

**EXHIBIT 1**

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18 SEP 26 AM 10:32

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CASE NUMBER: 18-2-24060-3 SEA

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING**

QUAN NGUYEN, an individual,

Plaintiff,

v.

DIAMOND RESORTS INTERNATIONAL  
MARKETING, INC., a corporation,

Defendant.

CASE NO.

**COMPLAINT FOR DAMAGES**

COMES NOW, the Plaintiff Quan Nguyen and alleges the following:

**I. INTRODUCTION**

1. This lawsuit arises from the employment termination of Quan Nguyen by Diamond Resorts International (“Diamond”) in violation of public policy for Mr. Nguyen’s enforcement of 16 CFR 310.3-4 and the common law prohibition against the tort of fraud.

2. Diamond Resorts International is a company that markets vacation timeshares to potential customers through cold-call telemarketing. In January 2016, the New York Times newspaper published a story about Diamond, saying that it brought the “hard sell roaring back” into the timeshare industry, targeted unsophisticated and elderly victims with sales pitches that contained false claims, and omitted material details from its sales pitches. The article and the public dialogue it created coincided with an ongoing nascent effort by industry insiders to reform

1 telemarketing, resulting in divisions within Diamond between officers and employees who wanted  
2 reform and those who wanted to maintain the high level of revenue and commissions that the  
3 personnel had been enjoying.

4         3. Quan Nguyen was an employee of Diamond and its predecessor company for  
5 eighteen years, rising through the ranks to become one of the company's two regional directors of  
6 sales. In the two years preceding his termination, he was the most successful regional director in  
7 the company's history. Amidst tensions created by the reform efforts, Mr. Nguyen began a  
8 renewed effort to enforce policies that Diamond had developed to avoid ostensible violations of 16  
9 CFR 310.3-4 and common law prohibitions against fraud. Specifically, he began reprimanding his  
10 sales staff for 1) calling into states where telemarketing was prohibited, 2) making material  
11 misrepresentations to customers, 3) calling customers on unrecorded lines, and 4) other violations.  
12

13         4. Mr. Nguyen made enemies when he reprimanded Diamond's highest-volume sales  
14 representative for making calls on unrecorded lines. One of that representative's customers  
15 reported to Mr. Nguyen that the representative had omitted and misrepresented material facts in  
16 his sales "pitches" in violation of 16 C.F.R. 310 *et seq.* Upon review, it became clear that the  
17 representative not only had the highest number of "unwinded deals" in the company (deals which  
18 had to be unwound because of misrepresentations), but that he had been making his pitches on  
19 unrecorded lines in violation of federal law.  
20

21         5. The reprimanded representative was also one of the top performers in the company,  
22 which earned him institutional support from a Diamond officer senior to Mr. Nguyen, including  
23 but not limited to Vern Toland. The employee complained to Toland, who first demoted Quan and  
24 then terminated him for his rigorous enforcement of federal and state restrictions on telemarketing.  
25

26         6. This lawsuit could have and should have been avoided. After reaching out to

1 Diamond amicably to learn whether Mr. Nguyen was going to receive a standard severance with a  
2 non-disparagement agreement, Diamond Timeshares' counsel responded with a confusing and  
3 self-contradictory letter that not only accused Mr. Nguyen of quitting, but proffered witness  
4 statements supporting the proposition he was justifiably fired. This suit became inevitable.  
5

## 6 **II. PARTIES**

7 7. Quan Nguyen is an individual who at all relevant times resided in King County,  
8 Washington.  
9

10 8. Diamond Timeshare International is a corporation doing substantial business in  
11 King County, Washington. Diamond Timeshares maintains a telemarketing office in Renton,  
12 Washington.  
13

## 14 **III. JURISDICTION AND VENUE**

15 9. This Court has jurisdiction and venue is proper because the events that transpired  
16 herein occurred in King County Washington, the parties are King County Washington residents or  
17 do substantial business in King County, Washington.  
18

## 19 **IV. FACTS**

20 10. Diamond Timeshares International is company that sells timeshares using a  
21 telemarketing and cold-calling model. Because of that model, it is required to adhere to strict  
22 federal guidelines regarding telephone harassment, the federal "do not call" list and the provisions  
23 of 15 C.F.R. 310 *et seq.*  
24

25 11. Quan Nguyen became one of two regional directors of sales after rising through the  
26 ranks from a sales position over the course of eighteen years. During that time, he became known

1 for his professional conduct, attention to the national and state guidelines for telemarketing, and  
2 attention to the company guidelines designed to prevent telemarketing abuse and fraud. Mr.  
3 Nguyen was promoted to the position of regional director in 2015 with the intention that Mr.  
4 Nguyen would implement a fastidious regime of regulatory and ethical compliance in the Kent,  
5 Washington office. While doing so, he presided over multiple broken sales records and managed  
6 the top-producing region during the company's highest-grossing year on record: 2015.

7  
8 12. Shortly after his 2015 success, the New York Times ran an article about Diamond  
9 bringing the "hard sell roaring back" to timeshare telemarketing, which cast doubt on the methods  
10 by which Diamond achieved that success. Tensions arose in the company between a latent  
11 minority of officers and employees who wanted to effect reform and others who felt that the  
12 problems the company's success outweighed the problems caused by its sales methods.

13 13. Shortly after the article Mr. Nguyen began to impose a strict regimen of adherence  
14 to the rules as he was encouraged to do by Vice President of Sales Kirk Whaley. When sales  
15 representatives failed to comply, he began putting formal reprimands on their records. Two of the  
16 agents he began to reprimand were "Binnie" Thomas, a top sales producer in the Kent,  
17 Washington office, and Seth Johnson, a new sales representative who was being mentored by Mr.  
18 Thomas.

19  
20 14. Thomas was inordinately successful in the Kent, WA office, but Diamond officers  
21 and employees knew that success was due in part to Mr. Thomas circumventing the rules. He used  
22 pitches in which he would give glib and insincere answers to questions to get deals completed and  
23 he frequently made phone calls to customers on non-recorded lines, presumably in order to avoid  
24 detection. For example, Mr. Nguyen once caught Thomas trying to trick a customer into a second  
25 loan payment by claiming it was less than his current loan payment, without notifying the  
26

1 customer that he would be responsible for both payments. As a consequence of Thomas' tactics,  
2 he received more accusations of "misreps" than any other sales representative and was responsible  
3 for more deals becoming "unwound" than any other sales represented in the Kent, WA office.

4 15. In 2016, an elderly customer named Robert Hanh contacted Diamond to notify the  
5 company that Thomas had omitted material information in his conversations with Mr. Hanh. Upon  
6 review, Mr. Nguyen learned the extent to which Mr. Thomas and Mr. Johnson had been falsifying  
7 or omitting material information while interacting with Hanh and other customers. In addition, Mr.  
8 Thomas had been making phone calls to customers on his cell phone to avoid having his calls  
9 recorded. Mr. Nguyen reprimanded both Thomas and Johnson. He also issued general  
10 admonishments for his sales staff to follow guidelines and became known for being "strict."  
11

12 16. On or around May 2016 Vice President Kirk Whaley departed the company, which  
13 changed the atmosphere. Both Whaley and former director Sean Hovendan had been advocates for  
14 the reform but both had left the company by the second half of 2016. The agents began  
15 complaining to Diamond Timeshares International's leadership, especially Vern Toland with  
16 whom Thomas was close. Toland and Thomas had a shared sales philosophy and Toland's success  
17 at the company was largely determined by the sales figures of Thomas and other personnel who  
18 were violating policies.  
19

20 17. Motivated by the desire to maintain the status quo, Toland voiced to Mr. Nguyen  
21 that he was being hard on the sales personnel. Nguyen disagreed, citing the number of deals that  
22 had been unwound because of Mr. Thomas. Mr. Toland responded by indicating that the unwound  
23 deals were economically worthwhile.  
24

25 18. When it became clear that Mr. Nguyen was not going to change his mind, Toland  
26 sought to distract him by asking him to help "open" a Vancouver, Canada office while running the

1 Seattle office. Once the office was open, Toland made a surprise visit to Kent where he issued  
2 Quan an ultimatum between leaving the Kent office to accept a demotion or be altogether  
3 terminated. Toland informed Mr. Nguyen that he was being replaced by friends of Toland, who  
4 had less experience than Nguyen. He told Nguyen that he would have to make a decision  
5 immediately.

6 19. After declining to make an immediate decision, Mr. Nguyen logged onto his  
7 computer to find that his credentials had been terminated. When he reached out to Diamond,  
8 Diamond personnel refused to communicate with him. Diamond has since claimed that Mr.  
9 Nguyen quit his job, but the evidence shows Diamond made no effort to observe the protocols it  
10 requires during a self-termination.  
11

12 20. At all times, Mr. Nguyen had an employment contract with the company predicated  
13 on the good-faith understanding that the company would abide by its own policies as well as all  
14 pertinent laws. Diamond violated those policies by 1) shutting off access to Mr. Nguyen's account,  
15 2) demoting and terminating Mr. Nguyen for policy enforcement and 3) refusing to observe the  
16 termination protocols required by Diamond, and 4) terminating Mr. Nguyen in violation of other  
17 terms of his contract.  
18

## 19 V. LEGAL ALLEGATIONS

### 20 COUNT 1: WRONGFUL DISCHARGE AGAINST PUBLIC POLICY

21 21. Diamond Timeshares International's actions constitute wrongful discharge in  
22 violation of public policy. There is a clear public policy in favor of 16 C.F.R. 310 *et seq.*, which  
23 Mr. Nguyen sought to enforce. Discouraging sales directors from reprimanding employees for  
24 violations undermines that policy. Diamond timeshares terminated Mr. Nguyen because he  
25  
26

1 enforced those laws and at the behest of employees who he was reprimanding for violating those  
2 laws.

3 **COUNT 2: BREACH OF EMPLOYMENT CONTRACT**

4 22. Diamond Resorts International had an employment contract with Mr. Nguyen that  
5 it breached by shutting down Nguyen's access to his account, refusing to communicate with him  
6 about the terms of his employment, terminating his employment for his enforcement of policies,  
7 and, insofar as that Diamond continues to claim that Mr. Nguyen quit: failure to observe the  
8 protocols regarding self-termination.  
9

10 **COUNT 3: COMPENSATION FOR EMOTIONAL DISTRESS**

11 23. Washington law recognizes compensation for emotional distress attending an  
12 independent violation of a tort. Accordingly, Mr. Nguyen is entitled to compensation for  
13 emotional distress.  
14

15 **COUNT 4: CLAIM FOR DOUBLE DAMAGES, ATTORNEY FEES, AND COSTS**  
16 **UNDER RCW 49.52.050 AND 49.52.070**

17 24. By terminating Mr. Nguyen in violation of public policy, Diamond willfully and  
18 with intent to deprive Mr. Nguyen of his pay refused to pay Mr. Nguyen the amount the amount it  
19 was obligated to pay him but for the commission of a tort. Accordingly, its actions and omissions  
20 violate RCW 49.52.050(2). Under RCW 49.52.070 any employer violating RCW 49.52.050(2) is  
21 liable for double damages, attorney fees, and costs.  
22

23 **VI. PRAYER FOR RELIEF**

24 WHEREFORE, the Plaintiffs Quan Nguyen prays for the following relief as follows:  
25

- 26 1. For judgment against Defendants for all economic (i.e., special) and noneconomic



- 1 (i.e., general) damages caused by Defendants' conduct, including, but not limited  
2 to, an amount to be determined at trial;
- 3 2. For an award of interest on economic (special) damages to the extent permitted by  
4 law;
- 5 3. For an award of double damages;
- 6 4. For all costs of court and reasonable attorney fees prior to and after the initiation of  
7 litigation;
- 8 5. For such other and further relief as this Court deems just and proper.  
9

10  
11 DATED this day, July 27, 2018.

12 By: 

13 Gregory W. Albert, WSBA 42673

14 ALBERT LAW PLLC

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16 Seattle, WA 98121

17 Telephone: (206) 576-8044

18 E-mail: greg@albertlawpllc.com

19 *Attorney for Plaintiff*  
20  
21  
22  
23  
24  
25  
26

**CERTIFICATE OF SERVICE:**

The undersigned certifies under penalty of perjury under the laws of the State of Washington that on the below date I caused the foregoing document to be delivered to:

**TO: DIAMOND RESORTS INTERNATIONAL  
MARKETING, INC.**  
10600 W. Charleston Blvd.  
Las Vegas, NV 89135

**Method(s) of Service:**

☐ Electronic Mail ☐ U.S. Mail ☒ Personal Service/ Messenger  
☐ E-Service ☐ Facsimile Transmissior ☐ Other:\_\_\_\_\_

Notes:

DATED this day, July 27, 2018 at Seattle, Washington.

/s/ Carmen Albert  
Carmen Albert  
Albert Law PLLC