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 MARRIOTT INTERNATIONAL, INC. and RICK OWEN

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 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

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 12 VICTORIA ROGER-VASSELIN,  
 KENNETH M. ARRICK, RICHARD KITTNER,

13 Plaintiffs,

14 v.

15 MARRIOTT INTERNATIONAL, INC., RICK  
 16 OWEN and DOES 1 through 50, inclusive,

17 Defendants.

Case No. C 04-04027 TEH

**JOINT CASE MANAGEMENT  
 STATEMENT AND PROPOSED  
 ORDER**

1 The parties to the above-entitled action jointly submit this Case Management Statement and  
2 Proposed Order and Request the Court to adopt it as its Case Management Order in this case.

3 **DESCRIPTION OF THE CASE**

4 1. A brief description of the events underlying the action:

5 (a) Plaintiffs' Description

6 Plaintiffs are all professional sales executives in their 60's who earned six-figure salaries of  
7 up to \$260,000 annually. They were discriminated against by both defendants Marriott International  
8 and defendant Rick Owen, who routinely stated to his administrative assistant, Jessica Houchin, who  
9 is now Plaintiffs' witness, that he wanted to surround himself with young, hip, energetic employees.  
10 Plaintiffs were discriminated against by defendants based on their age and retaliated against after  
11 each of them filed EEOC complaints.

12 Plaintiff Kenneth Arrick was placed on a no hire above Sales Manager list by Marriott shortly  
13 after he filed his EEOC complaint and denied promotions. Plaintiff Richard Kittner was ordered to  
14 leave Marriott by his supervisor shortly after he filed his EEOC complaint and declined Marriott's  
15 request to withdraw his EEOC complaint. Plaintiff Victoria Roger-Vasselin was denied several  
16 promotions for which she was more qualified than the successful applicants. Plaintiff Arrick does not  
17 have a DFEH right to sue letter because his disputed promotions are outside of California.

18 Roger-Vasselin has also been and continues to be subjected to adverse work conditions and a  
19 hostile work environment, including, but not limited to not being provided with an assistant as  
20 promised for over one year, not being provided with an office on site at the Marriott owned Ritz  
21 Carlton as promised and almost being evicted from her offsite office due to Marriott not timely  
22 paying the rent, not being provided with a sales partner as promised in writing, having her name  
23 excluded from the Ritz Carlton's San Francisco Magazine advertising and having the hard drive of  
24 her laptop computer erased by Marriott when they were only instructed to spend 30 minutes installing  
25 Marriott's intranet program. The destruction of Plaintiff Roger-Vasselin's computer hard drive also  
26 destroyed evidentiary documents crucial to her litigation. At Plaintiff's counsel's insistence,

1 defendant took possession of the computer for forensic analysis, but defendants have failed to  
2 produce the missing documents to Plaintiff and her counsel.

3 (b) Defendants' Description

4 Plaintiffs contend that Defendants Marriott International and Rick Owen, through Defendant  
5 Owen, the Vice President for the Western Region, discriminated against them based on their age and  
6 retaliated against them for making complaints related to age discrimination. Plaintiffs contend that as  
7 a result of Defendants' alleged discrimination and retaliation they were denied promotions and job  
8 opportunities, and subjected to other adverse employment actions. Defendants additionally deny that  
9 they "erased" any materials from Plaintiff Roger-Vasselin's computer.

10 2. The principal factual issues which the parties dispute:

11 The parties dispute whether Plaintiffs were discriminated against on the basis of their age or  
12 retaliated against on the basis of complaining about age-related discrimination with respect to certain  
13 promotions and job assignments. The parties also dispute whether Plaintiffs were subjected to other  
14 adverse job employment decisions/actions on the basis of their age or their complaints related to  
15 alleged age discrimination.

16 3. The principal legal issues which the parties dispute:

17 Plaintiffs plan on moving to:

- 18 • Amend the complaint to add claims for failure to investigate, wrongful termination in  
19 violation of public policy and intentional infliction of emotional distress;
- 20 • Compel Production of Additional Documents and Responses to Interrogatories;
- 21 • Compel Plaintiff Victoria Roger-Vasselin's Computer Hard Drive Destroyed  
22 Documents Based Upon Spoliation of Evidence and
- 23 • Dismiss Plaintiffs' Title VII Claims and clarify which promotions and claims are not  
24 at issue for each Plaintiff due to jurisdictional and statutory considerations.

25 Defendants plan on moving to:

- 26 • Strike Plaintiffs' claims for punitive and emotional distress damages pursuant to their  
27 ADEA causes of action;

- 1 • Strike Plaintiffs' Title VII age-related claims;
- 2 • Request Summary Adjudication related to Plaintiffs' untimely promotion claims;
- 3 • Request Summary Adjudication as to Plaintiffs' negligent retention claims;
- 4 • Request Summary Adjudication as to (a) Arrick's Fair Employment and Housing Act
- 5 claims based on his failure to obtain a right to sue letter from the Department of Fair
- 6 Employment and Housing, and (b) each of Plaintiffs' promotion claims for which
- 7 jurisdiction is lacking under the Fair Employment and Housing Act.

8 **4. The other factual issues which remain unresolved for the reasons stated**  
9 **below and how the parties propose to resolve those issues:**

10 None known at present.

11 **5. The parties which have not been served and the reasons:**

12 None.

13 **6. The additional parties which the below-specified parties intend to join and**  
14 **the intended time frame for such joinder:**

15 (a) Plaintiffs' Statement

16 There are three recent former employees of defendants Marriott who were recently terminated  
17 and/or forced to resign who may join Plaintiffs' suit. Their suitability is currently being evaluated.

18 **ALTERNATIVE DISPUTE RESOLUTION**

19 **7. Settlement**

20 (a) Defendants' Statement

21 The parties engaged in an unsuccessful attempt at mediation July 11-12, which ended a day  
22 early when Plaintiffs unilaterally walked out of the mediation causing Defendants to forfeit the final  
23 prepaid day of mediation at a cost of \$5,666.67 to Defendants. While the parties have no present  
24 plans to return to mediation, it is hoped that settlement discussions can resume following additional  
25 discovery and law and motion.

26 (b) Plaintiffs' Statement

27 It should be noted that counsel for defendants actually sent a letter to Plaintiffs' counsel after  
28 the mediation demanding that Plaintiffs' reimburse it immediately for thousands of dollars in

1 mediation costs by a messenger delivered check. It should be noted that two of the Plaintiffs are  
2 unable to earn income due to psychological disability and one of the Plaintiffs is under psychological  
3 disability and has greatly diminished income due to defendants' refusal to honor the promised terms  
4 and conditions of her employment.

#### 5 DISCOVERY

6 **8. The parties have not agreed to a discovery plan:**

7 Plaintiffs request a fact discovery cut-off as of December 31, 2005, and an expert discovery  
8 cut-off thirty (30) days before trial.

9 Defendant requests a fact discovery cut-off as of seventy-five day (75) days before trial, and  
10 an expert discovery cut-off thirty (30) days before trial.

#### 11 TRIAL SCHEDULE

12 **9. The parties request a trial date as follows:**

13 Defendants are requesting an August 2006 trial date. Plaintiffs are anxious for resolution and  
14 wish to set a March 2006 trial date.

15 **10. The parties expect that the trial will last for the following number of days:**

16 Defendants anticipate trial to last 15 full court days given the potential number of witnesses.  
17 However, Plaintiffs, of which there are three, anticipate trial could take longer due to the number of  
18 witnesses for each Plaintiff.

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Dated: August 4, 2005

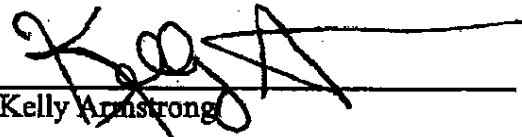
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Dated: August 4, 2005

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THE ARMSTRONG LAW FIRM

By:   
Kelly Armstrong

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KENNETH M. ARRICK, and  
RICHARD KITTNER

**CASE MANAGEMENT ORDER**

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order.

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2005

By: \_\_\_\_\_  
Hon. Thelton E. Henderson