME	NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (include area code)	
Abercrombie & Fitch at Crystal Court	Cat. D (500+)	714-557-9787	
STREET ADDRESS CITY, STATE AND ZIP CODE	COUNTY		
3333 Bear St. Suite # 223, Costa Mesa, CA 92626	ORANGE		
NAME	NUMBER OF EMPLOYEES, MEMBERS	TELEPHONE (include area code)	
Abercrombie & Fitch	Cat. D (500+)	614-283-6500	
STREET ADDRESS CITY, STATE AND ZIP CODE	COUNTY		
6301 Fitch Path, New Albany, Ohio 43054	FRANKLIN		
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE EARLIEST LATEST	
<input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)		8/7/02 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I. I am an Asian American female. I was terminated from my position as a sales associate ("Brand Representative") at the Abercrombie &amp; Fitch store in the Crystal Court Mall in Costa Mesa, California. I had worked at the Crystal Court store from September 2000 to February 2003.</p> <p>II. I believe that I have been discriminated against by Abercrombie on the basis of national origin, color, race or sex for the following reasons: I have worked in the sales associate position for three years. Based on my experience and demonstrated responsibility, I was entrusted with the duties of handling the cash register and even returns and exchanges. I am an undergraduate attending University of California at Irvine. On or about February 8, 2003, I was terminated from the Crystal Court Abercrombie along with 4 other Asian American sales associates. I believe the terminations were a direct result of a visit to the store by employees from Abercrombie's corporate offices, where they told the store management that it needed to "reevaluate the look" of the store and they pointed to a picture of a white male model hanging in the store, and stated something to the effect of, "This is the Abercrombie look." I believe this was code language to recommend that minority sales staff, particularly the Asian Americans and females, be terminated from employment.</p> <p>III. I believe that Abercrombie has a pattern and practice of discriminating against minority individuals on the basis of national origin, color, race or sex in staffing sales positions in its stores nationwide. I bring this charge on behalf of myself and similarly situated minority individuals denied sales positions as a result of national origin, color, race, or sex.</p>			
<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.		NOTARY - (When necessary for State and Local Requirements)  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct. Date <u>Jennifer Lu</u> 4/3/2003 Charging Party (signature)		SIGNATURE OF COMPLAINANT <u>Jennifer Lu</u> 4/3/03 SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	

## DEPARTMENT OF FAIR EMPLOYMENT &amp; HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

☐ 1001 Tower Way, Suite 250  
Bakersfield, CA 93309  
H (805) 395-2729

Rachel Riddle  
Human Resources Director  
Abercrombie & Fitch  
6301 Fitch Path  
New Albany, OH 43054

EEOC Number: 340-2003-09736

Case Name: LU, JENNIFER

Date: April 29, 2003

☐ 1320 E. Shaw Avenue, Suite 150  
Fresno, CA 93710  
C (559) 244-4760

## NOTICE TO COMPLAINANT AND RESPONDENT

☐ 611 West Sixth Street, Suite 1500  
Los Angeles, CA 90017  
B (213) 439-6799

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No response to the DFEH is required by the respondent.

☐ 1515 Clay Street, Suite 701  
Oakland, CA 94612-2512  
M (510) 622-2941

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

☐ 2000 "O" Street, Suite 120  
Sacramento, CA 95814-5212  
E (916) 445-5523

## NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

☐ 350 W. Ash Street, Suite 950  
San Diego, CA 92101-3440  
D (619) 645-2681

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior, Municipal or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

☐ 121 Spear Street, Suite 430  
San Francisco, CA 94105  
A (415) 904-2303

☐ 111 North Market Street, Suite 810  
San Jose, CA 95113-1102  
G (408) 277-1277

☐ 2101 E. Fourth Street, Suite 255-B  
Santa Ana, CA 92705-3855  
K (714) 558-4266

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

Barbara J. Osborne  
Deputy Director  
Enforcement Field Operations

CHARGE OF DISCRIMINATION		AGENCY	CHARGE NUMBER
This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	340-2003-09740
California Department of Fair Employment and Housing and EEOC <i>State or local Agency, if any</i>			
NAME (indicate Mr., Ms. or Mrs.) Mr. Austin Chu		HOME TELEPHONE (include area code) 949-857-1721	
STREET ADDRESS 23 Timberline, Irvine, CA 92604		CITY, STATE AND ZIP CODE DATE OF BIRTH January 12, 1983	
NAME OF THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one, list below.)			
NAME Abercrombie & Fitch at Crystal Court	NUMBER OF EMPLOYEES, MEMBERS Cat. D (500+)	TELEPHONE (include area code) 714-557-9787	
STREET ADDRESS 3333 Bear St. Suite # 223, Costa Mesa, CA 92626		CITY, STATE AND ZIP CODE COUNTY Orange	
NAME Abercrombie & Fitch	NUMBER OF EMPLOYEES, MEMBERS Cat. D (500+)	TELEPHONE (include area code) 614-283-6500	
STREET ADDRESS 6301 Fitch Path, New Albany, Ohio 43054		CITY, STATE AND ZIP CODE COUNTY Franklin	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es)) <input checked="" type="checkbox"/> RACE <input checked="" type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input checked="" type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify)		DATE DISCRIMINATION TOOK PLACE EARLIEST    LATEST 8/7/02  <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):			
<p>I. I am an Asian American male. I was constructively discharged from my position as a sales associate ("Brand Representative") at the Abercrombie &amp; Fitch store in the Crystal Court Mall in Costa Mesa, California, where I had worked from June 2001 to February 2003.</p> <p>II. I believe that I have been discriminated against by Abercrombie on the basis of national origin, color, or race for the following reasons: I have worked in the sales associate position for almost two years. Based on my experience and demonstrated responsibility, I was entrusted with the duties of handling the cash register and even returns and exchanges. I am an undergraduate attending University of California at Irvine. After February 8, 2003, my hours were reduced from an average of 10-15 hours/week to only 4 hours in the month and a half period between February 8 and March 26, 2003. At the same time my hours were reduced, management at the Crystal Court Abercrombie terminated 5 female Asian American sales associates and hired 5-7 white male sales associates. I believe the terminations were a direct result of a visit to the store by employees from Abercrombie's corporate offices, where they told the store management that it needed to "reevaluate the look" of the store and they pointed to a picture of a white male model hanging in the store, and stated something to the effect of "This is the Abercrombie look." I believe this was code language that minority sales staff, particularly Asian Americans and females, be terminated.</p> <p>III. I believe that Abercrombie has a pattern and practice of discriminating against minority individuals on the basis of national origin, color, race or sex in staffing sales positions in its stores nationwide. I bring this charge on behalf of myself and similarly situated minority individuals denied sales positions as a result of national origin, color, or race.</p>			
<input checked="" type="checkbox"/> I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.		NOTARY - (When necessary for State and Local Requirements) RECEIVED JUN 17 2003 I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.	
I declare under penalty of perjury that the foregoing is true and correct. 4/17/03 Date		SIGNATURE OF COMPLAINANT 4/17/03 SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)	
Charging Party (signature)		H	

## DEPARTMENT OF FAIR EMPLOYMENT &amp; HOUSING

(SEE ADDRESS CHECKED BELOW)



TTY # (800) 700-2320

Rachel Riddle

Human Resources Director EEOC Number: 340-2003-09740

Abercrombie &amp; Fitch

6301 Fitch Path

Costa Mesa, CA 92626

Case Name: CHU, AUSTIN C

Date: April 29, 2003

☐ 1001 Tower Way, Suite 250  
Bakersfield, CA 93309  
H (805) 395-2729

☐ 1320 E. Shaw Avenue, Suite 150  
Fresno, CA 93710  
C (559) 244-4760

☐ 611 West Sixth Street, Suite 1500  
Los Angeles, CA 90017  
B (213) 439-6799

☐ 1515 Clay Street, Suite 701  
Oakland, CA 94612-2512  
M (510) 622-2941

☐ 2000 "O" Street, Suite 120  
Sacramento, CA 95814-5212  
E (916) 445-5523

☐ 350 W. Ash Street, Suite 950  
San Diego, CA 92101-3440  
D (619) 645-2681

☐ 121 Spear Street, Suite 430  
San Francisco, CA 94105  
A (415) 904-2303

☐ 111 North Market Street, Suite 810  
San Jose, CA 95113-1102  
G (408) 277-1277

☐ 2101 E. Fourth Street, Suite 255-B  
Santa Ana, CA 92705-3855  
K (714) 558-4266

## NOTICE TO COMPLAINANT AND RESPONDENT

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

No response to the DFEH is required by the respondent.

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

## NOTICE TO COMPLAINANT OF RIGHT-TO-SUE

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior, Municipal or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

Barbara J. Osborne  
Deputy Director  
Enforcement Field Operations



## CHARGE OF DISCRIMINATION

Case 3:03-cv-02817-SI Document 1

Filed 06/16/03 Page 38 of 43

AGENCY

CHARGE NUMBER

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

☐ FEPA☒ EEOC

## California Department of Fair Employment and Housing and EEOC

State or local Agency, if any

RECEIVED

JUN 16 2003

NAME (indicate Mr., Ms. or Mrs.)

Ms. Ivy Nguyen

HOME TELEPHONE (include area code)

(714) 635-7065

STREET ADDRESS

CITY, STATE AND ZIP CODE

1503 West Kimberly, Anaheim, CA 92802

EEOC - OLO

DATE OF BIRTH

09/21/1983

NAME OF THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one, list below.)

NAME

Abercrombie &amp; Fitch at Crystal Court

NUMBER OF EMPLOYEES, MEMBERS

Cat. D (500+)

TELEPHONE (include area code)

(714) 557-9787

STREET ADDRESS

CITY, STATE AND ZIP CODE

3333 Bear St. Suite # 223 / Costa Mesa, CA 92626

COUNTY

Orange

NAME

Abercrombie &amp; Fitch

NUMBER OF EMPLOYEES, MEMBERS

Cat. D (500+)

TELEPHONE (include area code)

614-283-6500

STREET ADDRESS

CITY, STATE AND ZIP CODE

6301 Fitch Path, New Albany, Ohio 43054

COUNTY

FRANKLIN

CAUSE OF DISCRIMINATION BASED ONK (Check appropriate box(es))

☒ RACE ☒ COLOR ☒ SEX ☐ RELIGION ☒ NATIONAL ORIGIN

☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (specify)

DATE DISCRIMINATION TOOK PLACE

EARLIEST

LATEST

02/8/03

☒ CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

I. I am an Asian American female. Around February 8, 2003, I was terminated from my position as a sales associate ("Brand Representative") at the Abercrombie & Fitch store in the Crystal Court Mall in Costa Mesa, California. I had worked there from June 2002 to February 2003.

II. I believe that I have been discriminated against by Abercrombie on the basis of national origin, color, race, or sex for the following reasons: I have worked in the sales associate position for three years. Based on my experience and demonstrated responsibility, I was entrusted with the duties of handling the cash register and even returns and exchanges. I am an undergraduate attending University of California at Irvine. On or about February 8, 2003, I was terminated from the Crystal Court Abercrombie along with 4 other Asian American sales associates. I believe the terminations were racially motivated.

III. I believe that Abercrombie has a pattern and practice of discriminating against minority individuals on the basis of national origin, color, race, or sex in staffing sales positions in its stores nationwide. I bring this charge on behalf of myself and similarly situated minority individuals denied sales positions as a result of national origin, color, race, or sex.

☒ I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedure.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Date 6/13/03

Charging Party (signature)

6/13/03

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(Day, month, and year)

I



## CHARGE OF DISCRIMINATION

CHARGE NUMBER

☐ FEPA  
☒ EEOC

345-003-04040

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

CA DEPT OF FAIR EMPLOYMENT/HOUSING

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

Ms. Angeline Wu

HOME TELEPHONE (Include Area Code)

(626) 475-9440

STREET ADDRESS

CITY, STATE AND ZIP CODE

DATE OF BIRTH

2205 Robruce Drive, Hacienda Heights, CA 91745

08/14/1983

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME NUMBER OF EMPLOYEES, MEMBERS TELEPHONE (Include Area Code)

ABERCROMBIE &amp; FITCH

Cat C (201-500)

(714) 557-9787

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

3333 Bear Street (Suite 223), Costa Mesa, CA 92626

059

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☒ RACE ☐ COLOR ☒ SEX ☐ RELIGION ☐ NATIONAL ORIGIN  
☐ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify)DATE DISCRIMINATION TOOK PLACE  
EARLIEST LATEST

02/09/2003 02/09/2003

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s)):

- I. I was hired on or about 09-16-02, as a Sales Associate.  
On 02-09-03, I was laid off.
- II. According to Kyle Richter (General Manager, White), the action was taken because the business slowed down and there were too many employees.
- III. I believe I have been discriminated against because of my race, Asian, and my sex, Female, in violation of Title VII of the Civil Rights Act of 1964, as amended.

RECEIVED

APR 17 2003

EEOC/LADO  
SDAO

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(Month, day and year)

Date

Charging Party (Signature)

**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**

(SEE ADDRESS CHECKED BELOW)



**Abercrombie & Fitch**  
P.O. Box 182168  
Columbus, OH 43218

TTY # (800) 700-2320

☐ 1001 Tower Way, Suite 250  
Bakersfield, CA 93309  
H (805) 395-2729

EEOC Number: 345-2003-04040

Case Name: **Wu v. Abercrombie & Fitch**

Date: 4/22/03

☐ 1320 E. Shaw Avenue, Suite 150  
Fresno, CA 93710  
C (559) 244-4760

**NOTICE TO COMPLAINANT AND RESPONDENT**

☐ 611 West Sixth Street, Suite 1500  
Los Angeles, CA 90017  
B (213) 439-6799

This is to advise you that the above-referenced complaint is being referred to the California Department of Fair Employment and Housing (DFEH) by the U.S. Equal Employment Opportunity Commission (EEOC). The complaint will be filed in accordance with California Government Code section 12960. This notice constitutes service pursuant to Government Code section 12962.

☐ 1515 Clay Street, Suite 701  
Oakland, CA 94612-2512  
M (510) 622-2941

**No response to the DFEH is required by the respondent.**

☐ 2000 "O" Street, Suite 120  
Sacramento, CA 95814-5212  
E (916) 445-5523

The EEOC will be responsible for the processing of this complaint. DFEH will not be conducting an investigation into this matter. EEOC should be contacted directly for any discussion of the charge. DFEH is closing its case on the basis of "processing waived to another agency."

☐ 350 W. Ash Street, Suite 950  
San Diego, CA 92101-3440  
D (619) 645-2681

**NOTICE TO COMPLAINANT OF RIGHT-TO-SUE**

☐ 121 Spear Street, Suite 430  
San Francisco, CA 94105  
A (415) 904-2303

Since DFEH will not be issuing an accusation, this letter is also your right-to-sue notice. According to Government Code section 12965, subdivision (b), you may bring a civil action under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The lawsuit may be filed in a State of California Superior, Municipal or Justice Court. Government Code section 12965, subdivision (b), provides that such a civil action must be brought within one year from the date of this notice. Pursuant to Government Code section 12965, subdivision (d)(1), this one year period will be tolled during the pendency of the EEOC's investigation of your complaint. You should consult an attorney to determine with accuracy the date by which a civil action must be filed. This right to file a civil action may be waived in the event a settlement agreement is signed. Questions about the right to file under federal law should be referred to the EEOC.

☐ 111 North Market Street, Suite 810  
San Jose, CA 95113-1102  
G (408) 277-1277

☐ 2101 E. Fourth Street, Suite 255-B  
Santa Ana, CA 92705-3855  
K (714) 558-4266

The DFEH does not retain case records beyond three years after a complaint is filed.

Remember: This Right-To-Sue Notice allows you to file a private lawsuit in State court.

Sincerely,

Barbara J. Osborne  
Deputy Director  
Enforcement Field Operations

## CIVIL COVER SHEET

JS 44 - No. CALIF (Rev. 4/97)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO)

## I.(a) PLAINTIFFS

EDUARDO GONZALEZ, ANTHONY OCAMPO,  
ENCARNACION GUTIERREZ, JOHAN MONTOYA,  
JUANCARLOS GOMEZ-MONTEJANO, JENNIFER LU, AUSTIN CHU,  
IVY NGUYEN, and ANGELINE WU, on behalf of themselves and all others  
similarly situated,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF  
(EXCEPT IN U.S. PLAINTIFF CASES)

Alameda

## DEFENDANTS

ABERCROMBIE &amp; FITCH CO.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Bill Lann Lee, Esq. (415) 956-1000  
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
275 Battery Street, 30th Floor, San Francisco, CA 94111-3339  
See Attachment for additional counsel

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION (PLACE AN "1" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "1" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- (For diversity cases only)
- |   |   |   |   |
|---|---|---|---|
| Citizen of This State                   | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 <input type="checkbox"/> 2         | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5         |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3         | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6         |

## IV. ORIGIN

(PLACE AN "1" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT (PLACE AN "1" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl.Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY) 42 U.S.C. § 1981 - Employment Discrimination on the basis of race, color, or national origin

VII. REQUESTED IN COMPLAINT: ☒ CHECK IF THIS IS A CLASS ACTION DEMAND \$ UNDER F.R.C.P. 23

☒ CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE A "1" IN ONE BOX ONLY) ☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE SIGNATURE OF ATTORNEY OF RECORD

265686.1

**ATTACHMENT**

**ADDITIONAL COUNSEL**

Thomas A. Saenz  
Shaheena Ahmad Simons  
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND  
634 South Spring Street  
Los Angeles, CA 90014  
Telephone: (213) 629-2512

Julie Su  
Minah Park  
ASIAN PACIFIC AMERICAN LEGAL CENTER  
1145 Wilshire Boulevard, 2nd Floor  
Los Angeles, CA 90017  
Telephone: (213) 977-7500

Kimberly West-Faulcon  
Jyoti Nanda  
NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.  
1055 Wilshire Blvd., Suite 1480  
Los Angeles, CA 90017  
Telephone: (213) 975-0211

Bill Lann Lee  
Kelly M. Dermody  
Eve H. Cervantez  
Jahan C. Sagafi  
LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
275 Battery Street, 30th Floor  
San Francisco, CA 94111-3339  
Telephone: (415) 956-1000

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44**  
 Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs - Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS-44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**V. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section IV above, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause.

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P. Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS-44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases. Date and Attorney Signature.

**Date and Attorney Signature.** Date and sign the civil cover sheet.