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Dear Kevin and Legal Team,

As you may know, tomorrow is Janette's last day with DFEH. Janette cannot send a farewell email herself because she does not have access to her DFEH email. Tomorrow will also be my last day with DFEH as I am resigning, effective tomorrow, April 13, 2022, in protest of Janette's termination and DFEH's now-apparent lack of independence as described below.

Throughout our tenure here, Janette and I have diligently represented DFEH, and we have upheld its independent duty to prosecute civil rights cases in court, without interference, as the California State Legislature intended. Our cases have significantly advanced equal pay, anti-harassment protections, and our state's other strong civil rights laws on behalf of all Californians. For example, in December 2021, we reached an unprecedented government settlement on behalf of two thousand women in *DFEH v. Riot Games, Inc.*, for over \$100 million which, when approved, will resolve systemic sex discrimination, harassment, and equal pay violations as well as provide significant injunctive relief. That settlement was hard fought, requiring years of investigation and vigorous litigation, followed by a multi-day mediation and two months of near daily negotiations. It represents the type of outcome that can be achieved when the government's civil rights attorneys are free to prosecute California's nation-leading civil rights laws through the judicial process without interference. That is what our legislature intended. DFEH's work in that case, as well as in many others, has strengthened the public's confidence in state civil rights enforcement and the fair administration of justice for all.

In the past, DFEH suffered from having its independent enforcement power undermined. Thanks to our legislature taking action to protect DFEH and its independent authority under California law, DFEH has been able to prosecute civil rights cases independently for nearly ten years. However, that has now changed. In the last few weeks, after DFEH won several court decisions in *DFEH v. Activision Blizzard et al.*, the Office of the Governor began to interfere with this active litigation. The Office of the Governor repeatedly demanded advance notice of litigation strategy and of next steps in the litigation. As we continued to win in state court, this interference increased, mimicking the interests of Activision's counsel. Janette attempted to protect DFEH's independence, our attorneys, and this active litigation and was then abruptly terminated for opposing the Office of the Governor's efforts. Accordingly, in protest of this interference, Janette withdrew as lead counsel on both *DFEH v. Activision Blizzard, Inc. et al.* and *DFEH v. Tesla, Inc.* The Office of the Governor's impermissible interference into DFEH's litigation, including its termination of Janette, has harmed DFEH's independence and its ability to protect Californians. This is inconsistent with DFEH's statutory mandate and the fair administration of law.

I have been a public servant my entire career, including three and a half years of government service prior to law school. I take my responsibility to work in the public's best interest seriously. I am proud of the work I have done at DFEH, including settling a housing discrimination case in Santa Cruz County, a sexual harassment case involving a farm laborer in Monterey County, and, of course, the landmark consent decree in *DFEH v. Riot Games*,

Inc. et al.. Unfortunately, it is apparent that DFEH's work is not supported by others in California's government. Because it is no longer possible to litigate cases in a manner consistent with the oath attorneys take both as members of the California State Bar and as state employees, last week, I also withdrew from *DFEH v. Activision Blizzard, Inc. et al.*. I hereby resign, effective April 13, 2022, in protest of the interference and Janette's termination. I do not make this decision lightly. Justice should be administered equally, not favoring those with political influence. Janette and I encourage each of you to continue your excellent work enforcing California's strong civil rights laws to the best of your abilities. There remains much important work to be done.

Sincerely,

Melanie L. Proctor

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