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Dear Sir or Madam

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Yours faithfully

Monaco Solicitors

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**ET1 claim form: Unfair redundancy and equal pay claim**

**ET1 Claim Form**

**GROUNDS OF COMPLAINT**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**The Parties**

1. The Claimant was formerly the Head of the Defendant’s VAT department (the department).

2. The Defendant is an enterprise cost management company. The Defendant’s website indicates that their commercial offering is to improve business performance in the following areas tax, research and development, employers’ charges, working capital and purchasing performance.

**Background**

3. The Claimant was employed as Director & Head of the VAT Department on **[Date]**. Initially, the Claimant’s salary was **[Salary]** p/a. The Claimant also benefited from a **[Amount]** car allowance.

4. In her role as Head of the department the Claimant was responsible for the operational, technical and strategic needs of the department and had managerial responsibility for in excess of 14 staff and generating revenue of **[Revenue]**.

5. In the first financial year in which the Claimant was employed (**[Year]**-**[Year]**), the department did not meet the performance targets set by the Defendant. In the period**[Year]**-**[Year]**, all other departments failed to meet the performance targets set by the Defendant.

6. In the second financial year in which the Claimant was employed (Financial year ended **[Month] [Year]**), the department met its targets and the Claimant received **[Amount]**gross of tax by way of bonus pay. The bonus pool for the period **[Year]**was **[Amount]**.

7. In **[Date]**the company launched a Management Buy Out.

8. In **[Date]** the then MD of the UK office of the Defendant, the Head of the R&D Tax department, and the Claimant, were involved in discussions.

9. In **[Date]**, the Claimant acknowledged that the MBO had taken place by way of an internal email congratulating the investors and understood that neither she, nor the MD and the Head of R&D tax from the UK office had been invited. The Claimant questioned the MD who confirmed that both himself and the Head of the R&D Tax department had been invited but refused to invest.

10. The Claimant voiced a complaint to the MD with regards as to why she had been brought into discussions and subsequently not invited. He referred the matter to HR; who in turn referred the matter to the International MD as the decision maker regarding the MBO.

11. In **[Date]**, the International MD explained that the Claimant was a Grade 9 Director and only grade 10 Directors and above were invited to invest; but that the Claimant would be invited on the next occasion.

12. In **[Date]** the Claimant was promoted to Grade 10 Director.

13. At the end of **[Date]** the Claimant was invited to invest; but upon acknowledging details of the investment and exit plan, the Claimant decided not to invest for the lack of confidence in the Defendant’s choice of employees to deliver on the agreed business plan for the UK business in **[Year]** and going forward.

14. On **[Date]**, the Claimant was made aware that the Defendant was considering a restructuring of the management roles within the department and that there was a possible redundancy situation in respect of her role. The Defendant indicated that the department did not require staffing at a ‘Director level’ and that the business need indicated staffing was only required at ‘Manager level’ for a diminished need of advisory and compliance services.

15. At the same meeting, the Claimant was asked to make herself available on **[Date]** to hand over client matters to **[Name]** who was being transferred to the UK from the Italian office at the end of **[Month]**.

16. **[Date]**, the Claimant had a consultation meeting with the Defendant’s Human Resources department. The Claimant argued against the redundancy of her current position. In the course of the meeting the Claimant was offered the newly created ‘VAT Manager’ role and also suggested that it wasn’t suitable. The Claimant had to refuse the offer.

17. On **[Date]**the CEO visited the company for the routine 3rd Quarter meeting to discuss current revenue and strategy to reach target for the end of the Financial Year (**[Date]**). This meeting was organised before **[Date]**; everyone else was invited in a timely fashion to prepare and attend, with the exception of the Claimant.

18. On **[Date]**, the Claimant was informed by way of a further meeting with the Defendant’s Human Resources Department that her current role was redundant.

19. On **[Date]**, the Claimant was dismissed from her employment with the Defendant.

20. On **[Date]**, **[Name]** moved to the UK to undertake the role of VAT Manager created further to the redundancy of the Claimant’s role; and shortly thereafter he was offered the position of VAT Practice Leader, the same internal title held by the Claimant.

21. When the Claimant was dismissed her salary was **[Amount]** p/a. The Claimant also benefited from a **[Amount]** car allowance.

22. The Claimant later found out that there were two further roles available during the consultation that were not offered to her for consideration: VAT Project Leader in the UK Office (the Claimant’s understanding was that the hiring for this role was put on hold indefinitely by HR in **[Date]**) and the Head of VAT Compliance role in the Italian Office. Both roles, albeit more junior, were still suitable to the Claimant’s skills.

**Particulars of Claim**

Unfair dismissal

23. The Claimant was unfairly dismissed contrary to section 98 of the Employment Rights Act (ERA)1998, in that:

A. none of the potentially fair reasons for dismissal, as contained with section 98 (4) ERA 1996, applied to the Claimant at the time of her dismissal and the Defendant held no genuine belief on reasonable grounds that such a fair reason existed;

B. specifically, the Claimant was not redundant at the time of her dismissal on the basis that the requirements of the business to carry out work of a particular kind (namely that which the Claimant was undertaking) in the place where the employee was employed by the employer (namely London) had neither ceased nor diminished. Although a few clients were lost, these were affecting only the revenue in the VAT Recovery line of business, an area that the Defendant claims was not within the Claimant’s remit; whilst the Fiscal and Advisory areas of the business, that the Defendant claims were within the remit of the Claimant, were stable in revenue compared to the previous year and in the course of business development by way of the Defendant’s commitment to invest in sales for the VAT department in 2014.

C. if, which is denied, one or more of the potentially fair reasons for dismissal contained with section 98 (4) ERA 1998 applied to the Claimant at the time of her dismissal, it was nonetheless unfair for the Defendant to dismiss the Claimant for that reason;

D. specifically, if which is denied, the Claimant was redundant within the definition of section 139 (1)(b) ERA 1996 the decision to dismiss as unfair on the basis that:

1. no genuine redundancy situation existed;

2. the Claimant was unfairly selected for redundancy in that other suitable candidates were not included in the redundancy pool;

3. the Defendant failed to offer alternative employment, namely Head of VAT Compliance and VAT Project Leader.

Sex Discrimination

24. The Claimant was subject to direct sex discrimination contrary to section 13 of the Equality Act (EA) 2010, in that:

A. in May 2013, the Claimant was, because of her sex, treated less favourably by the Defendant than **[Name]**, Head of the Defendant’s R&D department, in that, contrary to **[Name]**, she was not invited to invest in the Defendant as part of a management buy out (MBO);

B. throughout the course of her employment, the Claimant was, because of her sex, treated less favourably by the Defendant than male peers, including but not limited to **[Name]** in that she was not invited to various corporate events;

C. In financial year 2012 **[Name]** was paid a larger bonus than the Claimant despite the revenue results for both departments being similar.

Equal Pay

25. A term in the Claimant’s contract, namely remuneration, was less favourable to her than the corresponding term of a comparable man’s, namely **[Name]**’s, contract, in that:

A. throughout the course of her employment, the Claimant was paid less than **[Name]** despite undertaking work which was the same or, alternatively, broadly similar and where there were no differences between the work done by the Claimant and **[Name]** of practical importance in relation to the terms of employment;

B. alternatively, throughout the course of her employment, the Claimant was paid less than **[Name]** despite undertaking work which is of equal value to that done by **[Name]**.

**Remedy**

26. On the basis of the above the Claimant seeks the following by way of remedy:

A. The compensatory award – £ all financial losses (past and future), including expenses incurred, loss of fringe benefits, loss of pension etc., as a result of dismissal (the compensatory award to be ‘uncapped’ due to sex discrimination);  
B. A declaration that the Claimant’s contract, namely the term(s) in respect of remuneration, were less favourable than those of **[Name]**’s;  
C. Pay in arrears from **[Date]** – **[Date]** – £ [the difference between the Claimant’s pay and **[Name]**’s for this period];  
D. Interest on arrears in line with Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 SI No 2803;  
E. Compensation for injury to feelings in line with the Vento guidelines.