

to redress intentional violations by Defendant UnitedHealth of rights secured to her and the class of similarly situated older women employees of UnitedHealth she represents by the applicable provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* as amended by the Civil Rights Act of 1991 (“Title VII) and the Philadelphia Fair Practices Ordinance, Chapter 9-1100 of the Philadelphia Code, titled in full as “Philadelphia Fair Practices Ordinance: Protections Against Unlawful Discrimination” and the Regulations thereunder (collectively “PFPO”).

2. Plaintiff’s claims are properly and adequately based upon the failure of Defendants to: properly evaluate her individual performance; evaluate the performances of other similarly situated older women; properly retain, promote and elevate older women, including Plaintiff, into leadership roles on the same basis as substantially younger male and female comparators; and affect policies, practices and patterns of discrimination against older women who assert claims of discrimination in the terms and conditions of their employment

3. The actions of the Defendants against Plaintiff were affected throughout her employment and have, upon information and reasonable belief, continued after the termination of her employment against older women similarly situated to Plaintiff who brings this action to remedy past and ongoing discrimination within the UnitedHealthcare Segment that was affected against

her by her supervisors Defendants Tropeano and Goglia and affected against other older women and to remedy the pattern and practice of UnitedHealthcare to retaliate against women for having brought allegations of discrimination to the attention of the Company through oral and written reporting of complaints of discrimination.

4. In Plaintiff's case, those complaints of discrimination were made prior to her discharge, by her and through her attorney, to Human Resources representative Dana Simms, in February 2018 and to Senior Associate General Counsel, Employment Law, Jennifer A. Service, through the presentation of a confirming letter forwarded to Ms. Service on or about March 5, 2018 that outlined Plaintiff's complaints of discrimination and retaliation.

5. Following the time of those complaints, Plaintiff was the purposeful target of job actions, including, *inter alia*, the unrealistic setting of sales goals, the denial of participation in important meetings internally and with prospective customers that constrained her ability to successfully meet the unrealistically set sales goals and performance standards, all of which were documented in a further email to Ms. Service dated March 12, 2018, and which led to her discharge from employment effective June 20, 2018.

JURISDICTION

6. Jurisdiction is invoked pursuant to 28 U.S.C. §1331, 28 U.S.C. §626(c), and 42 U.S.C. §12117, all of which provide for original jurisdiction of

Plaintiff's claims arising under the laws of the United States and over actions to recover damages and to secure equitable and other relief under the appropriate governing statutes.

7. Pursuant to Rule 5.1.1 of the Local Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania that prohibits the averment of specific monetary damages, Plaintiff avers only that the amount in controversy exceeds the jurisdictional amount for arbitration of One Hundred Fifty Thousand Dollars (\$150,000) exclusive of interest and costs in accordance with the Local Rules of the District Court.

8. Plaintiff has exhausted all administrative remedies and has taken all other steps necessary to bring this class action before this Court, having filed a timely class based Charge of age and gender-based discrimination and retaliation in employment with the Equal Employment Opportunity Commission [EEOC Charge No. 530-2018-03457] and having received the requisite Notice of Suit Rights within the last 90 days to bring this action before this Court.

VENUE

9. All actions complained of herein occurred within the jurisdiction of this Court and involve a Defendant that regularly does business within its jurisdictional limits.

10. Venue is accordingly invoked pursuant to the dictates of 28 U.S.C. §§1391(b) and 1391(c).

THE PARTIES

Plaintiff

11. Plaintiff, Jeanne Pace, is a fifty-two (52) year old citizen of the United States and the Commonwealth of Pennsylvania [date of birth: October 11, 1966] who resides at 458 Moreno Road, Wynnewood, PA 19096.

12. From the inception of her employment on November 6, 2007 and until the retaliatory termination of her employment effective June 20, 2018, Plaintiff was employed with Defendant UnitedHealth in its UnitedHealthcare Segment as a Senior Account Executive in the UnitedHealthcare Employer and Individual Segment, Pennsylvania Segment.

13. In that role, Plaintiff was responsible for selling medical and specialty insurance products to large businesses with 100 to 3,000 employees.

14. Throughout her employment, Plaintiff was assigned to work out of the UnitedHealthcare office at The Wanamaker Building, 100 East Penn Square, Suite 410, Philadelphia, PA.

15. At all times applicable to the present Complaint, Plaintiff was an “employee” of UnitedHealth in its UnitedHealthcare Segment as that term is defined in the applicable federal laws and the local Philadelphia Ordinance cited above.

Defendants

16. Defendant UnitedHealth Group Incorporated is a corporation organized under the laws of the Delaware with the principal place of business in Minnetonka, Minnesota and with substantial operations within the City of Philadelphia, Pennsylvania.

17. Defendant UnitedHealth, by admission on its website, government filings and publicly disseminated documents, is a leading global, diversified healthcare company that provides a broad range of services and benefits to an array of customers and markets.

18. The employees of Defendant UnitedHealth are employed within two distinct, but strategically aligned business platforms: healthcare benefits operating under the banner of UnitedHealthcare and health services operating under the Optum title.

19. UnitedHealth employs over 285,000 people worldwide (including tens of thousands of physicians, advance practice clinicians, nurses and other healthcare workers and in 2017 realized net revenues of \$201 Billion

20. At all times applicable to this Complaint, UnitedHealth was the “employer” of the Plaintiff in its UnitedHealthcare Employer and Individual segment, Pennsylvania Segment, Philadelphia Office as that term is defined in the controlling applicable federal and state anti-discrimination laws and the local ordinance cited herein.

21. The UnitedHealthcare Employer & Individual segment of the Defendant provides an array of consumer-oriented health benefits plans and services nationwide to large national employers, public sector employers, public sector employers, mid-sized employers, small businesses and individuals, including more than 230,000 employer customers serving people across all 50 states, the District of Columbia and most U.S. territories. Its distribution system consists of direct sales through collaboration with health insurance brokers and other agents.

22. It is averred that UnitedHealth has in the past affected and continues to affect the intentional discrimination in its UnitedHealth segment against the Plaintiff and other females over the age of 40 employed by UnitedHealth in its UnitedHealthcare segment by failing to properly evaluate the performances of other older women, including the Plaintiff, on the same basis as substantially younger male and female comparators.

23. Additionally, UnitedHealth has affected and condoned retaliation against women who have brought claims of discrimination to their attention through supervisory personnel, including Daniel Tropeano and Michelle Goglia who have aided and abetted the discrimination and retaliation affected against the Plaintiff.

24. During all times applicable hereto, Defendants were the “employers” or “persons” amendable to be targets of the present lawsuit, as

those terms are defined under applicable federal and local anti-discrimination laws, including those cited herein.

25. While Daniel Tropeano and Michelle Goglia cannot be held individually liable under the applicable provisions of Title VII or the ADEA, their actions are unlawful pursuant to the provisions of the Philadelphia Fair Practices Ordinance.

STATEMENT OF APPLICABLE FACTS

26. Over the course of her employment of ten years, Plaintiff met or exceeded the expectations and goals set by her supervisors in all but one year. Other similarly situated substantially younger male and female sales employees who were retained as employees often did not meet or exceed their goals during the same period.

27. While in 2017, Plaintiff exceeded the unreasonable high goals set for her sales performance, she was issued an initial corrective action warning on December 21, 2017 for not being expected to meet 50% of the annual new business sales goal of 7,000 plus members to start the 2018 year and directed that she had to achieve the unrealistic goal of 1500 medical members and \$133,000 in specialty premium by March 1, 2018.

28. Similarly situated substantially younger males who did not achieve their 2017 goals and had also not met 50% of their annual new business sales goals to start the new year were not provided a similar warning.

29. Following receipt of the warning that threatened her continued employment, in early January, Plaintiff, through her attorney, made oral claims to Dana R. Simms, the assigned UnitedHealthcare Human Capital [HR] Partner, that the warning was issued on the basis of a pattern and practice of invidious systemic discrimination against a protected class of older women.

30. That allegation was then reiterated in an email to Ms. Simms on February 1, 2018 stating that Plaintiff “has and continues to be the victim of age-based discrimination in the terms and conditions of her employment, the latest example of which is her being placed in a performance improvement protocol with clearly unreachable goals.”

21. Despite the serious nature of the allegations, no action was taken by the company to investigate, abate and rectify the unlawful actions with which Plaintiff was being threatened.

32. As a result, counsel for Plaintiff then sent a letter dated March 5, 2018 to Jennifer A. Service, Esquire, Senior Associate General Counsel, Employment Law, outlining the unlawful actions taken by UnitedHealth through Ms. Goglia at the direction of Mr. Tropeano protesting the Plaintiff was being subjected to discriminatory actions that were a part of the systemic pattern and practice of discrimination against older women.

33. In an email transmission sent on March 12, 2018 by counsel, Plaintiff advised that she had become the target of retaliation for having

reported the discriminatory actions of her supervisors including her exclusion from important sales events and conference calls and their dissemination of the fact of her charges of discrimination internally and to others in the broader health insurance marketplace, thereby damaging her reputation.

34. Despite the urgency of those communications as well as the previous demand for investigation and correction, absolutely no action was taken to address, investigate, abate or rectify the unlawful discriminatory and retaliatory actions of Defendants and Plaintiff continued to be threatened with the termination of her employment and denied access to important meetings essential to her successful job performance.

35. As a direct result of the improper and unlawful actions of the Defendants and motivated by retaliation against her, Plaintiff was discharged from her longtime employment with UnitedHealth and has suffered and will continue to suffer in the future losses of compensation and benefits that she would have earned as an employee of Defendant UnitedHealth.

STATEMENT OF LEGAL LIABILITY

36. At all times applicable to this Complaint, Plaintiff was and is a female older worker entitled to the full protections required to be provided to older female employees over the age of 40 years in the UnitedHealth Segment, by the terms of Title VII, the Age Discrimination in Employment Act, 29 U.S.C. §621 *et seq.* (“ADEA”) and the PFPO.

37. The actions of the Defendants in causing the aforesaid losses based upon their discrimination as well as the retaliation affected against her for complaining about the discriminatory actions against her and for her systemic advocacy of the rights of women employed by UnitedHealth in the UnitedHealthcare segment while treating younger, similarly situated males and females better, constitute unlawful violations of the provisions of each of the cited laws.

38. The unlawful actions of the Defendants constitute a continuing unlawful systemic pattern and practice of discrimination and retaliation against older female employees, in the terms and conditions of their employment, including promotions, equal pay and participation in leadership roles, as well as constituting continuing discrimination and retaliation against Plaintiff.

39. The actions of the Defendants have been and continue to be willful and deliberate and were affected in deliberate indifference to the rights of the Plaintiff and other similarly situated women employed by Defendant UnitedHealth and were affected in willful and deliberate retaliation against Plaintiff for her reporting of Defendants' illegal actions as aforesaid.

CLASS ALLEGATIONS

40. Plaintiff seeks certification of a class of older women under the

terms and requirements of Rules 23(a)(1) (2) (3) and (4).

41. The applicable class is defined as:

Older women over the age of forty (40) years in Defendants employ in the UnitedHealthcare segment from 2007 to date in a sales or sales support capacity

42. Plaintiff reserves the right to amend the Class definition if further investigation and discovery indicates that the Class definition should be narrowed, expanded, or otherwise modified.

43. The class as defined above is so numerous that joinder would be impracticable and the number is far greater than can be feasibly addressed through joinder.

44. There are questions of law and fact common to the class, including the systemic denial of equal treatment, equal opportunity and equal pay as well as the retaliation against women in the form of affecting of unrealistic goals and performance standards for older woman, denying them access to meetings and client contacts that lead to performance failures and terminating them in retaliation for reporting discriminatory actions who have reported instances of discrimination.

45. Certification of this class action is appropriate under Federal Rule of Civil Procedure 23 because the questions of law or fact common to the respective members of the Class and any subclass predominate over questions of law or fact affecting only individual members. This predominance makes

class litigation superior to any other method available for a fair and efficient decree of the claims.

46. The claims asserted by Plaintiff in this action are typical of the claims of the members of the Plaintiff Class and any subclass, as the claims arise from the same course of conduct by Defendant UnitedHealth, and the relief sought within the Class and any subclass is common to the members of each.

47. The Defendant UnitedHealth has acted and/or failed to take action generally applicable to the class, making appropriate declaratory and injunctive relief with respect to the plaintiff and the class as a whole appropriate.

48. The policies and practices of UnitedHealth discriminate against persons in the protected class, violate the employment discrimination statute and ordinance at issue and thereby permit the award of monetary damages, injunctive relief, and other equitable remedies on a class-wide basis are warranted.

49. The class members are entitled to injunctive relief to end the Defendant's common, uniform, and/or unfair personnel policies and practices that discriminate on the basis of a protected traits enumerated herein.

50. The class members have been damaged and are entitled to relief including the recovery of damages as a result of the Defendant's common, uniform, and unfair discriminatory personnel policies and practices. Moreover,

the sophisticated computerized payroll and personnel data will make calculation of damages for specific class members relatively simple and the propriety and amount of punitive damages are issues common to the class.

51. The named Plaintiff can and will fairly and adequately represent and protect the interests of the members of the class without conflict with potential class members.

52. The Plaintiff has retained counsel competent and experienced in complex class actions, employment discrimination litigation, and the intersection thereof.

53. Further, the prosecution of separate actions by individual members of the class: (1) would create a risk that inconsistent or varying adjudications with respect to individual members of the class would establish incompatible standards of conduct for the parties opposing the class, or (2) would substantially impair or impede the interests of the other members of the class to protect their interests.

COUNT I
Title VII Of The Civil Rights Act Of 1964, As Amended
[Against Defendant UnitedHealth]

54. Plaintiff repeats and re-alleges the averments made in the paragraphs above as though fully set forth herein.

55. Defendant UnitedHealth violated the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* as amended by the Civil

Rights Act of 1991, in that it discriminated against Plaintiff and members of the defined class on account of their gender.

COUNT II
Violations of the Age Discrimination in Employment Act
[Against Defendant UnitedHealth]

56. Plaintiff repeats and re-alleges the averments made in the paragraphs above as though fully set forth herein.

57. Defendant UnitedHealth violated the Age Discrimination in Employment Act, 29 U.S.C. §621, *et seq.*, in that it discriminated against Plaintiff and members of the defined class on account of their age.

COUNT III
The Philadelphia Fair Practices Ordinance
[Against All Defendants]

58. Plaintiff repeats and re-alleges the averments made in the paragraphs above as though fully set forth herein.

59. Defendants violated the provisions of Philadelphia Fair Practices Ordinance in that they discriminated against Plaintiff and members of the defined class on account of their age and gender.

RELIEF SOUGHT

60. As a direct result of the unlawful actions of the Defendants, individually and collectively, Plaintiff is entitled to and seeks the following relief:

- (a) appropriate injunctive relief for Plaintiff and each member of

the class of women over the age of 40 who she represents;

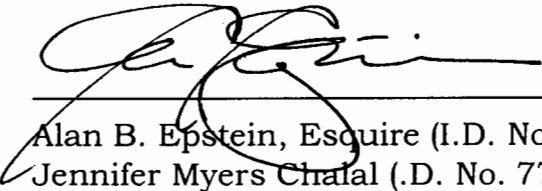
(b) a monetary award to Plaintiff and the members of the class of women over the age of 40 who she represents in an amount equal to: (i) any economic losses they have suffered and will suffer as a result of the unlawful actions of Defendants; and (ii) any losses Plaintiff may suffer as a result of her separation from her employment;

(c) a monetary award for compensatory damages for emotional distress, humiliation and loss of life's pleasures suffered by Plaintiff for the discrimination and retaliation against her as well as that suffered by any member of the class of women over the age of 40 who she represents, in an appropriate amount for each member of the class;

(d) a monetary award for punitive damages in an appropriate amount;

(e) the award of reasonable attorneys' fees and the costs associated with the pursuit of Plaintiff's claims;

(f) All other relief which the Court deems appropriate and proper under the circumstances.



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Attorneys for Plaintiff
Jeanne Pace

Dated: January 28, 2019

TJS

CIVIL COVER SHEET

19-cv-421

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Jeanne Pace, Individually and on behalf of all similarly situated women employed with and by Defendant

(b) County of Residence of First Listed Plaintiff Montgomery County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address and Telephone Number)

Alan B. Epstein, Esquire - Spector Gadon & Rosen, P.C. 1635 Market Street, 7th Floor, Philadelphia, PA 19103

DEFENDANTS

UnitedHealth Group Incorporated, Daniel Tropeano and Michelle Goglia

County of Residence of First Listed Defendant Philadelphia County (IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an 'X' 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 'X' in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an 'X' in One Box Only)

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an 'X' 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 - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)
42 U.S.C. §2000e et seq and 29 U.S.C. §621 et seq
Brief description of cause: Plaintiff experienced sex discrimination, age discrimination and retaliation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE: 01/29/2019 SIGNATURE OF ATTORNEY OF RECORD

JAN 28 2019

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLICING FEE JUDGE MAG JUDGE

TJS

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

19cv421

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff _____ 458 Moreno Road, Wynnewood, PA 19097
Address of Defendant _____ 100 E. Penn Square, Ste. 400, Philadelphia, PA 19107
Place of Accident, Incident or Transaction _____ 100 E. Penn Square, Ste. 400, Philadelphia, PA 19107

RELATED CASE, IF ANY:

Case Number _____ Judge _____ Date Terminated _____

Civil cases are deemed related when Yes is answered to any of the following questions

- 1 Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes No
- 2 Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes No
- 3 Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? Yes No
- 4 Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes No

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above

DATE 01/29/2019

x Alan Epstein

Attorney-at-Law / Pro Se Plaintiff

02346

Attorney I D # (if applicable)

CIVIL: (Place a v in one category only)

A. Federal Question Cases:

- 1 Indemnity Contract, Marine Contract, and All Other Contracts
- 2 FELA
- 3 Jones Act-Personal Injury
- 4 Antitrust
- 5 Patent
- 6 Labor-Management Relations
- 7 Civil Rights
- 8 Habeas Corpus
- 9 Securities Act(s) Cases
- 10. Social Security Review Cases
- 11 All other Federal Question Cases (Please specify)

B. Diversity Jurisdiction Cases:

- 1 Insurance Contract and Other Contracts
- 2 Airplane Personal Injury
- 3 Assault, Defamation
- 4 Marine Personal Injury
- 5 Motor Vehicle Personal Injury
- 6 Other Personal Injury (Please specify)
- 7 Products Liability
- 8 Products Liability Asbestos
- 9 All other Diversity Cases (Please specify)

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration)

I, Alan B. Epstein, Esquire, counsel of record or pro se plaintiff, do hereby certify

Pursuant to Local Civil Rule 53 2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs

Relief other than monetary damages is sought

DATE 01/29/2019

Alan Epstein
Attorney-at-Law / Pro Se Plaintiff

JAN 28 2019

02346

Attorney I D # (if applicable)

NOTE A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38

TJS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Jeanne Pace, Individually and on
Behalf of all similarly situated
women employed with and by
Defendant

CIVIL ACTION

UnitedHealth Group, Incorporated,
Daniel Tropeano and Michelle Goglia

NO. 19cv421

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

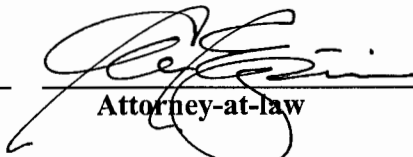
- (a) Habeas Corpus - Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security - Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)
- (f) Standard Management - Cases that do not fall into any one of the other tracks. ()

1/29/19

Date

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Telephone


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FAX Number

Jeanne Pace
Attorney for

aepstein@lawsgr.com

E-Mail Address

JAN 28 2019

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action: UnitedHealth Group Discriminates Against Older Female Sales Employees](#)
