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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES

21 CE CG 02214

12 A. SAMEH EL KHARBAWY,

Case No.: 20LBCV00465

13 Plaintiff,

**COMPLAINT FOR DAMAGES AND
DECLARATORY AND INJUNCTIVE
RELIEF FOR:**

14 vs.

15 BOARD OF TRUSTEES OF CALIFORNIA
16 STATE UNIVERSITY;
17 DARRYL L. HAMM, an individual;
18 LYNNETTE ZELEZNY, an individual;
19 JOSEPH I. CASTRO, an individual;
20 SAÚL JIMÉNEZ-SANDOVAL, an individual;
21 XUANNING FU, an individual;
22 AND DOES 1 through 50,

23 Defendants.

- (1) DISCRIMINATION (Cal. Gov. Code § 12940(a));
- (2) HARASSMENT (Cal Gov. Code § 12940(j));
- (3) RETALIATION (Cal. Gov. Code § 12940(h));
- (4) FAILURE TO PREVENT DISCRIMINATION, HARASSMENT AND RETALIATION (Cal. Gov. Code § 12940(K));
- (5) AIDING AND ABETTING DISCRIMINATION, HARASSMENT AND RETALIATION (Cal. Gov. Code § 12940(i));
- (6) RETALIATION (Cal. Lab. Code § 1102.5);
- (7) REPRISAL/RETALIATION (Cal. Gov. Code §§ 8457 *et seq.*);
- (8) DEFAMATION
- (9) VIOLATION OF THE EQUAL PAY ACT (Cal. Lab. Code §§ 432.3, 1197.5); and
- (10) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.

DEMAND FOR TRIAL BY JURY

1 Plaintiff Dr. A. SAMEH EL KHARBAWY (hereinafter “Plaintiff” or “Dr. El
2 Kharbawy”), by and through his counsel, alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff is, and at all relevant times mentioned herein was, a resident of the State of
5 California. Plaintiff is a tenured Full Professor at California State University.

6 2. Defendant BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY
7 (hereinafter “CSU”) is a subdivision of the State of California governing and operating the 23-
8 campus California State University system, including the California State University in Fresno
9 (hereinafter “the University”, “CSU Fresno” or “Fresno State”). CSU is headquartered in the city
10 of Long Beach, county of Los Angeles.

11 3. Plaintiff is informed and believes that Defendant DARRYL HAMM (hereinafter “Mr.
12 Hamm”) is a resident of the city of Los Angeles in California. At all relevant times mentioned
13 herein, Mr. Hamm was an attorney in the Office of General Counsel of California State University,
14 located in the city of Long Beach, county of Los Angeles.

15 4. Plaintiff is informed and believes that Defendant LYNNETTE ZELEZNY (hereinafter
16 “Dr. Zelezny”) is a resident of the State of California. At all relevant times mentioned herein, Dr.
17 Castro served as Provost of CSU Fresno (until May 2018).

18 5. Plaintiff is informed and believes that Defendant JOSEPH I. CASTRO (hereinafter
19 “Dr. Castro”) is a resident of the State of California. At all relevant times mentioned herein, Dr.
20 Castro served as President and chief executive officer of CSU Fresno.

21 6. Plaintiff is informed and believes that Defendant SAÚL JIMÉNEZ-SANDOVAL
22 (hereinafter “Dr. Jiménez-Sandoval”) is a resident of the State of California. At all relevant times
23 mentioned herein, Dr. Jiménez-Sandoval served as interim Associate Dean (August 2014-January
24 2016), then Dean (January 2016-July 2019) of the University’s College of Arts and Humanities,
25 then Provost of the University (July 2019-Present).

26 7. Plaintiff is informed and believes that Defendant XUANNING FU (hereinafter “Dr.
27 Fu”) is a resident of the State of California. At all relevant times mentioned herein, Dr. Fu served
28 as Dean of the University’s Undergraduate Studies and Plaintiff’s Dean and Chair (May 2015-July

1 2019), interim Vice Provost (July 2019-September 2020), then Vice Provost (September 2020-
2 Present).

3 8. The true names or capacities of Defendants DOE 1 to DOE 50, inclusive, whether
4 individual, corporate, associate, subsidiary or otherwise are unknown to PLAINTIFF at this time.
5 Plaintiff therefore sues such defendants under fictitious names and will amend this Complaint to
6 allege their true names and capacities when ascertained. Plaintiff is informed and believes and
7 thereon alleges that each of the defendants fictitiously designated as DOE is legally responsible,
8 either intentionally, negligently or in some other actionable manner for the occurrences herein
9 alleged, and thereby proximately caused injuries and damages to the Plaintiff as alleged herein.

10 9. CSU, Mr. Hamm, Dr. Castro, Dr. Zelezny, Dr. Jiménez-Sandoval, Dr. Fu, and DOES
11 1 through 50 are herein collectively referred to as "Defendants."

12 10. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
13 herein, the Defendants, and each of them, were the agents, parents, subsidiaries, agents, servants,
14 employees, co-venturers, and/or co-conspirators of each of the other defendants and were at all
15 times mentioned, acting within the scope, purpose, consent, knowledge, ratification and
16 authorization of such agency, employment, joint venture and conspiracy. All of the acts and/or
17 conduct of each Defendant alleged in the causes of action into which this paragraph is incorporated
18 by reference were consented to, ratified, approved, and/or authorized by the officers and/or
19 managing agents of other Defendants.

20 **JURISDICTION AND VENUE**

21 11. Plaintiff brings this Complaint for violations of the California Civil Code and
22 California common law. Subject matter jurisdiction in this matter is conferred by California
23 Constitution, Art. VI, §§ 11-12 and Code of Civil Procedure § 410.50. Personal jurisdiction is
24 proper under C.C.P. § 410.10 because the Defendants, and each of them, have maintained
25 sufficient minimum contacts with the State to make the exercise of personal jurisdiction reasonable
26 and just. Plaintiff is informed and believes that Defendants, and each of them, reside and/or
27 perform work within the State of California.

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1 12. Venue in this Court is proper pursuant to California Code of Civil Procedure section
2 395 *et seq.* because the CSU's is headquartered in the County of Los Angeles and some of the
3 wrongful actions alleged herein occurred within the County of Los Angeles.

4 **FACTUAL ALLEGATIONS RELEVANT TO ALL CLAIMS**

5 13. Plaintiff is a tenured Full Professor at CSU Fresno where he has been employed since
6 August 2006.

7 14. Plaintiff is the most senior member of the faculty and the only tenured Full Professor
8 in his academic unit. He is, by formal training, an architect and a critic, historian and theorist of
9 architecture, art, and design. He has developed an outstanding reputation among his students,
10 peers and in professional circles for his teaching of core and advanced courses in those areas,
11 earning him consistently positive student and peer evaluations. Aside from being a highly
12 respected educator, Plaintiff is a prolific scholar, with scores of publications, keynotes, invited
13 lectures and conference appearances worldwide; extensive government, community, and
14 professional associations in the U.S. and beyond. In 2009, he was awarded early tenure with full
15 professorship for "sustained exceptional performance" in all categories of service to the
16 University.

17 15. Plaintiff has a long history of activism against sexism, racism, and injustice at the
18 University, and has opposed unlawful discrimination, retaliation and harassment of protected
19 individuals (i.e. female students and employees, senior members of the faculty, Middle Eastern
20 Americans, etc). During his tenure at CSU Fresno, Plaintiff also opposed and reported fraud,
21 corruption, administrative misconduct and other unlawful activities at the University and was
22 targeted by Defendants, as a result, with a campaign of discrimination, harassment, and retaliation
23 which continues to this day.

24 A. **PLAINTIFF OPPOSED AND REPORTED DISCRIMINATION,**
25 **CORRUPTION AND UNLAWFUL HIRING PRACTICES AT THE**
26 **UNIVERSITY.**

27 16. In 2014 and 2015, Plaintiff served on a search committee for a vacancy within the
28 University's Department of Art and Design (the "Department"). Upon learning that members of

1 the Department's part-time faculty members (all women over the age of 60) intended to apply for
2 the announced position, administrators altered the application requirements without consulting the
3 search committee, effectively disqualifying the part-time faculty. When Plaintiff became aware of
4 this, he submitted (on or about December 22, 2014), a whistleblower complaint to the University
5 detailing, and strongly objecting to the administration's unlawful attempts to bias the search
6 process against these senior, female applicants. He specifically recalled a statement that one of
7 those University administrators had made to a senior, female faculty member during the search
8 that the Department needed "fresh blood."

9 17. Three senior, female professors filed separate complaints of discrimination,
10 harassment, and retaliation against the University in the form of internal University grievances and
11 formal complaints to the DFEH related to the Department's faculty search and other acts of
12 discrimination, retaliation and harassment by the University administration at various levels
13 (including many of the Defendants). In their complaints, the female professors complained that
14 discrimination and retaliation were "pervasive at Fresno State" causing a "distress level... so high"
15 that it forced the faculty and students to lodge several complaints against the University
16 administration. Twice (first in May 2015 and again in February 2016) Plaintiff gave evidence and
17 testimony as a witness in the investigations of these complaints.

18 18. Around this time, Plaintiff received a surprise offer from the University's Provost (at
19 the time, Dr. Zelezny, acting on behalf of the President, Dr. Castro) to assume a leadership position
20 at the University as the inaugural Director of a new University institute (what she called the
21 Institute for "Innovation and Sustainability"). In January 2016, Dr. Zelezny claimed that she was
22 working to finalize the details of the Plaintiff's new position and contract. After Plaintiff's
23 protected activities continued throughout 2016, the University's offer disappeared. Neither the
24 position nor the alleged institute itself ever materialized.

25 19. In September 2016, the University formed a search committee to appoint professors in
26 its Middle Eastern Studies program. The search continued for months, as the committee considered
27 the academic qualifications and professional experience of numerous applicants. After more than
28 eight (8) months of careful deliberation, four candidates (all Middle Eastern Americans) were

1 named by the search committee as finalists and invited to campus for interviews set in May 2017.
2 When University administrators learned the committee had recommended four Middle Eastern
3 Americans for the position, the University abruptly—and without any lawful cause—cancelled the
4 search, citing pretextual procedural irregularities. As reported and confirmed by numerous
5 sources, the real reason for the cancellation was pressure from outside (Israeli) advocacy
6 organizations, to which the administration granted an effective veto over any appointment of
7 professors of Middle Eastern or Arab (Palestinian) descent. The University’s decision, and its
8 discriminatory underpinnings, triggered a national outcry.

9 20. PLAINTIFF again refused to let such unlawful racism and discrimination go
10 unaddressed. While he did not serve on the Middle East Studies search committee, Plaintiff was
11 regularly made aware of its efforts, followed its public announcements, learned of the
12 accomplished résumés of the selected finalists, and joined others in protesting the University’s
13 unlawful decision to terminate the search, and the discriminatory, racial animus behind it. He
14 complained about the discriminatory search process to the University’s administration—including
15 Dr. Castro, and the Chancellor of the California State University system, Dr. Timothy White. The
16 position remains unfilled to this day.

17 B. FOLLOWING HIS OPPOSITION TO, AND REPORTS OF DISCRIMINATION,
18 UNLAWFUL FRAUD AND CORRUPTION, DEFENDANTS HARASSED AND
19 RETALIATED AGAINST PLAINTIFF.

20 21. University administrators (including Dr. Castro, Dr. Zelezny, Dr. Fu, Dr. Jiménez-
21 Sandoval, Mr. Hamm, Martin Valencia (Chair of the Department of Art and Design at CSU Fresno,
22 hereinafter “Mr. Valencia”) and other officials¹) responded negatively and with hostility to
23 Plaintiff’s efforts to call attention to discrimination and other unlawful wrongdoing within the
24 University, and have since subjected Plaintiff to a sustained, egregious campaign of harassment
25 and retaliation that involved threats, intimidation, administrative bullying and hostility, increased
26 scrutiny, manufactured controversies, trumped-up allegations, defamation, wage disparities,
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28 ¹ Plaintiff is informed, believes and thereon alleges that these individuals were “supervisors” pursuant to Cal. Gov.
Code section 12926(t).

1 professional isolation, violations of Plaintiff's rights, and breaches of his privacy. The retaliatory
2 conduct continues to the present.

3 22. For example, in 2016 and 2017, following Plaintiff's above-described complaints
4 regarding discrimination against protected individuals at the University, Dr. Fu started to harass
5 Plaintiff. On numerous occasions, Dr. Fu purposefully misspelled Plaintiff's name in emailed
6 (often publicly disseminated) communications, with pejorative, offensive insinuations to demean,
7 humiliate and insult him. Plaintiff informed Dr. Fu that this practice was abusive and racially
8 offensive. Dr. Fu did not stop.

9 23. In 2017, Dr. Fu manufactured and fomented false complaints against Plaintiff in an
10 effort to bully and harass him. On or about February 6, 2017, Dr. Fu alleged that students in one
11 of Plaintiff's classes complained to Dr. Fu that they had not received a printed syllabus for the
12 course (though, the syllabus was available online). Dr. Fu opted not to alert Plaintiff to the matter
13 until the deadline for posting the syllabi had passed (a week later)—at which time he alleged that
14 the students had filed a complaint. When Plaintiff requested a copy of the alleged complaint, Dr.
15 Fu dodged the request for several weeks—eventually sending Plaintiff an anonymous untitled,
16 unsigned, and unaddressed document. Plaintiff accessed the metadata of the document and
17 discovered it had been created by Dr. Fu on the same day, minutes before he emailed it to Plaintiff.
18 When Plaintiff brought this to the attention of Dr. Fu, the matter was dropped immediately.

19 24. Around the same time period, in April 2017, Dr. Fu and Mr. Valencia conspired to
20 make eleventh hour alterations to Plaintiff's teaching schedule for the following semester. In the
21 final days of the Spring 2017 semester, Plaintiff received an email from Dr. Fu notifying him that
22 one of his popular courses (ID 132T: "Design and People") which had been long planned for Fall
23 2017 was abruptly cancelled. Plaintiff learned that he had been reassigned to teach another course,
24 ID 113—a course he had never previously taught. The University did not provide any explanation
25 for the last-minute decision to cancel ID 132T, a popular and successful course in previous years.
26 Plaintiff was forced to either prepare for teaching a new course over the University's summer
27 recess (a workload for which he would not be paid) or develop the new course as it proceeded
28 during the Fall 2017 semester. It was a set-up for failure.

1 25. In or about October 2017, Dr. Fu alleged that a University alumna had lodged a protest
2 of a grade she received in a course Plaintiff taught more than a year prior. The alleged complaint
3 was, again, an anonymous, undated, unsigned document, which did not even bear the student's
4 name. At the time, Plaintiff defended his grading procedures generally on their merits. He also
5 objected to the University's handling of the matter, as the alleged grade petition was submitted
6 and accepted long after the required due date set forth in the University's Academic Policy Manual,
7 clearly in violation of the University's policies and procedures. Two days after Plaintiff filed his
8 objections to the administration's handling of this alleged petition, the University abruptly
9 suspended the student's grade petition and decided not to pursue it.

10 26. In the final days of the Fall 2017 semester, Dr. Fu and Mr. Valencia again surprised
11 Plaintiff with last-minute changes to his teaching schedule for the Spring 2018 semester. Without
12 justification, Plaintiff (a critic, historian, and theorist of art, design, and architecture) was assigned
13 an advanced course in digital design, animation and multi-media art (ID 116) which required
14 specialized expertise in a highly technical suite of software applications. Dr. Fu and Mr. Valencia
15 knew Plaintiff was not an expert in multi-media art and that he had never taught this specialized
16 software or used it in his work. This, again, was a set-up for failure. The University provided no
17 justification for its decision to require Plaintiff to teach a course so far outside his area of expertise.
18 Coming close on the heels of Plaintiff's protected activity and Dr. Fu's prior efforts to manufacture
19 complaints against Dr. Kharbawy, these last-minute surprises were retaliatory and intended to
20 harass Plaintiff.

21 27. In or around November 2017, Plaintiff learned that other professors of similar rank at
22 his College (of Arts and Humanities) had been awarded pay equity increases, which he did not
23 receive. In fact, since he started his opposition to Defendants' unlawful discrimination, corruption
24 and fraud Plaintiff has not received the salary increases awarded to similarly ranked and
25 comparably qualified and experienced faculty in the College of Arts and Humanities, or at similar
26 rates. This disparity continues to the present date.

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1 C. PLAINTIFF OBSERVED, OPPOSED AND REPORTED ACTS OF FRAUD
2 PERPETRATED BY DEFENDANTS IN FACULTY SEARCHES AND IN THE
3 UNIVERSITY'S ACCREDITATION PROCEDURES.

4 28. Accreditation is the primary means by which universities are evaluated in the U.S. It
5 is a reliable authority on academic quality, and the means to hold universities to minimum
6 standards for curricula, faculty, resources, services, and facilities, and commit them to a culture of
7 continuous improvement and accountability. Importantly, accreditation also qualifies universities
8 to receive state and federal funding. Title IV of the Higher Education Act requires institutions of
9 higher education that receive federal funds and/or provide federal aid to students to, *inter alia*, be
10 accredited by an agency recognized by the Department of Education. Similarly, most state
11 governments (including California) require accreditation to make state funds available to colleges
12 and universities. For those reasons, lawful, credible accreditations are of paramount importance.²

13 29. Re-accreditation is a significant undertaking—normally spanning multiple years—in
14 which the institution completes a self-study, updates course offerings, ensures compliance with
15 enumerated accreditation requirements, and gathers years of data about an academic program's
16 performance (from students, alumni, faculty, staff, administrators, government, professional and
17 community partners). It is an important step in the educational process, ensuring that accredited
18 universities continue to provide a high standard of education. It is also an important step in funding
19 the University. The loss of accreditation places in jeopardy tens of millions of dollars in federal
20 and state funds that the University receives.

21 30. CSU Fresno's Interior Design Program (hereinafter "Interior Design Program" or
22 "Program") is reviewed for accreditation by the Council for Interior Design Accreditation
23 (hereinafter "CIDA") every six or so years. The last such review of CSU Fresno occurred in or
24 around Fall 2016 (hereinafter "the Review"). During the Review, Plaintiff discovered that
25 Defendants, along with a group of University administrators at various levels, had directed faculty
26 members to submit to CIDA a fabricated assessment report of the Interior Design Program, which
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28 ² Multiple government investigations are currently probing corruption and fraud in higher education (including in admissions, funding, licensing and accreditations).

1 contained mostly false, plagiarized and counterfeit information. The report identified events and
2 evaluations that never happened, and referenced data never collected, reported, or analyzed.

3 31. When he learned of the Defendants' fraud, Plaintiff strenuously objected to it, and to
4 their deliberate effort to betray the public trust and defraud one of the University's accreditation
5 agencies. He sent emails and complaints to University employees and officials opposing the
6 fraudulent behavior. Equally troubling to Plaintiff was the fact that Defendants involved students
7 in their unlawful scheme. At the direction of Defendants, other University administrators (at
8 various levels) and the faculty members involved, students witnessed and participated in the acts
9 of plagiarism, fraud, hacking and counterfeiting of documents, and academic dishonesty.

10 32. Thereafter, those same University employees and officials defamed Plaintiff in
11 retaliation. During CIDA's subsequent visit to the CSU Fresno campus, Defendants and other
12 University employees made materially false allegations about Plaintiff to CIDA's representatives.
13 Those statements were subsequently included in CIDA's Accreditation Report (hereinafter
14 "Report") published by CIDA. The University later republished CIDA's defamatory Report, and
15 used it as a pre-text for further retaliation against Plaintiff.

16 33. The CIDA Report includes several false and defamatory statements made by
17 Defendants about Plaintiff, which injured his reputation with respect to his occupation, including,
18 without limitation:

- 19 (1) That Plaintiff served as "coordinator" of the University's Interior Design Program
20 at the time of CIDA's 2016-2017 Review;
21 (2) That he "chose not to participate in the accreditation process;" and
22 (3) That he withheld "all of his course materials and student work" from CIDA's
23 Visiting Team.

24 Defendants knew that each of these statements were false.

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1 D. PLAINTIFF ENGAGED IN PROTECTED ACTIVITY BY OPPOSING AND
2 REPORTING DEFENDANTS' FRAUD, CORRUPTION, DISCRIMINATION,
3 RETALIATION, HARASSMENT AND OTHER UNLAWFUL CONDUCT AT
4 THE UNIVERSITY.

5 34. During his tenure at CSU Fresno, Plaintiff has opposed and reported Defendants'
6 discrimination and harassment of protected individuals (on the basis of their age, gender, race,
7 national origin, etc.) Plaintiff has also opposed and reported fraud, corruption, administrative
8 misconduct, and other unlawful activities at the University. Plaintiff started by addressing these
9 legal violations directly with Defendants and other University administrators. When informal
10 correspondence to University officials did not result in substantive change, Plaintiff submitted
11 formal complaints using the University's internal reporting and grievance processes; he also made
12 several whistleblower disclosures. Plaintiff engaged in years of protected activity, including
13 (without limitation):

- 14 a. December 22, 2014; January 12, 2015; and January 29, 2015: Plaintiff filed a series
15 of whistleblower complaints with the University protesting the administration's
16 unlawful attempts to bias a faculty search against older, female applicants and other
17 legal violations that had compromised the search;
- 18 b. May 2015: Plaintiff was identified as a witness in support of discrimination,
19 harassment, and relation claims brought by three older, female members of the
20 faculty at the University;
- 21 c. July 29, 2015: Plaintiff was interviewed by DFEH investigators regarding those
22 complaints of discrimination, retaliation, and harassment;
- 23 d. February 1, 2016: Plaintiff was again identified as a witness in support of those
24 complaints filed with the DFEH;
- 25 e. April 25, 2016; April 26, 2016; and May 12, 2016: Plaintiff submitted
26 whistleblower complaints to the California State University's Vice Chancellor for
27 Human Resources reporting fraud and multiple irregularities in the University's
28 faculty hiring practices. The Plaintiff's complaints detailed legal and policy

1 violations in a faculty search that had been announced at the time in the University's
2 Department of Art of Design;

3 f. August-September 2016: Defendants, among a group of University administrators
4 at various levels, direct members of the faculty to submit to an accreditation agency
5 a fabricated assessment report of one of the University's academic programs to
6 fraudulently obtain reaccreditation for said program. Plaintiff strenuously objected
7 to the fraud.

8 g. June 9, 2017 – Plaintiff filed a complaint pursuant to the University's Executive
9 Order 1096 ("EO-1096") concerning discrimination against protected individuals
10 on the campus of CSU Fresno.

11 h. August 18, 2017 – Plaintiff submitted a comprehensive whistleblower complaint to
12 the California State University's Vice Chancellor for Human Resources, in which
13 he reported unlawful activities at CSU Fresno, including fraud, unlawful hiring
14 practices, systemic racism, discrimination, unlawful retaliation and harassment, and
15 pervasive administrative misconduct ("the Comprehensive Complaint.") The
16 document is 54 pages in length, accompanied by another 60 pages of exhibits and
17 supporting documentation. In the Comprehensive Complaint, Plaintiff detailed
18 each of the illegal activities described above and other deviations from University
19 policy and procedure.

20 i. August 2017-January 2018: Plaintiff filed a series of addenda to the Comprehensive
21 Complaint.

22 j. November 21, 2017: Plaintiff filed a contractual grievance requesting an
23 investigation of potential breach of his collective bargaining rights.

24 k. November 27, 2017: Plaintiff filed a complaint of discrimination, retaliation, and
25 harassment, pursuant to the University's Executive Order 1096;

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1 l. December 13, 2017: Plaintiff formally protested the University's failure to
2 investigation his EO-1096 complaints and formal grievance within the time frames
3 established by statute and the CBA.³

4 m. January 4, 2018: The Office of California State University's Vice Chancellor for
5 Human Resources informed Plaintiff that his August 2017 whistleblower
6 complaints (and its addenda) were no longer under review and would not be
7 investigated.

8 n. January 30, 2018: Plaintiff objected to the University's decision to refrain from
9 investigating his complaints. He informed the Chancellor's Office and the
10 University's Human Resources Department of his intention to seek independent
11 investigations of his whistleblower disclosures by outside agencies (which would
12 include, without limitation, the State Attorney General and the State Auditor).

13 E. FOLLOWING HIS PROTECTED ACTIVITY—AND BECAUSE OF IT—
14 DEFENDANTS RETALIATED AGAINST PLAINTIFF.

15 35. On February 5, 2018—six (6) days after Plaintiff notified the University of his intention
16 to pursue outside investigations of the University's discriminatory, retaliatory, and illegal
17 activities—the University suspended Plaintiff without cause. The University delivered a letter to
18 Plaintiff (and several of his colleagues) informing him that it was invoking Article 17 of the
19 Collective Bargaining Agreement (“the CBA”) governing Plaintiff's employment with the
20 University. Article 17 provides for a “temporary suspension” (30 days, at most) of a faculty
21 member in extremely limited, extraordinary circumstances, which were not present in Plaintiff's
22 case.⁴ By and through the February 5, 2018 letter, the University suspended Plaintiff from his
23 position effective immediately.

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26 ³ University policy requires an investigation of a complaint of discrimination, retaliation, or harassment to be
27 launched (with an intake interview of the complainant) within 10 days of receiving it, and that such investigation be
28 concluded within 60 days thereafter. The University has never processed any of Plaintiff's complaints within those
policy timeframes.

⁴ Under the plain terms of Article 17, the suspension term must be thirty (30) days or less, subject to renewal only
where circumstances legitimately warrant.

1 36. The University's February 5, 2018 letter proffered false, pre-textual reasons for the
2 suspension – a series of minor, vague, and baseless allegations of alleged wrongdoing. It was clear
3 that Defendants manufactured these allegations in haste to justify their unlawful decision to
4 suspend Plaintiff following his protected activity, and to preempt any outside investigations of
5 their unlawful activities.

6 37. Defendants, and each of them, made, approved, or otherwise participated in the
7 University's decision to suspend Plaintiff's employment under Article 17 of the CBA.

8 38. Following his suspension, on or about February 13, 2018, Plaintiff filed a complaint of
9 discrimination, retaliation, and harassment against the University with the DFEH arising out of the
10 same universe of facts alleged in this Complaint.

11 39. Between March and August 2018, the University invoked Article 17 five (5) more
12 times, extending Plaintiff's suspension for another thirty (30) days in each instance. The
13 University's proffered reasons and rationales for these suspensions were the same baseless, vague,
14 and false allegations contained in the original February 5, 2018 suspension letter.

15 40. On or about March 13, 2018, the University notified Plaintiff that his November 27,
16 2017 EO-1096 complaint of discrimination, retaliation and harassment would be assigned to an
17 outside law firm for investigation. At the time, that complaint had been pending for 107 days, and
18 an earlier EO-1096 complaint that Plaintiff had filed on June 9, 2017 had, at the time, been pending
19 for 278 days—both well past the deadlines mandated by University policy to process EO-1096
20 complaints. To date, there has been no resolution to any of Plaintiff's EO-1096 complaints.

21 41. On or about March 16, 2018, Plaintiff filed an internal grievance protesting his
22 unlawful suspension. The University has not resolved this grievance to date.

23 42. Between May 11, 2018 and May 18, 2018, Plaintiff filed multiple requests with the
24 University for records and evidence per the California Public Records Act, pertaining to his
25 complaints of discrimination, retaliation, and harassment against the University. The University
26 failed to fulfill any of those requests at the time, and they remain unfulfilled to this day.

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1 43. On or about June 5, 2018, Plaintiff filed a complaint against the University for its
2 retaliation against him for his engagement in protected whistleblowing activity (per Executive
3 Order EO-1058, later superseded by EO-1116).

4 44. On August 2, 2018, Plaintiff filed a governmental tort claim against the University. On
5 the same date, he filed a complaint of retaliation against the University (which named several
6 administrators as respondents) with the Division of Labor Standards Enforcement (DLSE).

7 45. Less than two weeks later, the University again retaliated against Plaintiff. By letter
8 dated August 13, 2018, the University further suspended Plaintiff, citing new allegations (not
9 previously disclosed to Plaintiff) and revisions to the initial allegations asserted against Plaintiff
10 more than six months prior. The new allegations were just as false, vague, unsourced, and
11 fabricated as the University's initial allegations.

12 46. Thereafter, the University continued to renew Plaintiff's suspension—placing a new
13 letter of suspension in his Personnel File every 30 (or so) days. Defendants, and each of them,
14 made, approved, or otherwise participated in the University's decision to continue to suspend
15 Plaintiff's employment. Although even a rudimentary investigation would have quickly exposed
16 the factually baseless allegations, Defendants opted to keep Plaintiff in "temporary" suspension
17 for over thirty-two (32) months (as of this filing). To anyone viewing the Plaintiff's Personnel
18 File, it appears that Plaintiff has been continuously violating University policy for thirty-two (32)
19 months; though, in reality, he has not set foot in a classroom on campus in almost three years. He
20 remains on "temporary" suspension to this day. The University has consistently refused to provide
21 information to Plaintiff about the factual basis for its allegations, despite multiple requests.

22 47. On or about June 14, 2019, Plaintiff filed an updated complaint of discrimination,
23 retaliation, and harassment for FEHA-related violations (EO-1096) with California State
24 University's Vice Chancellor for Human Resources. The University has also not resolved this
25 complaint (or any other) to date.

26 48. On or about June 21, 2019, Plaintiff filed an updated complaint of retaliation and
27 harassment for whistleblowing (EO-1058/EO-1116) with California State University's Vice
28 Chancellor for Human Resources. The University has not resolved this complaint to date.

1 49. On July 1, 2019 Plaintiff filed an updated complaint against the University with the
2 DFEH (related to the illegal behavior described above) and received a “right to sue” letter.

3 50. On July 1, 2019, Plaintiff filed a governmental claim against California State
4 University related to the illegal behavior described above. He received no response to this claim.

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6 51. Plaintiff exhausted administrative remedies related to his claims under Cal Gov. Code
7 §§ 8547 *et seq.* To file a claim for damages under § 8547, two conditions must be met: (1) Plaintiff
8 must “first file[] a complaint with [an Appropriate Administrator at the] university;” and (2) the
9 university must “fail[] to reach a decision regarding that complaint within the time limits
10 established for that purpose by the trustees.” (Cal. Gov. Code § 8547.12(c).) Under the CSU’s
11 EO-1116, the CSU’s “Appropriate Administrator” is the Vice-Chancellor of Human Resources (or
12 a designated employee at each campus) and the time established for reaching a decision 120 days
13 from the University’s receipt of the complaint. Plaintiff submitted complaints in compliance with
14 the University’s EO-1116 procedures on June 5, 2018. He filed an updated EO-1116 complaint
15 on June 21, 2019. The University failed to resolve Plaintiff’s complaints within 120 days; in fact,
16 the University has not informed Plaintiff of a final decision with regard to any of his complaints
17 to this day. Therefore, all conditions for a cause of action under §§ 8547 *et seq.* are met.

18 52. Plaintiff exhausted administrative remedies related to his claims under the Fair
19 Employment and Housing Act (the “FEHA”), Cal. Gov. Code §§ 12940 *et seq.* On February 13,
20 2018, Plaintiff filed a complaint against Defendants with the DFEH alleging discrimination,
21 retaliation, and harassment as described in this Complaint. He received a right-to-sue letter on
22 August 16, 2018. On July 1, 2019, Plaintiff filed an updated complaint against Defendants with
23 the DFEH and received a right-to-sue letter based on his claims of discrimination, harassment, and
24 retaliation described in this Complaint. The filing of the instant complaint comes within one (1)
25 year of both right-to-sue letters by virtue of tolling agreements entered into between Plaintiff and
26 Defendants on July 24, 2019 and November 12, 2019. The latter tolling agreement remains in
27 effect to this date.

1 53. Plaintiff exhausted administrative remedies in regard to his tort claims against
2 Defendant CSU. Pursuant to Cal. Gov. Code § 911.2, a Plaintiff who wishes to seek redress for
3 tortious action perpetrated by a governmental entity must first file a claim with that entity. Per
4 Cal. Gov. Code § 912.4, the entity must respond to the claim within forty-five (45) days. Failure
5 to respond to the claim results in a de facto denial. (*Id.*) Pursuant to Cal. Gov. Code § 945.6, a
6 Plaintiff filing statutory tort claims against a California government entity must file suit against
7 the entity within six (6) months or one (1) year of the entity's rejection of the tort claim. On June
8 28, 2019, Plaintiff sent a governmental tort claim notice (via U.S. Certified mail) to CSU related
9 to the facts and causes of action contained in this Complaint. He received no response to this
10 claim. The filing of the instant complaint is timely by virtue of tolling agreements entered into
11 between Plaintiff and Defendant CSU on July 24, 2019 and November 12, 2019. The latter tolling
12 agreement remains in effect to this date.

13 **FIRST CAUSE OF ACTION**
14 **(Discrimination in Violation of FEHA, Cal. Gov. Code § 12940(a))**
15 **(Against Defendant CSU and Does 1 through 50)**

16 54. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
17 forth in this Complaint.

18 55. At all times mentioned herein, the FEHA, Cal. Gov't Code §§ 12900, *et seq.*, was in
19 full force and effect and was fully binding upon Defendants. The FEHA protects employees from
20 racial discrimination in the workplace. Specifically, Cal. Gov. Code § 12940(a) prohibits
21 employers from discriminating against employees on the basis of, inter alia, "race...[and] national
22 origin."

23 56. At all times mentioned herein, Plaintiff was an employee of the University within the
24 meaning and scope of the FEHA, Cal. Govt. Code § 12926(c) and, as such, Plaintiff had the right
25 to an employment free of discrimination on the basis of his race, ethnicity and/or national origin.

26 57. At all times mentioned herein, California Government Code § 12940 *et seq.*, was in full
27 force and effect, and was binding upon all Defendants. Said sections expressly bar Defendants
28 from discriminating against employees of the University on the basis of race, national origin,
ethnicity among other bases.

1 58. Plaintiff is of Middle Eastern descent. As alleged hereinabove, Defendant CSU and
2 Does 1 through 50 violated Cal. Govt. Code §12940(a) by discriminating against Plaintiff based
3 on his race and national origin, and/or by authorizing, condoning or ratifying such unlawful
4 discrimination as described in this Complaint.

5 59. Defendant CSU and Does 1 through 50 subjected Plaintiff to the adverse and disparate
6 employment actions described in this Complaint, including, but not limited to, disparate pay,
7 disparate work assignments, withheld raises and compensation, and an indefinite “temporary”
8 suspension.

9 60. Other employees of Defendant CSU who are not of Middle Eastern descent were not
10 subjected to the adverse actions Plaintiff experienced. On information and belief, Plaintiff’s race
11 and/or national origin were substantial motivating factors for Defendants’ adverse actions against
12 him.

13 61. The aforementioned conduct of Defendants constitutes a continuing violation of
14 Plaintiff’s rights from the first to the latest unlawful act.

15 62. The aforementioned discrimination against Plaintiff constitutes an unlawful
16 employment practice expressly prohibited under the FEHA.

17 63. As a direct, foreseeable and proximate result of the Defendants’ unlawful
18 discrimination, Plaintiff has suffered and continues to suffer considerable personal and
19 professional harm of a lasting nature including, without limitation, physical and emotional injury,
20 mental distress, anxiety, anguish, shock, professional embarrassment and humiliation, and loss of
21 reputation— all to Plaintiff’s damage in an amount according to proof.

22 64. As a direct, foreseeable, and proximate legal result of the Defendants’ unlawful actions,
23 Plaintiff also suffered significant economic damages including, without limitation, lost wages,
24 salary, bonuses, and certain other losses including incidental and consequential losses.
25 Furthermore, Plaintiff has incurred, and will continue to incur, expenses, loss of deferred
26 compensation, loss of equity, benefits, earning capacity, work experience and opportunities for
27 employment and professional advancement, all to his damage in an amount in excess of the
28 minimum jurisdiction of this court, to be ascertained according to proof.

1 65. As a further proximate result of Defendants' unlawful actions, Plaintiff was compelled
2 to, and did retain legal representation in an effort to enforce his statutory rights and the terms and
3 conditions of his employment relationship with Defendants, and has thereby incurred, and will
4 continue to incur, legal fees and costs. Plaintiff is, therefore, entitled to reasonable attorney's fees
5 and costs of suit as provided by the FEHA, Cal. Govt. Code § 12965(b). The exact amount of
6 damages will be proven at trial.

7 **SECOND CAUSE OF ACTION**

8 **(Harassment in Violation of FEHA, Cal. Gov. Code § 12940(j))**
9 **(Against Defendant CSU and Does 1 through 50)**

10 66. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
11 forth in this Complaint. Plaintiff asserts this claim against all Defendants.

12 67. At all times herein mentioned, the FEHA (Cal. Gov't Code §§ 12900, *et seq.*) was in
13 full force and effect and was fully binding upon Defendants. The FEHA protects employees from
14 harassment in the workplace, including harassment predicated on an employee's race and/or
15 national origin. Harassment is found where the employer creates or permits a hostile and abusive
16 work environment through harassing behavior that is sufficiently severe or pervasive to affect the
17 terms and conditions of an employee's employment. (*Fish v. San Pedro Peninsula Hospital* (1989)
18 214 Cal.App.3d 590, 608.) An organization is directly liable for harassment perpetrated by an
19 employee's supervisor, as that term is defined by §12940(t).

20 68. At all times mentioned herein, Defendants were employers and/or agents, officers or
21 associates of employers, within the meaning of the FEHA, Cal. Govt. Code § 12926(d) and, as
22 such, were barred from harassing an employee of the University on the basis of race, ethnicity
23 and/or national origin.

24 69. At all times mentioned herein, Plaintiff was an employee of the University within the
25 meaning and scope of the FEHA, Cal. Govt. Code § 12926(c) and, as such, Plaintiff had the right
26 to maintain his employment without experiencing harassment on the basis of his race, ethnicity
27 and national origin. Within the time limits provided by law, Plaintiff made the appropriate
28 complaints to the DFEH.

1 70. As described in Paragraphs 14 through 51, Plaintiff was subjected to a continuous
2 course of harassing behavior by Defendants in violation of Cal. Gov. Code §12940(j). The
3 harassing behavior was sufficiently severe and/or pervasive to create a hostile work environment,
4 which remains to this date.

5 71. The Defendants' harassment of Middle Eastern Americans and persons of Middle
6 Eastern descent, and in particular Plaintiff, includes but is not limited to the facts alleged in this
7 Complaint. For example, Defendants harassed Plaintiff by, *inter alia*, fomenting and fabricating
8 false allegations against him; abusing his teaching schedule and assignments (including by
9 assigning him unfamiliar and improper courses with little to no notice); violating his privacy;
10 abusing his name in publicly disseminated correspondence, and using pejorative, offensive
11 insinuations to demean, humiliate and insult him.

12 72. On information and belief, the Defendants' harassing conduct was perpetrated as a
13 result of Plaintiff's race, ethnicity and/or national origin. Defendant CSU's employees who were
14 not of Middle Eastern descent were not treated with the same hostility.

15 73. As described in Paragraphs 14 through 51 of this Complaint, Plaintiff's terms and
16 conditions of employment were affected by the Defendants' harassment, including his course
17 schedule, work assignments and compensation.

18 74. The aforementioned harassment and discrimination against Plaintiff in the terms,
19 conditions and /or privileges of employment on the basis of his race constitutes an unlawful
20 employment practice and is strictly prohibited under the FEHA, Cal. Govt. Code § 12940(j).

21 75. The aforementioned conduct of Defendants constitutes a continuing violation of the
22 Plaintiff's rights from the first act to the latest action.

23 76. As a legal and proximate result of this harassment, Plaintiff suffered, and continues to
24 suffer considerable personal and professional harm of a lasting nature including, without
25 limitation, physical and emotional injury, mental distress, anxiety, anguish, shock, professional
26 embarrassment and humiliation, and loss of reputation. As a result of Defendants' conduct,
27 Plaintiff suffered such economic, emotional, and general damages in an amount according to proof.
28

1 77. As a direct, foreseeable, and proximate legal result of the Defendants' unlawful actions,
2 Plaintiff also suffered significant economic damages including, without limitation, lost wages,
3 salary, bonuses, and certain other losses including incidental and consequential losses.
4 Furthermore, Plaintiff has incurred, and will continue to incur, expenses, loss of deferred
5 compensation, loss of equity, benefits, earning capacity, work experience and opportunities for
6 employment and professional advancement, all to his damage in an amount in excess of the
7 minimum jurisdiction of this court, to be ascertained according to proof.

8 78. As a further proximate result of Defendants' actions, Plaintiff was compelled to, and
9 did retain legal representation, and is therefore entitled to reasonable attorneys' fees and costs of
10 suit as provided by the FEHA, Cal. Govt. Code § 12965(b). The exact amount will be proven at
11 trial.

12 **THIRD CAUSE OF ACTION**
13 **(Retaliation in Violation of FEHA, Cal. Gov. Code § 12940 (h))**
14 **(Against Defendant CSU and Does 1 through 50)**

15 79. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
16 forth in this Complaint. Plaintiff asserts this claim against all Defendants.

17 80. At all times herein mentioned, the FEHA (Cal. Gov't Code §§ 12900, *et seq.*) was in
18 full force and effect and was fully binding upon Defendants. The FEHA protects employees from
19 retaliation for reporting and/or opposing practices forbidden by the Act. (Cal. Gov. Code §
20 12940(h).) Retaliation is actionable where a plaintiff shows that (1) he engaged in protected
21 activity; (2) the employer subjected the employee to an adverse employment action; and (3) a
22 causal link existed between the protected activity and the adverse action. (*Yanowitz v. L'Oreal*
USA, Inc. (2005) 26. Cal.4th 1028, 1042.)

23 81. As described in Paragraph 35 of this Complaint, Plaintiff engaged in protected activity
24 under the FEHA when he reported and opposed racial discrimination and harassment against
25 protected individuals (i.e. female students and employees, senior members of the faculty, Middle
26 Eastern Americans and persons of Middle Eastern descent). He also engaged in protected activity
27 by providing evidence and testimony in complaints of discrimination, harassment, and retaliation
28 by protected employees of the University.

1 82. As described in Paragraphs 14 through 51 of this Complaint, Plaintiff suffered adverse
2 employment actions, including, but not limited to, a “temporary” suspension that has lasted almost
3 three (3) years. Furthermore, Defendants failed to take the reasonable and necessary steps to
4 prevent retaliation against Plaintiff, or to address such retaliation with prompt, effective remedies.
5 For example and without limitation, Defendants (a) failed to adequately investigate Plaintiff’s
6 complaints of discrimination, harassment and retaliation, (b) failed to effectively implement any
7 policies and procedures that may exist for investigating and resolving complaints of retaliation; (c)
8 failed to effectively supervise, train and counsel University administrators to refrain from
9 retaliation against Plaintiff.

10 83. A causal link existed between Plaintiff’s protected activity and the adverse actions.
11 Plaintiff’s suspension, for example, came just six (6) days after he informed the University he was
12 going to pursue independent investigations of his whistleblower disclosures (of the Defendants’
13 unlawful conduct) by outside agencies. Defendants possessed no legitimate reason to suspend
14 Plaintiff; they acted against him in retaliation to his complaints of discrimination, harassment, and
15 retaliation. The causal connection is clear.

16 84. The aforementioned conduct of Defendants constitutes a continuing violation of
17 PLAINTIFF’S rights from the first act to the latest action.

18 85. As a legal and proximate result of the retaliation, Plaintiff has suffered and continues
19 to suffer considerable personal and professional harm of a lasting nature including, without
20 limitation, physical and emotional injury, mental distress, anxiety, anguish, shock, professional
21 embarrassment and humiliation, and loss of reputation— all to Plaintiff’s economic, emotional,
22 and general damage in an amount according to proof.

23 86. As a direct, foreseeable, and proximate legal result of the Defendants’ unlawful
24 actions, Plaintiff also suffered significant economic damages including, without limitation, lost
25 wages, salary, bonuses, and certain other losses including incidental and consequential losses.
26 Furthermore, Plaintiff has incurred, and will continue to incur, expenses, loss of deferred
27 compensation, loss of equity, benefits, earning capacity, work experience and opportunities for
28

1 employment and professional advancement, all to his economic, emotional, and general damage
2 in an amount according to proof.

3 87. As a further proximate result of Defendants' actions, Plaintiff was compelled to, and
4 did retain legal representation, and is therefore entitled to reasonable attorneys' fees and costs of
5 suit as provided by the FEHA, Cal. Govt. Code § 12965(b). The exact amount will be ascertained
6 at trial.

7 **FOURTH CAUSE OF ACTION**

8 **(Failure to Prevent Discrimination, Retaliation and Harassment in Violation of FEHA;
9 Cal. Gov. Code § 12940(k)
10 (Against Defendant CSU and Does 1 through 50)**

11 88. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
12 forth in this Complaint. Plaintiff asserts this claim against all Defendants.

13 89. At all times herein mentioned, the FEHA (Cal. Gov't Code §§ 12900, *et seq.*) was in
14 full force and effect and was fully binding upon Defendants.

15 90. Cal. Gov't Code § 12940(k) makes it unlawful for an employer to fail to take all
16 reasonable steps necessary to prevent discrimination, harassment, and retaliation from occurring.

17 91. Defendant CSU and Does 1 through 50 knew or should have known about the
18 discrimination, harassment, and retaliation against Plaintiff, as they were repeatedly informed by
19 Plaintiff of the misconduct described in this Complaint. Defendants failed to prevent
20 discrimination, harassment, and retaliation against Plaintiff in violation of Cal. Gov't Code §
21 12940(k).

22 92. Plaintiff is informed, believes and thereon alleges that Defendant CSU (a) had an
23 ineffective policy to address unlawful discrimination, harassment and retaliation in the workplace;
24 (b) had no effective procedures for addressing and/or investigating complaints of discrimination,
25 harassment and retaliation; (c) failed to effectively implement any procedure they may have had
26 for investigating complaints of discrimination, harassment and retaliation; (d) failed to investigate
27 and resolve Plaintiff's complaints of discrimination, harassment and retaliation against
28 Defendants; and (e) failed to appropriately train and/or supervise administrators, managers and
employees to prevent discrimination, harassment and retaliation against Plaintiff.

1 93. In doing so, Defendant CSU and Does 1 through 50 expressly violated Cal. Gov. Code
2 § 12940(k). The aforementioned conduct of Defendants constitutes a continuing violation of
3 Plaintiff's rights from the first to the latest unlawful act.

4 94. As a legal and proximate result of the retaliation, Plaintiff has suffered and continues
5 to suffer considerable personal and professional harm of a lasting nature including, without
6 limitation, physical and emotional injury, mental distress, anxiety, anguish, shock, professional
7 embarrassment and humiliation, and loss of reputation— all to Plaintiff's economic, emotional,
8 and general damage in an amount according to proof.

9 95. As a direct, foreseeable, and proximate legal result of the Defendants' unlawful
10 actions, Plaintiff also suffered significant economic damages including, without limitation, lost
11 wages, salary, bonuses, and certain other losses including incidental and consequential losses.
12 Furthermore, Plaintiff has incurred, and will continue to incur, expenses, loss of deferred
13 compensation, loss of equity, benefits, earning capacity, work experience and opportunities for
14 employment and professional advancement, all to his economic, emotional, and general damage
15 in an amount according to proof.

16 96. As a further proximate result of Defendants' actions, Plaintiff was compelled to, and
17 did retain legal representation, and is therefore entitled to reasonable attorneys' fees and costs of
18 suit as provided by the FEHA, Cal. Govt. Code § 12965(b). The exact amount will be ascertained
19 at trial.

20
21 **FIFTH CAUSE OF ACTION**
22 **(Aiding and Abetting Discrimination, Retaliation and Harassment in Violation of FEHA;**
23 **Cal. Gov. Code § 12940(i))**
24 **(Against All Defendants)**

25 97. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
26 forth in this Complaint. Plaintiff asserts this claim against all Defendants.

27 98. At all times herein mentioned, the FEHA (Cal. Gov't Code §§ 12900, *et seq.*) was in
28 full force and effect and was fully binding upon Defendants.

99. Cal. Gov. Code §12940(i) makes it unlawful for any person to aid, abet, incite, compel,
or coerce the doing of any of the acts forbidden under the FEHA, or to attempt to do so.

1 100. At all times herein mentioned, Defendants were employers, or agents of employers,
2 within the meaning of the FEHA, Cal. Govt. Code § 12926(d) and, as such, were barred from
3 aiding, abetting, inciting, compelling or coercing race based and age discrimination, harassment,
4 discrimination, and/or retaliation in violation of the FEHA.

5 101. At all times herein mentioned, Plaintiff was an employee of the University within the
6 meaning and scope of the FEHA, Cal. Govt. Code § 12926(c) and, as such, Plaintiff had the right
7 to maintain his employment without experiencing the discrimination, harassment and retaliation
8 described in this Complaint.

9 102. Defendants, and each of them, attempted to and did in fact, aid, abet, incite, compel
10 and/or coerce each of the other Defendants, their agents, servants and/or employees to engage in
11 unlawful discrimination, retaliation and harassment against Plaintiff, as described in this
12 Complaint.

13 103. The aforementioned conduct of Defendants constitutes a continuing violation of
14 Plaintiff's rights from the first act to the latest action.

15 104. As a legal and proximate result of the retaliation, Plaintiff has suffered and continues
16 to suffer considerable personal and professional harm of a lasting nature including, without
17 limitation, physical and emotional injury, mental distress, anxiety, anguish, shock, professional
18 embarrassment and humiliation, and loss of reputation— all to Plaintiff's economic, emotional,
19 and general damage in an amount according to proof.

20 105. As a direct, foreseeable, and proximate legal result of the Defendants' unlawful
21 actions, Plaintiff also suffered significant economic damages including, without limitation, lost
22 wages, salary, bonuses, and certain other losses including incidental and consequential losses.
23 Furthermore, Plaintiff has incurred, and will continue to incur, expenses, loss of deferred
24 compensation, loss of equity, benefits, earning capacity, work experience and opportunities for
25 employment and professional advancement, all to his economic, emotional, and general damage
26 in an amount according to proof.

27 106. As a further proximate result of Defendants' actions, Plaintiff was compelled to, and
28 did retain legal representation, and is therefore entitled to reasonable attorneys' fees and costs of

1 suit as provided by the FEHA, Cal. Govt. Code § 12965(b). The exact amount will be ascertained
2 at trial.

3 **SIXTH CAUSE OF ACTION**
4 **(Retaliation in Violation of Cal. Lab. Code § 1102.5)**
5 **(Against Defendant CSU and Does 1 through 50)**

6 107. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
7 forth in this Complaint.

8 108. At all times mentioned herein, California Labor Code § 1102.5 (“Section 1102.5”) was in effect, and binding on Defendant CSU and Does 1 through 50. Section 1102.5 protects
9 employees who refuse to participate in an activity that would result in a violation of a state or
10 federal statute, or noncompliance with a state or federal rule or regulation, and makes it unlawful
11 for an employer, or any person acting on behalf of the employer, to retaliate against such
12 employees. Cal. Lab. Code § 1102.5(c)

13 109. Section 1102.5 also forbids an employer, or anyone acting on behalf of an employer
14 to retaliate against an employee “for disclosing information, or because the employer believes that
15 the employee disclosed or may disclose information, to a government or law enforcement agency,
16 to a person with authority over the employee or another employee who has the authority to
17 investigate, discover, or correct the violation or noncompliance, or for providing information to,
18 or testifying before, any public body conducting an investigation, hearing, or inquiry, if the
19 employee has reasonable cause to believe that the information discloses a violation of state or
20 federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation,
21 regardless of whether disclosing the information is part of the employee's job duties.” Cal. Lab.
22 Code § 1102.5(b)

23 110. Section 1102.5 also makes “[a] report made by an employee of a government agency
24 to his or her employer... a disclosure of information to a government or law enforcement agency
25 pursuant to subdivisions (a) and (b).” Cal. Lab. Code § 1102.5(e)

26 111. As described in Paragraph 35 of this Complaint, Plaintiff engaged in protected activity
27 under Section 1102.5 when he reported and opposed illegal actions perpetrated by Defendants,
28 including, but not limited to, fraudulent activities related to the University’s hiring practices and

1 accreditation processes. Fraud and deceit are proscribed by C.C.P. §§ 1709 through 1710 and at
2 common law.

3 112. As described in Paragraphs 14 through 51 of this Complaint, Plaintiff suffered adverse
4 employment actions as a result of his protected activity, including a “temporary” suspension that
5 has lasted almost three (3) years to date.

6 113. A clear causal link existed between Plaintiff’s protected activity and the Defendants’
7 adverse actions against him. Plaintiff’s suspension, for example, came just six (6) days after he
8 informed the University he was going to pursue his complaints with outside agencies. Defendant
9 BOARD possessed no legitimate reason to suspend Plaintiff; it acted against him in response to
10 his complaints of discrimination, harassment, and retaliation. The causal connection is clear.

11 114. As a legal and proximate result of the retaliation, Plaintiff has suffered and continues
12 to suffer considerable personal and professional harm of a lasting nature including, without
13 limitation, physical and emotional injury, mental distress, anxiety, anguish, shock, professional
14 embarrassment and humiliation, and loss of reputation— all to Plaintiff’s economic, emotional,
15 and general damage in an amount according to proof.

16 115. As a direct, foreseeable, and proximate legal result of the Defendants’ unlawful
17 actions, Plaintiff also suffered significant economic damages including, without limitation, lost
18 wages, salary, bonuses, and certain other losses including incidental and consequential losses.
19 Furthermore, Plaintiff has incurred, and will continue to incur, expenses, loss of deferred
20 compensation, loss of equity, benefits, earning capacity, work experience and opportunities for
21 employment and professional advancement, all to his economic, emotional, and general damage
22 in an amount according to proof.

23 **SEVENTH CAUSE OF ACTION**

24 **(Retaliation in Violation of the California Whistleblower Protection Act;**
25 **Cal. Gov. Code §§ 8547 *et seq.*)**
26 **(Against All Defendants)**

27 116. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
28 forth in this Complaint.

1 117. At all times mentioned herein, California Whistleblower Protection Act (“CWPA”),
2 Cal. Gov. Code § 8547 *et seq.*, was in effect, and binding on Defendants. The CWPA protects
3 state employees from retribution when they report waste, fraud, abuse of authority, violation of
4 law, or threat to public health.

5 118. As described in Paragraph 35 of this Complaint, Plaintiff made good faith protected
6 disclosures concerning unlawful and improper state governmental activity at the University. At
7 the time Plaintiff made the protected disclosures, he reasonably believed that Defendants broke
8 the law.

9 119. Plaintiff suffered adverse actions when Defendants, personally or by and through their
10 agents and employees, perpetrated the actions described in Paragraphs 14 through 51 of this
11 Complaint.

12 120. Plaintiff believes and thereon alleges that his protected disclosures regarding unlawful
13 and improper state governmental activity, as set forth herein, were motivating factors in
14 Defendants’ adverse actions against him. Such actions are unlawful and retaliatory in violation of
15 the CWPA and have resulted in considerable damage and injury to Plaintiff, as alleged herein in
16 this Complaint.

17 121. The Defendants’ unlawful conduct described herein above was outrageous and was
18 executed with malice, fraud, and oppression, and with conscious disregard for Plaintiff’s rights,
19 and further, with the intent, design, and purpose of injuring Plaintiff’s personal and professional
20 well-being.

21 122. Defendants, in person and/or through their officers, managing agents, employees,
22 and/or supervisors, authorized, condoned, and/or ratified the unlawful conduct described herein
23 above.

24 123. Defendants committed the acts alleged herein by acting knowingly, willfully, with the
25 wrongful and illegally deliberate intention of injuring Plaintiff from improper motives amounting
26 to malice, and in conscious disregard of Plaintiff’s rights justifying an award of punitive damages.
27 Plaintiff seeks punitive damages against all non-public entity Defendants.

28 124. As a legal and proximate result of the retaliation, Plaintiff has suffered and continues

1 to suffer considerable personal and professional harm of a lasting nature including, without
2 limitation, physical and emotional injury, mental distress, anxiety, anguish, shock, professional
3 embarrassment and humiliation, and loss of reputation— all to Plaintiff's economic, emotional,
4 and general damage in an amount according to proof.

5 125. As a direct, foreseeable, and proximate legal result of the Defendants' unlawful
6 actions, Plaintiff also suffered significant economic damages including, without limitation, lost
7 wages, salary, bonuses, and certain other losses including incidental and consequential losses.
8 Furthermore, Plaintiff has incurred, and will continue to incur, expenses, loss of deferred
9 compensation, loss of equity, benefits, earning capacity, work experience and opportunities for
10 employment and professional advancement, all to his economic, emotional, and general damage
11 in an amount according to proof.

12 126. As a further proximate result of Defendants' unlawful actions, and to enforce his
13 statutory rights, Plaintiff was compelled to, and did retain legal representation, and has thereby
14 incurred, and will continue to incur, legal fees and costs. The exact amount of damages will be
15 ascertained at trial.

16 **EIGHTH CAUSE OF ACTION**
17 **(Defamation)**
18 **(Against Defendant CSU and Does 1 through 50)**

19 127. Plaintiff re-alleges and incorporates herein by reference each and every allegation set
20 forth in this Complaint.

21 128. At all times relevant to this action, Cal. Civ. Code §§ 43, *et seq.* was in full force and
22 effect and was fully binding upon Defendants. Cal Civ. Code § 43 provides that, "every person
23 has, subject to the qualifications and restrictions provided by law, the right of protection from ...
24 defamation, and from injury to his personal relations."

25 129. "Defamation is effected by either of the following: (a) Libel; (b) Slander." Cal Civ.
26 Code § 44.

27 130. Cal Civ. Code § 45 provides that: "Libel is a false and unprivileged publication by
28 writing, printing, picture, effigy, or other fixed representation to the eye, which exposes any person

1 to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which
2 has a tendency to injure him in his occupation.”

3 131. Cal Civ. Code § 46 provides that: “Slander is a false and unprivileged publication,
4 orally uttered, and also communications by radio or any mechanical or other means which: (1)
5 Charges any person with crime, or with having been indicted, convicted, or punished for crime;
6 (2) Imputes in him the present existence of an infectious, contagious, or loathsome disease; (3)
7 Tends directly to injure him in respect to his office, profession, trade or business, either by
8 imputing to him general disqualification in those respects which the office or other occupation
9 peculiarly requires, or by imputing something with reference to his office, profession, trade, or
10 business that has a natural tendency to lessen its profits; (4) Imputes to him impotence or a want
11 of chastity; or (5) Which, by natural consequence, causes actual damage.”

12 132. To state a cause of action for defamation, a Plaintiff must show a false, unprivileged
13 statement was made to a third-party. (*Jensen v. Hewlett-Packard Co.* (1993) 14 Cal.App.4th 958,
14 970.) Defamation includes any language which, “upon its face, has a natural tendency to injure a
15 person's reputation, either generally, or with respect to his occupation...” (*Washer v. Bank of*
16 *America* (1943) 21 Cal.2d 822, 827; *Cameron v. Wernick* (1967) 251 Cal.App.2d 890, 893.) “A
17 written statement is defamatory on its face if the natural and probably effect on the average reader
18 is to defame the plaintiff without the necessity of considering the surrounding circumstances.” (*Id.*)
19 Defamation in the workplace can occur in false criticism of work performance or honesty by an
20 employer, a supervisor, or by plaintiff's fellow employees.

21 133. As described in Paragraphs 14 through 51 of this Complaint, Defendants, in person and
22 by and through their agents and supervisors, made false, unprivileged statements about Plaintiff in
23 the course and scope of their employment with Defendant CSU.

24 134. The statements that Defendants about Plaintiff to an accreditation agency (CIDA)
25 during an accreditation review were false and defamatory. CIDA subsequently published those
26 statements to a wide audience by including the statements in its published accreditation Report,
27 which was subsequently republished (on multiple occasions) by Defendants.

28 ///

1 135. Further, the allegations of wrongdoing asserted by Defendants against Plaintiff in the
2 February 5, 2018 suspension notice—and all subsequent suspension notices—were also false and
3 defamatory. The false accusations contained in these suspension notices were also published
4 disseminated to multiple parties as they were sent to and discussed with Plaintiff's students,
5 colleagues, and supervisors. Plaintiff is also informed and believes Defendant CSU disseminated
6 the false allegations contained in the suspension notice to Plaintiff's prospective employers,
7 preventing him from obtaining like or better employment during his "temporary" suspension.

8 136. The above referenced publications were outrageous, negligent, reckless, intentional,
9 and maliciously published and republished by Defendants, and each of them. Such false statements
10 regarding Plaintiff's honesty and professionalism, have "a natural tendency to injure a person's
11 reputation, either generally, or with respect to his occupation..." Thus, these statements were
12 defamatory *per se*.

13 137. Defendants, and each of them, conspired to, and in fact, did negligently, recklessly, and
14 intentionally cause excessive and unsolicited publication and/or republication of defamation, of
15 and concerning Plaintiff, to third persons, who had no need or desire to know. Those third persons
16 to whom Defendants published their defamation against Plaintiff are believed to include, but are
17 not limited to, members of the CIDA Accreditation Commission and Executive Board, members
18 of the University's faculty and staff, Plaintiff's colleagues and students, other agents,
19 administrators and employees of Defendants, and each of them, and members of the community,
20 all of whom are known to Defendants, but some of whom are unknown at this time to Plaintiff.

21 138. The Defendants' defamatory publications consisted of oral and written, knowingly
22 false and unprivileged communications, tending directly to injure Plaintiff, and Plaintiff's
23 personal, business, and professional reputation.

24 139. Plaintiff is informed, believes and fears that these false and defamatory *per se*
25 statements will continue to be published and republished by Defendants, and each of them, and
26 will be foreseeably republished by their recipients, all to the ongoing harm and injury to Plaintiff
27 business, professional, and personal reputations. Plaintiff also seeks redress in this action for all
28 past and foreseeable republications.

1 140. The defamatory meaning of all of the above-described false and defamatory statements,
2 and their reference to Plaintiff, were understood by these above-referenced third person recipients
3 and other members of the community who are known to Defendants, and each of them, but
4 unknown to Plaintiff at this time.

5 141. None of Defendants' defamatory statements against Plaintiff referenced above are true.

6 142. The above-mentioned defamatory statements were understood as assertions of fact, and
7 not as opinion. Plaintiff is informed and believes this defamation will continue to be negligently,
8 recklessly, and intentionally published and foreseeably republished by Defendants, and each of
9 them, and foreseeably republished by recipients of Defendants' statements, thereby causing
10 additional injury and damages for which Plaintiff seeks redress by this action.

11 143. Each of these false defamatory *per se* statements (as set forth above) were negligently,
12 recklessly, and intentionally published in a manner equaling malice and abuse of any alleged
13 conditional privilege (which Plaintiff denies existed), since the statements, and each of them, were
14 made with hatred, ill will, and an intent to vex, harass, annoy, and injure Plaintiff in order to justify
15 the illegal and cruel actions of Defendants, and each of them, to cause further damage to Plaintiff's
16 professional and personal reputation.

17 144. Each of these statements by Defendants, and each of them, were made with knowledge
18 that no investigation supported the unsubstantiated and obviously false statements. The Defendants
19 published these statements knowing them to be false and unsubstantiated by any reasonable
20 investigation. These acts of publication were known by Defendants, and each of them, to be
21 negligent to such a degree as to be reckless. In fact, not only did Defendants, and each of them,
22 have no reasonable basis to believe these statements, but they also had no belief in the truth of
23 these statements, and in fact knew the statements to be false. Defendants, and each of them,
24 excessively, negligently, and recklessly published these statements to individuals with no need to
25 know, and who made no inquiry, and who had a mere general or idle curiosity of this information.

26 145. The above complained-of statements by Defendants, and each of them, were made with
27 hatred and ill will towards Plaintiff and the design and intent to injure Plaintiff, Plaintiff's good
28 name, his reputation, employment, and employability. Defendants, and each of them, published

1 these statements, not with an intent to protect any interest intended to be protected by any privilege
2 but with negligence, recklessness, and/or an intent to injure Plaintiff and destroy his reputation.
3 Therefore, no privilege existed to protect any of the Defendants from liability for any of these
4 aforementioned statements.

5 146. As a proximate result of the publication and republication of these defamatory
6 statements by Defendants, and each of them, Plaintiff has suffered injury to his personal, business,
7 and professional reputation, and considerable personal and professional harm of a lasting nature
8 including, without limitation, physical and emotional injury, mental distress, anxiety, anguish,
9 shock, professional embarrassment and humiliation, and loss of reputation— all to Plaintiff's
10 damage in an amount according to proof.

11 147. As a direct, foreseeable, and proximate legal result of the Defendants' unlawful
12 actions, Plaintiff also suffered significant economic damages including, without limitation, lost
13 wages, salary, bonuses, and certain other losses including incidental and consequential losses.
14 Furthermore, Plaintiff has incurred, and will continue to incur, expenses, loss of deferred
15 compensation, loss of equity, benefits, earning capacity, work experience and opportunities for
16 employment and professional advancement, all to his all to Plaintiff's economic, emotional, and
17 general damage in an amount according to proof.

18 148. Defendants, and each of them, committed the acts alleged herein recklessly,
19 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, for
20 an improper and evil motive amounting to malice (as described above), and which abused and/or
21 prevented the existence of any conditional privilege, which in fact did not exist, and with a
22 reckless and conscious disregard of Plaintiff's rights. All actions of Defendants, and each of them,
23 their agents, and employees, herein alleged were known, ratified, and approved by the
24 Defendants, and each of them. Plaintiff thus is entitled to recover punitive and exemplary damages
25 from all punitively liable Defendants, and each of them, for these wanton, obnoxious, and
26 despicable acts in an amount according to proof at the time of trial.

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NINTH CAUSE OF ACTION
(Violation of the Equal Pay Act; Cal. Lab. Code §1197.5(b)(c))
(Against Defendant CSU and Does 1 through 50)

149. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth in this Complaint.

150. At all times herein mentioned, Cal. Lab. Code § 1197.5 was in full force and effect and were fully binding upon Defendants. Specifically, Cal. Lab. Code § 1197.5(b) provides that an “employer shall not pay any of its employees at wage rates less than the rates paid to employees of another race or ethnicity for substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions.”

151. Plaintiff was and is paid at a wage rate that is considerably less than the rate paid to other professors (of non-Middle Eastern descent) working for Defendant CSU although Plaintiff was performing substantially similar work as the other professors with regard to skill, effort, and responsibility.

152. There was no lawful and justifiable reason for the pay differential, which was neither based on, nor could not be justified by any of the factors enumerated in Cal. Lab. Code § 1197.5(b), namely: “(A) A seniority system. (B) A merit system. (C) A system that measures earnings by quantity or quality of production”, (D) A bona fide factor other than race or ethnicity, such as education, training, or experience.”

153. Plaintiff is entitled to recover the difference in wages between him and his peers, interest, and an equal amount as liquidated damages pursuant to Labor Code § 1197.5(c) in an amount according to proof at the time of trial.

154. Plaintiff is also entitled to attorney's fees and costs pursuant to Labor Code § 1197.5, in an amount according to proof at the time of trial.

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TENTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)
(Against All Defendants)

155. Plaintiff re-alleges and incorporates herein by reference each and every allegation set forth in this Complaint.

1 156. The conduct of Defendants, as set forth above in Paragraph 14 through 51, was
2 extreme and outrageous. Defendants' actions—including the harassment, discrimination,
3 retaliation, and invocation of an emergency University procedure to "temporarily" suspend
4 Plaintiff for nearly three years (so far) —were so extreme as to exceed all bounds of that usually
5 tolerated in civilized society. Defendants engaged in the conduct with the intention of causing
6 emotional distress.

7 157. As a result of Defendant's extreme and outrageous conduct over the course of several
8 years, Plaintiff suffered severe emotional distress, and irreparable harm to his economic, physical
9 and emotional well-being. Defendants methodically harassed, discriminated and retaliated against
10 Plaintiff, who could only watch as his professional and personal reputations were systematically
11 dismantled by Defendants' actions. Plaintiff's has been kept from his classroom, his students, and
12 his research for years. His prolonged "temporary" suspension stunted his professional growth,
13 and marred his sterling reputation in the academic community. The resulting psychological and
14 emotional toll was substantial and long-lasting. The effects of Defendants' actions continue to
15 this day.

16 158. As a legal and proximate result of the retaliation, Plaintiff has suffered and continues
17 to suffer considerable personal and professional harm of a lasting nature including, without
18 limitation, physical and emotional injury, mental distress, anxiety, anguish, shock, professional
19 embarrassment and humiliation, and loss of reputation— all to Plaintiff's economic, emotional,
20 and general damage in an amount according to proof.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

23 1. For all general and compensatory damages including, but not limited to, past lost
24 wages, future lost wages, lost benefits, lost earning capacity, lost prospective economic advantage,
25 emotional distress, mental anguish, anxiety, physical injury, loss of reputation, personal and
26 professional embarrassment and humiliation in an amount according to proof;

27 2. For damages for any and all other monetary and/or non-monetary losses suffered by
28 Plaintiff in an amount to be determined at trial, plus prejudgment interest;

1 3. For punitive and exemplary damages against the non-governmental, punitively liable
2 Defendants in an amount according to proof;

3 4. For an amount equal to the accumulated difference in wages between Plaintiff and his
4 peers, interest, an equal amount as liquidated damages, and attorney's fees and costs pursuant to
5 Cal. Lab. Code § 1197.5(c);

6 5. For civil penalties against Defendants in an amount according to proof;

7 6. For statutory attorneys' fees and costs pursuant to C.C.P. § 1021.5, Cal. Gov. Code §
8 8547 *et seq.*, Cal. Gov. Code § 12965(b), and any other provision of law allowing recovery of such
9 fees and costs;

10 7. For costs of suit incurred by Plaintiff herein;

11 8. For pre- and post-judgment interest at the maximum legal rate on all amounts claimed;

12 9. For declaratory and injunctive relief, including, but not limited to:

13 a. A declaratory judgment that the actions, conduct, and practices of Defendants
14 complained of herein were a violation of Plaintiff's rights and the laws of the State
15 of California;

16 b. Preliminary and permanent injunctions restraining Defendants from engaging in
17 such unlawful conduct;

18 c. Rescission of Plaintiff's wrongful suspension;

19 d. Permanent expungement of all traces of this unlawful suspension, and all other
20 defamatory documents and records from Plaintiff's Personnel Action File;

21 e. Preliminary and permanent injunctions enjoining Defendant CSU from violating
22 Cal. Gov. Code §§ 8547 *et seq.*, Cal. Gov. Code §§ 12900 *et seq.*, Cal. Lab. Code
23 § 1102.5 and Cal. Lab. Code 1197.5 *et seq.*;

24 10. For any and all further relief allowed to Plaintiff by law; and

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1 11. For such other and further relief as the Court may deem just and proper.

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3 DATED: October 16, 2020

HILLIER LAW

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6 By: 

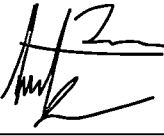
Andrew E. Hillier
Attorney for Plaintiff,
A. SAMEH EL KHARBAWY

1 **PLAINTIFF'S DEMAND FOR A JURY TRIAL**

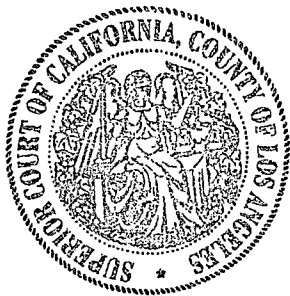
2 Plaintiff A. SAMEH EL KHARBAWY hereby demands a trial by jury for applicable
3 claims.

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5 DATED: October 16, 2020

HILLIER LAW

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8 By: _____

9 Andrew E. Hillier
10 Attorney for Plaintiff ,
11 A. SAMEH EL KHARBAWY
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THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED IS A FULL, TRUE, AND CORRECT COPY OF THE ORIGINAL ON FILE AND OF RECORD IN MY OFFICE.

JUL 26 2021

ATTEST: _____

SHERRI R. CARTER

Executive Officer/Clerk of the Superior Court of California, County of Los Angeles.

BY _____ DEPUTY