

# **EXHIBIT 1**

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SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY AT KENT

<p>SUNDAY TOLLEFSON, a single woman,  Plaintiff,  v.  MICROSOFT CORPORATION, a Washington State For-Profit Corporation, <b>and SUDEV MUTHYA, Individually and as a Manager of Microsoft, and JOHN DOE #1, Individually.</b>  <b>Defendants.</b></p>	<p>Cause No. 18-2-22507-8  <b>FIRST AMENDED COMPLAINT</b></p>
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I. PARTIES

1.1 Plaintiff, Sunday Tollefson, is an individual residing in Bellevue, King County, State of Washington.

1.2 Defendant, Microsoft Corporation, is a corporation duly formed under the laws of the State of Washington, and its principle place of business is located at One Microsoft Way, Redmond, King County, Washington.

1.3 **Defendant, Sudev Muthya, is an individual residing in Bellevue, King County, Washington, and at all times relevant hereto was a Manager at Microsoft Corporation.**

1           1.4     **Defendant, John Doe #1, is an individual residing in King County,**  
2 **Washington, and at all times relevant hereto was an employee at Microsoft Corporation.**

3                                   II.     JURISDICTION AND VENUE

4           2.1     All or a substantial portion of the facts complained of herein occurred in King  
5 County, Washington.

6           2.2     At all times relevant to this Complaint, Microsoft Corporation conducted  
7 business in King County, Washington, **and defendants Sudev Muthya and John Doe #1**  
8 **resided and/or were employed at Microsoft Corporation in King County, Washington.**

9           2.3     Plaintiff has exhausted her administrative remedies by filing a complaint with  
10 the Washington State Human Rights Commission and the U.S. Equal Employment Opportunity  
11 Commission on September 3, 2015. The complaint was investigated by the WSHRC until it  
12 transferred the complaint to the EEOC for further investigation on March 19, 2018. On June 11,  
13 2018, the EEOC issued a Notice of Right to Sue in favor of Plaintiff and this Complaint is  
14 properly filed within ninety (90) days of the issuance of the Notice of Right to Sue.

15           2.4     Jurisdiction and venue in this court are, therefore, proper.

16                                   III.     FACTUAL ALLEGATIONS

17           3.1     Defendant Microsoft Corporation employs more than 35,000 employees in  
18 Washington State.

19           3.2     Tollefson holds a Master's in Business Administration from Carnegie Mellon  
20 University and was hired by Microsoft on September 3, 2013, Business Program Manager in  
21 Microsoft's Marketing & Operations (M&O) organization, within M&O's Worldwide Incentive  
22 Compensation (WWIC) team; Defendant knew it was a "stretch" position outside of Tollefson's  
23 prior experience, but she accepted the position after being assured she would soon be  
24 transferred to a more appropriate position.

25           3.3     Tollefson's direct supervisor was Sudev Muthya. She was interviewed and hired,  
26 however, by Chris Morhardt, who managed Mr. Muthya and was Tollefson's "skip-level"  
27 manager.

1           3.4     At the time she was hired, Tollefson had two female coworkers. Shortly after  
2 Muthya was hired, both of these female coworkers left the group on account of Muthya's  
3 aggressive and misogynistic management. Another female was not hired into the group until  
4 nearly a year later.

5           3.5     On or about July 2014, at a company-sponsored event, a colleague, **JOHN DOE**  
6 **#1**, aggressively grabbed Tollefson by the neck and "shoved his tongue down [her] throat."  
7 She reported this assault to Eunice Lunde (Human Resources). Her report was investigated, her  
8 complaint was substantiated, and she was told that the employee was disciplined for  
9 "unwanted physical contact." Microsoft did not offer any services to help her cope with this  
10 event.

11           3.6     During Tollefson's tenure at Microsoft, she was constantly berated and belittled  
12 by Muthya when her male coworkers were not subjected to such harsh treatment. She was not  
13 permitted the same latitude to conduct meetings from home as male employees, she was  
14 criticized when, as a single mother, she was criticized when she had to miss work to care for  
15 her son when he was ill or had extra-curricular activities, but male employees were not  
16 criticized for taking time off for their childrens' sports events, illnesses or activities, she was  
17 given approval to maintain hours that allowed her to use the Connector bus from her Bothell  
18 home, and then was punished for not attending meetings when she used that service, and  
19 more.

20           3.7     Tollefson was treated even more harshly after reporting the sexual assault  
21 described in ¶ 3.4 above.

22           3.8     Muthya subjected Tollefson to unfair and even false employment reviews, and  
23 finally – without mentioning it or drawing it to her attention – "checked a box" indicating that  
24 Tollefson had provided "insufficient results." Tollefson was not aware that a box had been  
25 falsely and maliciously checked by Muthya, and that this communicated to HR and higher  
26 management that "she had delivered an unacceptable level of performance for the role in the  
27

1 prior several months and that her performance required immediate, significant, and sustained  
2 improvement" (which she disputes).

3 3.9 Muthya's evaluations and management of Tollefson's performance were false,  
4 derogatory and intended to "manage her out" of her job and cause her termination when he  
5 knew or should have known that no "cause" existed; at all times relevant to this Complaint,  
6 Tollefson capably, competently and enthusiastically performed her job duties.

7 3.10 Tollefson's job performance is irrelevant to whether she suffered harassment,  
8 discrimination and/or retaliation on account of her sex/gender or marital status.

9 3.11 As a result of her sexual assault and the harassing and demeaning treatment  
10 she received from Muthya, and his false performance evaluations, Tollefson sustained financial  
11 loss, suffered severe emotional distress, and was ultimately terminated from her position with  
12 Microsoft.

13 3.12 Tollefson's employment was terminated by Microsoft on March 3, 2015, with  
14 the qualifier that she was "ineligible for rehire" in any capacity, forever:

15 "In terms of 'ineligible for rehire':

- 16
- 17 • Ineligible for future regular Microsoft employment (in any capacity)
  - 18 • Ineligible for future assignment as an agency temporary worker at Microsoft
  - 19 • Ineligible to work at Microsoft or have access to the Microsoft network as a vendor or contractor or as an employee of a vendor or contractor"

20 3.13 The terms of her termination have unduly limited prospects for future  
21 employment and have damaged her reputation in the marketplace, particularly by preventing  
22 her from working for a large class of employers.

23 IV. CAUSES OF ACTION

24 A. FIRST CAUSE OF ACTION: GENDER DISCRIMINATION

25 4.1 Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 3.12 as if  
26 set forth here in full.

1 4.2 Defendant knew or should have known that Muthya was engaging in severe  
2 and pervasive harassment of Plaintiff on account of her sex and gender, creating a hostile  
3 environment for her and other female employees.

4 4.3 Defendant knew or should have known that Muthya fabricated her employment  
5 evaluations and reviews that led to termination of her employment.

6 4.3 Defendant, the actions of its Manager, Sudev Muthya, treated Plaintiff in a  
7 disparate manner from male employees, and her gender/sex was a substantial motivating  
8 factor in that treatment

9 4.3 These actions alleged herein violated RCW 49.60, *et seq.*, entitling Plaintiff to  
10 recovery of general and special damages, attorney's fees and actual costs of litigation.

11 4.4 The actions complained of herein violated Title VII of the Civil Rights Act of  
12 1964 (Pub. L. 88-352) (Title VII), as amended, codified at 42 USC § 2000e, *et seq.*, entitling  
13 Plaintiff to recovery of general and special damages, attorney's fees, actual costs of litigation,  
14 and punitive damages.

15 V. SECOND CAUSE OF ACTION – WRONGFUL TERMINATION

16 5.1 Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 4.4 as if set  
17 forth here in full.

18 5.2 Defendant, by the actions of its Manager, Sudev Muthya, falsely evaluated  
19 Plaintiff's performance, leading to her termination and ban from any employment with  
20 Defendant, directly or indirectly, *ad infinitum*.

21 5.3 These actions alleged herein violated RCW 49.60, *et seq.*, entitling Plaintiff to  
22 recovery of general and special damages, attorney's fees and actual costs of litigation.

23 5.4 The actions complained of herein violated Title VII of the Civil Rights Act of  
24 1964 (Pub. L. 88-352) (Title VII), as amended, codified at 42 USC § 2000e, *et seq.*, entitling  
25 Plaintiff to recovery of general and special damages, attorney's fees, actual costs of litigation,  
26 and punitive damages.

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1 VI. THIRD CAUSE OF ACTION – MARITAL STATUS DISCRIMINATION

2 6.1 Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 5.4 as if set  
3 forth here in full.

4 6.2 Defendant, by the actions of its Manager Muthya, evaluated Plaintiff more  
5 harshly than married employees with children, unfairly afforded married employees with  
6 children opportunities and resources that she was denied, and unfairly accused Plaintiff of  
7 having inadequate commitment to Defendant when she had to care for her child in  
8 emergencies, all on account of her status as a female single mother.

9 6.3 These actions alleged herein violated RCW 49.60, *et seq.*, entitling Plaintiff to  
10 recovery of general and special damages, attorney's fees and actual costs of litigation.

11 6.4 The actions complained of herein violated Title VII of the Civil Rights Act of  
12 1964 (Pub. L. 88-352) (Title VII), as amended, codified at 42 USC § 2000e, *et seq.*, entitling  
13 Plaintiff to recovery of general and special damages, attorney's fees, actual costs of litigation,  
14 and punitive damages.

15 VII. FOURTH CAUSE OF ACTION – HOSTILE WORK ENVIRONMENT

16 7.1 Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 6.4 as if set  
17 forth here in full.

18 7.2 Plaintiff was intentionally subjected to a toxic and hostile work environment  
19 based on her sex, gender and/or marital status (unmarried single mother) that was intended to  
20 and did cause her severe emotional distress, thereby entitling her to recovery of general and  
21 special damages, attorney's fees, actual costs of litigation, and punitive damages.

22 VIII. FIFTH CAUSE OF ACTION – WRONGFUL TERMINATION  
23 IN VIOLATION OF PUBLIC POLICY

24 8.1 Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 7.2 as if set  
25 forth here in full.

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1 8.2 Plaintiff was terminated from employment in contravention of public policies  
2 prohibiting sex, gender and marital status discrimination, thereby entitling her to recovery of  
3 general and special damages, attorney's fees, actual costs of litigation, and punitive damages.

4 **IX. CAUSES OF ACTION AGAINST INDIVIDUAL DEFENDANTS MUTHYA AND DOE.**

5 **9.1 Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 8.2 as**  
6 **if set forth here in full.**

7 **9.2 The actions alleged herein against defendant Muthya constitute tortious**  
8 **interference with a business expectancy.**

9 **9.3 Defendant Muthya is jointly and severally liable for violations of state and**  
10 **federal statutes and common law claims alleged against Microsoft Corporation herein.**

11 **9.4 The actions alleged herein committed by defendant John Doe #1**  
12 **constitute the torts of assault, battery, and or sexual assault.**

13 **9.5 Plaintiff was damaged by the actions of defendant Muthya and is entitled**  
14 **to recovery of general and special damages, attorney's fees, actual costs of litigation,**  
15 **and punitive damages.**

16 **9.6 Plaintiff was damaged by the actions of defendant Doe #1 and is entitled**  
17 **to recovery of general and special damages and taxable costs and fees pursuant to state**  
18 **law.**

19 **X. PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for relief as follows:

- 21 A. Total damages in excess of the jurisdictional limits of the court;  
22 B. Damages for back pay and benefits lost and for future pay and benefits lost;  
23 C. Damages for loss of enjoyment of life, pain and suffering, mental anguish,  
24 emotional distress, and humiliation;  
25 D. Prejudgment interest in an amount to be determined at trial;  
26 E. Compensation for any tax penalty associated with a recovery of damages;  
27 F. Reasonable prevailing party attorney's fees and actual costs of litigation;



1 G. Taxable costs and fees otherwise recoverable by statute or court rule; and

2 H. Any and all other relief to which the court may find her entitled.

3 Respectfully submitted this Monday, November 05, 2018.

4 LUHN LAW, PLLC

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6 By: s/ Gail M. Luhn  
7 GAIL M. LUHN, WSBA #27104  
8 Attorney for Plaintiff, Sunday Tollefson  
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SUPERIOR COURT CLERK  
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CASE NUMBER: 18-2-22507-8 SEA

SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR KING COUNTY AT KENT

SUNDAY TOLLEFSON, a single woman,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington  
State For-Profit Corporation,

Defendant.

Cause No.

COMPLAINT FOR DAMAGES

I. PARTIES

1.1 Plaintiff, Sunday Tollefson, is an individual residing in Bellevue, King County, State of Washington.

1.2 Defendant, Microsoft Corporation, is a corporation duly formed under the laws of the State of Washington, and its principle place of business is located at One Microsoft Way, Redmond, King County, Washington.

II. JURISDICTION AND VENUE

2.1 All or a substantial portion of the facts complained of herein occurred in King County, Washington.

2.2 At all times relevant to this Complaint, Microsoft Corporation conducted business in King County, Washington.



1 substantiated, and she was told that the employee was disciplined for “unwanted physical  
2 contact.” Microsoft did not offer any services to help her cope with this event.

3 3.6 During Tollefson’s tenure at Microsoft, she was constantly berated and belittled  
4 by Muthya when her male coworkers were not subjected to such harsh treatment. She was not  
5 permitted the same latitude to conduct meetings from home as male employees, she was  
6 criticized when, as a single mother, she was criticized when she had to miss work to care for  
7 her son when he was ill or had extra-curricular activities, but male employees were not  
8 criticized for taking time off for their childrens’ sports events, illnesses or activities, she was  
9 given approval to maintain hours that allowed her to use the Connector bus from her Bothell  
10 home, and then was punished for not attending meetings when she used that service, and  
11 more.

12 3.7 Tollefson was treated even more harshly after reporting the sexual assault  
13 described in ¶ 3.4 above.

14 3.8 Muthya subjected Tollefson to unfair and even false employment reviews, and  
15 finally – without mentioning it or drawing it to her attention – “checked a box” indicating that  
16 Tollefson had provided “insufficient results.” Tollefson was not aware that a box had been  
17 falsely and maliciously checked by Muthya, and that this communicated to HR and higher  
18 management that “she had delivered an unacceptable level of performance for the role in the  
19 prior several months and that her performance required immediate, significant, and sustained  
20 improvement” (which she disputes).

21 3.9 Muthya’s evaluations and management of Tollefson’s performance were false,  
22 derogatory and intended to “manage her out” of her job and cause her termination when he  
23 knew or should have known that no “cause” existed; at all times relevant to this Complaint,  
24 Tollefson capably, competently and enthusiastically performed her job duties.

25 3.10 Tollefson’s job performance is irrelevant to whether she suffered harassment,  
26 discrimination and/or retaliation on account of her sex/gender or marital status.

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1 4.3 These actions alleged herein violated RCW 49.60, *et seq.*, entitling Plaintiff to  
2 recovery of general and special damages, attorney's fees and actual costs of litigation.

3 4.4 The actions complained of herein violated Title VII of the Civil Rights Act of  
4 1964 (Pub. L. 88-352) (Title VII), as amended, codified at 42 USC § 2000e, *et seq.*, entitling  
5 Plaintiff to recovery of general and special damages, attorney's fees, actual costs of litigation,  
6 and punitive damages.

7 V. SECOND CAUSE OF ACTION – WRONGFUL TERMINATION

8 5.1 Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 4.4 as if set  
9 forth here in full.

10 5.2 Defendant, by the actions of its Manager, Sudev Muthya, falsely evaluated  
11 Plaintiff's performance, leading to her termination and ban from any employment with  
12 Defendant, directly or indirectly, *ad infinitum*.

13 5.3 These actions alleged herein violated RCW 49.60, *et seq.*, entitling Plaintiff to  
14 recovery of general and special damages, attorney's fees and actual costs of litigation.

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16 1964 (Pub. L. 88-352) (Title VII), as amended, codified at 42 USC § 2000e, *et seq.*, entitling  
17 Plaintiff to recovery of general and special damages, attorney's fees, actual costs of litigation,  
18 and punitive damages.

19 VI. THIRD CAUSE OF ACTION – MARITAL STATUS DISCRIMINATION

20 6.1 Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 5.4 as if set  
21 forth here in full.

22 6.2 Defendant, by the actions of its Manager Muthya, evaluated Plaintiff more  
23 harshly than married employees with children, unfairly afforded married employees with  
24 children opportunities and resources that she was denied, and unfairly accused Plaintiff of  
25 having inadequate commitment to Defendant when she had to care for her child in  
26 emergencies, all on account of her status as a female single mother.

27

1           6.3     These actions alleged herein violated RCW 49.60, *et seq.*, entitling Plaintiff to  
2 recovery of general and special damages, attorney's fees and actual costs of litigation.

3           6.4     The actions complained of herein violated Title VII of the Civil Rights Act of  
4 1964 (Pub. L. 88-352) (Title VII), as amended, codified at 42 USC § 2000e, *et seq.*, entitling  
5 Plaintiff to recovery of general and special damages, attorney's fees, actual costs of litigation,  
6 and punitive damages.

7                   VII.     FOURTH CAUSE OF ACTION – HOSTILE WORK ENVIRONMENT

8           7.1     Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 6.4 as if set  
9 forth here in full.

10          7.2     Plaintiff was intentionally subjected to a toxic and hostile work environment  
11 based on her sex, gender and/or marital status (unmarried single mother) that was intended to  
12 and did cause her severe emotional distress, thereby entitling her to recovery of general and  
13 special damages, attorney's fees, actual costs of litigation, and punitive damages.

14                   VIII.    FIFTH CAUSE OF ACTION – WRONGFUL TERMINATION  
15                                    IN VIOLATION OF PUBLIC POLICY

16          8.1     Plaintiff realleges and incorporates herein the allegations of ¶¶ 1.1 – 7.2 as if set  
17 forth here in full.

18          8.2     Plaintiff was terminated from employment in contravention of public policies  
19 prohibiting sex, gender and marital status discrimination, thereby entitling her to recovery of  
20 general and special damages, attorney's fees, actual costs of litigation, and punitive damages.

21                   IX.     PRAYER FOR RELIEF

22           WHEREFORE, Plaintiff prays for relief as follows:

- 23           A. Total damages in excess of the jurisdictional limits of the court;  
24           B. Damages for back pay and benefits lost and for future pay and benefits lost;  
25           C. Damages for loss of enjoyment of life, pain and suffering, mental anguish,  
26             emotional distress, and humiliation;  
27           D. Prejudgment interest in an amount to be determined at trial;

- 1 E. Compensation for any tax penalty associated with a recovery of damages;
- 2 F. Reasonable prevailing party attorney's fees and actual costs of litigation;
- 3 G. Taxable costs and fees otherwise recoverable by statute or court rule; and
- 4 H. Any and all other relief to which the court may find her entitled.

5  
6 Respectfully submitted this Monday, September 10, 2018.

7 LUHN LAW, PLLC

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9 By: s/ Gail M. Luhn  
10 GAIL M. LUHN, WSBA #27104  
11 Attorney for Plaintiff, Sunday Tollefson  
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