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9 DAVANNE MCCRADY

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT**

12 DAVANNE MCCRADY,

13 Plaintiff,

14 v.

15 ERNST & YOUNG; CBRE; DOES 1
16 through 20, inclusive; ROES 1 to 20,
17 inclusive,

18 Defendants.

CASE NO.: 23STCV31862

COMPLAINT FOR DAMAGES FOR:

- (1) Race/Gender Discrimination-
(Violation of
California Gov. Code §12941 et seq
- (2) Retaliation in Violation of FEHA
- (3) Retaliation in Violation of Labor
Code § 1102.5 et seq.
- (4) Harassment-Violation of Gov.
Code §12940(k) et seq.;
- (5) Failure to Take All Reasonable
Steps Necessary to Prevent
Discrimination from
Occurring (California
Government Code §12940(k))
- (6) Wrongful Termination/
Constructive Termination in
violation of Public Policy and
FEHA
- (7) Age Discrimination (Gov. Code
§12940)
- (8) Violation of Business &
Professions Code §17200 et seq.
- (9) Physical Disability Discrimination
(California Gov. Code §12940(a) et
seq.);
- (10) Failure To Make Reasonable
Accommodation For Physical
Disability (California Gov. Code §
12940(m));

[DEMAND FOR JURY TRIAL]

1 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 COMES NOW Plaintiff DAVANNE MCCRADY and alleges as follows:

3 1. At all relevant times Plaintiff DAVANNE MCCRADY (hereinafter referred to as
4 "Plaintiff") was and is an individual who is a resident of the State of California, living in the
5 City of Los Angeles, County of Los Angeles, in the State of California.

6 2. Plaintiff is informed and believes, and thereon alleges, that at all relevant
7 times defendants ERNST & YOUNG and CBRE were and are California corporations,
8 authorized to conduct business, and conducting business, in the State of California, with
9 principal places of business located in the City of Los Angeles, County of Los Angeles, in
10 the State of California.

11 3. Plaintiff is informed and believes, and thereon alleges, that at all times herein
12 mentioned defendants ERNST & YOUNG; CBRE; DOES 1 to 20, inclusive, and ROES 1 to
13 20, inclusive, and each of them, were the agents, representatives and/or employees of each
14 other and were acting within the purpose and scope of their agency. The acts and conduct
15 alleged herein of each such defendant were known to, authorized and ratified by each such
16 defendant.

17 4. Plaintiff alleges the following claims against Defendants inclusive for harassment,
18 discrimination, retaliation and wrongful termination. Furthermore, at all relevant times
19 Plaintiff was acting as a loyal and honest employee, who acting out of integrity and values,
20 "blew the whistle" on defendants' discrimination and harassment of employees, fraudulent
21 misconduct, fraud on consumers, safety violations and violations of California Labor law.
22 Defendants retaliated against Plaintiff based upon Plaintiff's lawful actions, and further
23 discriminated against Plaintiff based upon Plaintiff's race, gender, sex, age and medical
24 conditions.

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GENERAL ALLEGATIONS

5. The true names, identities, or capacities whether individual, corporate, associate, or otherwise, of defendants DOES 1 through 20, inclusive, are unknown to the Plaintiff, who therefore sues said defendants by such fictitious names. When the true names, identities or capacities of such fictitiously designated defendants are ascertained, Plaintiff will ask leave of this court to amend this Complaint and to insert said true names, identities, and capacities, together with the proper charging allegations.

6. Plaintiff is informed and believes and thereon alleges that each of the Defendants sued herein as a DOE is responsible in some manner and liable herein for negligent, wanton, reckless and tortious conduct, and by such wrongful conduct, proximately caused the Plaintiff's injuries and damages.

7. Plaintiff identifies as an African America female, aged 57.

8. Plaintiff began her employment with defendants in or about 1999. Plaintiff's job responsibilities included working as defendants' Executive Receptionist at their Los Angeles office.

9. As further alleged herein, between August, 2017 and January, 2022, Plaintiff's managers and supervisors, including but not limited to Bryan Curelle and Jamre Walls, in their capacity as supervisors and managing agents of defendants, routinely harassed, retaliated against and discriminated against Plaintiff based upon Plaintiff's race, gender, sex and age based characteristics, and based upon Plaintiff's age and physical disability.

10. In or about August, 2017 the Plaintiff sustained a work related injury, resulting in her suffering a stroke with residual medical complications, that required Plaintiff to take a medical leave of absence for one (1) month.

11. Plaintiff returned from an approved medical leave for the work related injury in or about September, 2017. Upon return to work, Plaintiff subsequently

1 requested reasonable work based accommodations for residual permanent medical
2 conditions related to the stroke.

3 12. Between September, 2017 and January, 2021, the defendants accommodated
4 Plaintiff's disability from medical conditions.

5 13. Commencing in or about January, 2021, Plaintiff's managers and direct
6 supervisors advised Plaintiff they would no longer make reasonable accommodations for
7 her medical disabilities, and began harassing and discriminating against Plaintiff based on
8 Plaintiff's age and physical disability. This included directly advising Plaintiff on
9 multiple occasions that she was "too old" and "too sick" to continue working in her
10 position.

11 14. As alleged herein, in between January, 2021 and January 3, 2022, Plaintiff's
12 managers and supervisors, including but not limited to Bryan Curelle and Jamre Walls, in
13 their capacity as managing agents of defendants, escalated the routine harassment and
14 discrimination against Plaintiff based upon Plaintiff's age and Plaintiff having a physical
15 disability related to a workplace injury that subsequently limited Plaintiff's major life
16 functions.

17 15. Between January, 2021 and January 3, 2022, Plaintiff's
18 managers and supervisors, including but not limited to Bryan Curelle and Jamre Walls, in
19 their capacity as managing agents of defendants further repeatedly made disparaging
20 comments to Plaintiff directed at her race. This included repeatedly advising Plaintiff that
21 her job duties should include "cleaning tasks" and that "she should be comfortable with
22 such work because she is African American" and also because she is female.

23 16. Commencing in or about January, 2021, the Plaintiff complained to
24 corporate agents and officers, including but not limited to corporate officers and
25 executives, concerning the unlawful harassment, retaliation and discrimination directed at
26 Plaintiff by defendants, by and through their managing agents and Plaintiff's supervisors.
27 Defendants intentionally ignored Plaintiff's complaints, and undertook no efforts to
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1 prevent further and continuing discrimination and harassment directed at Plaintiff in the
2 workplace.

3 17. Furthermore, between January, 2021 and January 3, 2022, Plaintiff's
4 managers and supervisors, including but not limited to Bryan Currelle and Jamre Walls, in
5 their capacity as managing agents of defendants, retaliated against Plaintiff for
6 complaining about the harassment and discrimination by demoting Plaintiff and forcing
7 Plaintiff to perform unsafe tasks outside of her job description, and in disregard for her
8 physical disabilities, solely to harm Plaintiff.

9 18. Ultimately, on January 3, 2022, defendants wrongfully terminated
10 Plaintiff's employment without cause or justification in retaliation for Plaintiff's
11 complaints about harassment, discrimination, and unlawful pay practices in the workplace.

12 19. At all relevant times herein, defendants were the employer of Plaintiff and
13 were listed as such on Plaintiff's W-2 forms and pay stubs pursuant to Government Code
14 §12968 and Labor Code §226.

15 20. Defendants DOES 1 through 10, were individuals or other entities that were the
16 agents, employees, members, volunteers, servants, partners, representatives, independent
17 contractors, joint venturers or other participants with or of Defendants and DOES 11 through
18 20, inclusive, and DOES 1 through 20, in doing the things hereinafter mentioned, were acting
19 within the course and scope of said agency, employment, membership or other relationship
20 with each of the other Defendants. At all times herein mentioned, Defendants DOES 11
21 through 20 were employees of Defendants and DOES 1 through 10, inclusive, who held
22 supervisory positions within the company (hereinafter referred to collectively as Defendants.)

23 21. At all times herein mentioned, defendants, whether or not specifically identified
24 or designated herein as a DOE, and each of them, were the agents, employees, servants,
25 partners, independent contractors, joint venturers and participants with all other defendants,
26 and with each other, and in doing the things hereinafter mentioned, were agents,
27 employees, servants, partners, joint venturers, and with the consent and permission of the
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1 co-defendants, and each of them. **Specifically, Plaintiff alleges that at all relevant**
2 **times the defendants ERNST & YOUNG, CBRE, DOES 1 to 20, inclusive, and ROES**
3 **1 to 20, inclusive, and each of them were acting in a JOINT VENTURE and were**
4 **engaged in the capacity of JOINT EMPLOYERS of Plaintiff. This included, but is**
5 **not limited to (1) JOINTLY exercising control over Plaintiff's wages, hours AND**
6 **working conditions, (2) suffering and permitting Plaintiff to work on their JOINT**
7 **behalf at all relevant times and (3) JOINTLY engaging Plaintiff in an employment**
8 **relationship. Defendants further JOINTLY participated in the hiring, direction,**
9 **supervision, relevant day-to-day aspects of workplace behavior relating to Plaintiff**
10 **and the discipline and wrongful discharge of Plaintiff.**

11 22. At all times herein, defendants, and still are, vicariously liable for the conduct
12 of its employees, supervisors and administrators and employees all of whom are employed
13 by defendants and each of them. Each defendant and employee, supervisor and administrator,
14 were the agents, servants, and employees of the remaining co-defendants, and was acting
15 within the scope and course of said agency and employment. Reference made in this
16 complaint to "defendants", shall be deemed to mean the acts of defendants acting
17 individually, jointly, and/or severally.

18 23. Defendants' managing agents, officers or directors approved, ratified and
19 authorized the conduct of its managers, administrators, supervisors, employees, and agents
20 leading up to Plaintiff's ultimate termination.

21 24. Plaintiff names said defendants herein, and each of them, because Plaintiff is
22 in doubt and does not know exactly from which of the said defendants Plaintiff is entitled to
23 redress in light of the fact that the injuries and damages to Plaintiff herein alleged were
24 caused by the combined conduct of defendants, or one or more of them. For that reason,
25 Plaintiff names all of the said defendants, and asks that the Court determine the liability of
26 each and all of the said defendants in this action and to what extent and what responsibility
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1 falls upon each of said defendants, and that the Court award judgment to Plaintiff as against
2 such or all defendants, either jointly or separately, as may be found liable.

3 25. There exists, and at all times herein mentioned there existed, a unity of interest
4 and ownership between the defendants such that any individuality and separateness between
5 defendants is a fiction as each is the alter ego of each other.

6 26. This action seeks all legal and equitable remedies for damages against
7 defendants, and each of them, for pursuing specific discriminatory policies and practices that
8 have damaged Plaintiff as set forth hereinafter.

9 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

10 27. As alleged herein, Plaintiff was wrongfully terminated by defendants on or
11 about January 3, 2022.

12 28. On or about January 2, 2023, Plaintiff filed a timely claim with the
13 Department of Fair Employment and Housing (hereinafter “DFEH”) properly naming
14 Defendants concerning the unfair employment practices complained of herein.

15 29. On or about January 2, 2023 DFEH notified Plaintiff by way of letter that
16 Plaintiff’s case against defendants was concluded, and that Plaintiff was entitled to file suit.
17 A copy of the Complaint and Right to Sue letters were timely served on defendants.

18 30. All conditions precedent to jurisdiction under California Labor Code § 2699 et
19 seq. and FEHA have occurred because Plaintiff has timely filed this pending action within
20 the statutory requirements for doing so under applicable state law.

21 **VENUE**

22 31. The court is the proper court because the hiring, termination and retaliation
23 suffered by Plaintiff occurred within this jurisdiction. The unlawful employment practices
24 and other acts alleged herein were committed within the County of Los Angeles, and the State
25 of California.

1 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

2 32. Plaintiff is an African American female who began working for Defendants in
3 or about 1999.

4 33. As further alleged herein, during Plaintiff's employment term, defendants
5 began engaging in unlawful and illegal misconduct, including but not limited to
6 discriminating against female employees, harassing female employees, discriminating
7 against African American employees, harassing African American employees,
8 discriminating against Plaintiff due to Plaintiff's race, gender, age and physical
9 disabilities, and defendants engaging in fraudulent concealment of wage and hour
10 violations; mis-classification of workers; failure and refusal to pay overtime wages to
11 employees and other discriminatory employment practices and misconduct.

12 34. Commencing in or about January, 2021, upon discovering the nature and
13 extent of defendants' intentional misconduct, Plaintiff began complaining to defendants
14 concerning their unlawful actions, and made repeated requests that defendants cease and
15 desist in such misconduct.

16 35. Defendants ignored Plaintiff's repeated requests that they cease and desist in
17 their unlawful misconduct.

18 36. Defendants further sought to enlist Plaintiff's aid in furthering their unlawful
19 misconduct. Plaintiff refused to assist defendants in their unlawful misconduct, and
20 following their refusal to cease and desist in their unlawful misconduct, Plaintiff duly
21 notified defendants that Plaintiff could no longer tolerate their violations. As a result,
22 Plaintiff advised defendants that Plaintiff would be required to file complaints with the
23 appropriate governmental agencies concerning defendants' misconduct, including but not
24 limited to, wage and hour violations, and other legal violations.

25 37. In addition to harassing Plaintiff based on Plaintiff's gender, sex, race,
26 ethnicity, age and physical disability, between January, 2021 and January 3, 2022,
27 defendants, and each of them, began intentionally harassing Plaintiff, taking adverse
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1 employment actions against Plaintiff, and otherwise abusing Plaintiff at the workplace in
2 retaliation for Plaintiff's refusal to participate in defendants' unlawful misconduct, and to
3 punish Plaintiff for Plaintiff's intent on reporting of defendants' misconduct to appropriate
4 government agencies.

5 38. During this same time period, defendants began regularly harassing
6 Plaintiff, and discriminating against Plaintiff due to Plaintiff's gender, sex, race,
7 ethnicity, age and physical disability. Plaintiff protested this harassment and
8 discriminatory mistreatment. Plaintiff is informed and believes, and thereupon alleges,
9 that Plaintiff's termination was in retaliation for Plaintiff's complaints about defendants'
10 engagement in unlawful misconduct. Plaintiff is further informed and believes that
11 Plaintiff's gender, sex, race, ethnicity, age and physical disability, were substantial
12 motivating factor in the wrongful termination by defendants.

13 39. On or about January 3, 2022 Plaintiff's employment was wrongfully
14 terminated by defendants as the ultimate retaliation by defendants against Plaintiff.

15 **FIRST CAUSE OF ACTION**

16 **RACE/GENDER DISCRIMINATION-(Violation of**

17 **California**

18 **Gov. Code §12941 et seq.)**

19 **(As Against All Defendants)**

20 40. Plaintiff incorporates herein by reference paragraphs 1 through 39,
21 inclusive, as if fully set forth herein and with the same force and effect.

22 41. Plaintiff identifies as an African American female, and defendants were
23 aware at all relevant times that Plaintiff identifies as an African American female.

24 42. Commencing in or about January, 2021 through January 3, 2022, Plaintiff
25 began being subjected to discrimination in the workplace by managers and direct
26 supervisors, including but not limited to Bryan Currelle and Jamre Walls, directed at her
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1 race and gender. Incidents of discriminatory misconduct directed at Plaintiff by managers
2 and direct supervisors, included but was not limited to:

- 3 A. Derogatory comments directed at Plaintiff related to Plaintiff's
4 characteristics as an African American female;
5 B. Calling Plaintiff an "incompetent woman" and other derogatory
6 comments based on Plaintiff's gender characteristics;
7 C. Repeatedly making obscene, lewd and derogatory comments about
8 the anatomy of female employees in the presence of Plaintiff and
9 other female employees, that were objectively offensive;
10 D. Advising Plaintiff that she should be comfortable with
11 cleaning/janitorial tasks because she is African American;

12 43. Plaintiff repeatedly complained to supervisors and corporate
13 representatives on multiple occasions regarding the offensive comments and
14 discriminatory mistreatment directed at Plaintiff and other female and African American
15 employees, and repeatedly requested that supervisors including Bryan Curelle and Jamre
16 Walls be made to cease and desist in their offensive and discriminatory behavior.
17 Defendants ignored all such requests by Plaintiff and permitted Bryan Curelle and Jamre
18 Walls to persist in harassing and discriminating against Plaintiff.

19 44. Plaintiff repeatedly advised defendants that Plaintiff found the
20 misconduct directed at her was offensive and discriminatory, and repeatedly requested that
21 defendants cease and desist in permitting the offensive and discriminatory behavior to
22 continue. Defendants ignored all such requests by Plaintiff and permitted the misconduct
23 to persist.

24 45. Plaintiff is informed and believes that Plaintiff was ultimately
25 wrongfully terminated on January 3, 2022, in part, due to discrimination by defendants
26 based upon Plaintiff's gender, race and/or race related characteristics.
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1 46. Plaintiff is informed and believes and based thereon alleges that at all times
2 mentioned in this Complaint the defendants, and each of them, regularly employed 5 or
3 more persons, bringing defendants within the provisions of the Government Code
4 Sections 12900 et. seq., which prohibits employers or their agents from various forms of
5 discrimination.

6 47. In performing the acts and omissions alleged hereinabove, the defendants,
7 and each of them, have violated public policy and the guarantees and provisions of law
8 embodied in California Government Code, §§12940, 12945 et seq.; California Labor Code
9 §233; California Constitution, Article I, §8; relevant provisions of the California Fair
10 Employment and Housing Act; and relevant provisions of the California Family Rights
11 Act in that defendants, and each of them, have discriminated against and harassed Plaintiff
12 on the basis of Plaintiff's gender, race and/or race related characteristics.

13 48. The actions of defendants in discriminating against Plaintiff based upon
14 Plaintiff's gender, race and/or race related characteristics were ratified and approved by
15 defendants at all times. Furthermore, Plaintiff was ultimately wrongfully and unlawfully
16 terminated based, in part, upon such complaints concerning defendants' misconduct. The
17 acts and omissions of the defendants, and each of them, in engaging in wrongful
18 termination of Plaintiff were not based upon any legitimate employment reason or
19 rationale.

20 49. In performing the acts and omissions alleged hereinabove, the defendants,
21 and each of them, have violated California public policy and the guarantees and
22 provisions of law embodied in California Government Code, §12940 et seq., and other
23 relevant law, in that defendants, and each of them, have discriminated against and
24 harassed Plaintiff on the basis of Plaintiff's age, **race**, **ethnicity**, **age**, national origin,
25 **gender**, sexual orientation and/or **physical disability**.

26 50. As a direct and proximate result of the unlawful and discriminatory actions
27 undertaken and performed by the defendants, and each of them, as set forth hereinabove,
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1 Plaintiff was caused to suffer, and continues to suffer severe emotional distress,
2 embarrassment, shame, emotional pain and suffering, equal work conditions, equal
3 employment privileges and/or job advancement, thereby causing Plaintiff to sustain
4 general damage in an amount as yet unascertained but subject to proof.

5 51. As a further direct and proximate result of the unlawful and discriminatory
6 actions undertaken and performed by the defendants, and each of them, as set forth
7 hereinabove, Plaintiff suffered loss of earnings and earning capacity, all in an amount as
8 yet unascertained but subject to proof.

9 52. As a further direct and proximate result of the unlawful and discriminatory
10 actions undertaken and performed by the defendants, and each of them, as set forth
11 hereinabove, Plaintiff has become emotionally distressed and physically ill, all to
12 Plaintiff's damage in an amount as yet unascertained but subject to proof.

13 53. As a further direct and proximate result of the unlawful and discriminatory
14 actions undertaken and performed by the defendants, and each of them, as set forth
15 hereinabove, Plaintiff has been denied interest on the principal amounts of earnings to
16 which Plaintiff is due.

17 54. As a further direct and proximate result of the unlawful and discriminatory
18 actions undertaken and performed by the defendants, and each of them, as set forth
19 hereinabove, Plaintiff has incurred and will incur reasonable attorney fees in prosecuting
20 this action. Plaintiff is entitled to recovery of all said attorney fees pursuant to Sections
21 12940 and 12965 of the California Government Code.

22 55. Plaintiff is informed and believes, and thereupon alleges, that defendants
23 acted against Plaintiff with intent to harm Plaintiff. Plaintiff is further informed and
24 believes, and thereupon alleges, that the misconduct of defendants was approved and
25 ratified by defendants and their corporate officers/managing agents. The unlawful and
26 discriminatory acts and omissions undertaken by the defendants, and each of them, as
27 alleged hereinabove, were done willfully, oppressively and maliciously and with the intent
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1 to injure and oppress Plaintiff and, by reason thereof, Plaintiff is entitled to punitive and
2 exemplary damages in an amount as yet unascertained but sufficient to punish and make
3 an example of defendants, and each of them.

4 **SECOND CAUSE OF ACTION**

5 **(RETALIATION IN VIOLATION OF FEHA-GOVERNMENT CODE §12940(h) et**
6 **seq.)**

7 (Alleged Against All Defendants)
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9 56. Plaintiff restates and incorporates by reference each and every allegation
10 contained in Paragraphs 1 through 55, inclusive, as though fully set forth herein.

11 57. Between January, 2021 and January 3, 2022, Plaintiff repeatedly complained to
12 defendants about the following unlawful harassment, discrimination and retaliatory
13 misconduct herself and other similarly situated employees were being subjected to in the
14 workplace.

15 58. On or about January 3, 2022 defendants unlawfully terminated
16 Plaintiff in retaliation for Plaintiff's complaints about this harassment, discrimination and
17 unlawful misconduct by defendants, and in retaliation for Plaintiff testifying in a Court
18 proceeding as to her witnessing and experiencing such abusive misconduct as an
19 employee of defendants.

20 59. Plaintiff is informed and believes, and thereupon alleges, that Plaintiff's
21 complaints concerning the harassment, discrimination and unlawful misconduct by
22 defendants was a substantial motivating reason for defendants' wrongful termination of
23 Plaintiff's employment.

24 60. The misconduct by defendants in wrongfully terminating Plaintiff in
25 retaliation for Plaintiff's complaints concerning the harassment, discrimination and
26 unlawful misconduct by defendants is a direct violation by defendants of Government
27 Code §12940(h). Government Code §12940(h) expressly provides that it is unlawful to
28 retaliate against a person

1 because the person has opposed any practices forbidden under Government
2 Code §§12900 through 12966 or because the person has
3 filed a complaint, testified, or assisted in any proceeding under [the
4 FEHA].”
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6 It is also unlawful to retaliate or otherwise discriminate against a person for requesting an
7 accommodation for disability, regardless of whether the request was granted pursuant to
8 Government Code §12940(m)(2).
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10 61. Plaintiff was directly harmed by the unlawful retaliation defendants’
11 violation of the Government Code, including but not limited to Government Code
12 §12940(h) as alleged herein, and defendants’ retaliatory misconduct was a substantial
13 factor in causing the herein alleged harm to Plaintiff.

14 62. As a direct and proximate result of the unlawful and discriminatory
15 actions undertaken and performed by the defendants, and each of them, as set forth
16 hereinabove, Plaintiff was caused to suffer, and continues to suffer severe emotional
17 distress, embarrassment, shame, emotional pain and suffering, equal work conditions,
18 equal employment privileges and/or job advancement, thereby causing Plaintiff to sustain
19 general damage in an amount as yet unascertained but subject to proof.

20 63. As a further direct and proximate result of the unlawful and
21 discriminatory actions undertaken and performed by the defendants, and each of them, as
22 set forth hereinabove, Plaintiff suffered loss of earnings and earning capacity, all in an
23 amount as yet unascertained but subject to proof.

24 64. As a further direct and proximate result of the unlawful and
25 discriminatory actions undertaken and performed by the defendants, and each of them, as
26 set forth hereinabove, Plaintiff has become emotionally distressed and physically ill, all to
27 Plaintiff’s damage in an amount as yet unascertained but subject to proof.
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- 1 (b) An employer, or any person acting on behalf of the employer,
2 shall not retaliate against an employee for disclosing information,
3 or because the employer believes that the employee disclosed or
4 may disclose information, to a government or law enforcement
5 agency, to a person with authority over the employee or another
6 employee who has the authority to investigate, discover, or correct the
7 violation or noncompliance, or for providing information to, or
8 testifying before, any public body conducting an investigation, hearing,
9 or inquiry, if the employee has reasonable cause to believe that the
10 information discloses a violation of state or federal statute, or a violation
11 of or noncompliance with a local, state, or federal rule or regulation,
12 regardless of whether disclosing the information is part of the
13 employee's job duties.
- 14 (c) An employer, or any person acting on behalf of the employer, shall
15 not retaliate against an employee for refusing to participate in an
16 activity that would result in a violation of state or federal statute, or a
17 violation of or noncompliance with a local, state, or federal rule or
18 regulation.
- 19 (d) An employer, or any person acting on behalf of the employer, shall
20 not retaliate against an employee for having exercised his or her
21 rights under subdivision (a), (b), or (c) in any former employment.
- 22 (e) A report made by an employee of a government agency to his or her
23 employer is a disclosure of information to a government or law
24 enforcement agency pursuant to subdivisions (a) and (b).
- 25 (f) In addition to other penalties, an employer that is a corporation or
26 limited liability company is liable for a civil penalty not exceeding
27 ten thousand dollars (\$10,000) for each violation of this section.
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70. Plaintiff specifically alleges that Plaintiff was terminated by Defendants because Plaintiff refused to participate in unlawful misconduct related to defendants' discriminatory practices, and in retaliation for Plaintiff complaining about detailed experiences of harassment, discrimination and other abuse she experienced and witnessed as an employee of defendants.

71. Plaintiff is informed and believes, and thereupon alleges, that because Plaintiff disclosed information to defendants that Plaintiff had reasonable cause to believe

1 defendants were engaging in unlawful misconduct that constituted a violation of State or
2 Federal law and that defendants were required to report to a governmental agency, that
3 Plaintiff did report such misconduct by defendants to governmental agencies and/or that
4 defendants feared Plaintiff would report to a governmental agency, and/or because
5 Plaintiff refused to participate in activities that would result in a violation of State or
6 Federal law. In so doing, Defendants violated Labor Code Section 1102.5 and California
7 Government Code §12940(h) by retaliating against Plaintiff.

8 72. As a direct and foreseeable result of the aforesaid acts of said defendants,
9 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at
10 the time of trial. Plaintiff claims such amount as damages together with pre-judgment interest
11 pursuant to Civil Code §3287 and/or any other provision of law providing for pre-judgment
12 interest.

13 73. As a result of the aforesaid acts of defendants, Plaintiff claims damages for
14 emotional distress, general anxiety, grief, shame, humiliation, embarrassment, anger,
15 disappointment and worry, all to Plaintiff's general damage, at a minimum, in excess of the
16 maximum jurisdiction of the municipal court.

17 74. As a further direct and proximate result of the wrongful conduct of defendants,
18 Plaintiff has suffered general damages, losses in earnings, bonuses, deferred compensation,
19 employment benefits, earning capacity, opportunities for advancement, work experience, and
20 out-of-pocket expenses and consequential damages, with all of Plaintiff's damages in excess
21 of the minimum subject matter jurisdiction of this Court and according to proof.

22 75. The acts of defendants and each of them were performed with the knowledge
23 and threat of an employer's economic power over its employee. The above described acts of
24 defendants, by and through their managing agents, officers or directors, were engaged in with
25 a deliberate, cold, callous, fraudulent and intentional manner in order to injure and damage
26 Plaintiff and/or with a conscious disregard of Plaintiff and Plaintiff's rights. The acts and
27 omissions to act by Plaintiff's supervisors, were approved, tolerated, ratified and condoned
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1 by defendants. Such acts were despicable, and constitute malice, fraud and/or oppression within
2 the meaning of Civil Code §3294. Plaintiff requests an assessment of punitive damages
3 against defendants, in an amount to be proven at time of trial.

4 76. Plaintiff is entitled to recover statutory penalties under Labor Code §1102.5.
5 Plaintiff will also seek and is entitled to recover attorney's fees in connection with this cause
6 of action under the private attorney general doctrine (Civil Code §1021.5) as well as
7 Government Code § 12965(b).

8 **FOURTH CAUSE OF ACTION**

9 **(Harassment in Violation of California Government Code § 12940(k) et seq.)**

10 (Alleged By Plaintiff As Against All Defendants)

11 77. The allegations set forth in Paragraphs 1 through 76 are re-alleged and
12 incorporated herein by reference.

13 78. Plaintiff is racially identified as an African American female, and
14 defendants were aware at all relevant times that Plaintiff racially identifies as an African
15 American female. As a female employee, Plaintiff was entitled to protection from sexual
16 harassment, racial harassment and discrimination in the workplace at all relevant times.

17 79. Plaintiff is currently age 57, and at all relevant times alleged herein, Plaintiff
18 was entitled to protections against harassment and discrimination based upon Plaintiff's
19 age.

20 80. Between August, 2017 through January 3, 2022, Plaintiff had a work related
21 injury that created a disability that interfered with major life functions. Plaintiff was able
22 to perform Plaintiff's job duties with reasonable accommodation at all relevant times, and
23 was entitled to protection from harassment and discrimination in the workplace related to
24 any residual disability.

25 81. As alleged herein, between January, 2021 and January 3, 2022, the
26 Plaintiff was subjected to repeated, offensive and pervasive sexual harassment and
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1 harassment, from managers and supervisors employed by defendants, based upon her
2 gender and racial identity.

3 82. Furthermore, as alleged herein, between January, 2021 and January 3, 2022,
4 the Plaintiff was further subjected to repeated and offensive harassment, from managers
5 and supervisors employed by defendants, based upon her age and physical disabilities.

6 83. Plaintiff repeatedly complained to defendants' corporate officers and
7 managing agents about the pervasive harassment, and requested that the misconduct cease
8 and desist. Defendants ignored all of Plaintiff's complaints and permitted the misconduct
9 to persist in spite of Plaintiff's repeated complaints.

10 84. Plaintiff is informed and believes that Plaintiff was ultimately
11 wrongfully terminated on January 3, 2022, in part, due to discrimination by defendants
12 based upon Plaintiff's sex, gender, race and/or race related characteristics, age and
13 physical disability, and for complaining about discrimination and harassment in the
14 workplace.

15 85. Plaintiff is informed and believes and based thereon alleges that at all times
16 mentioned in this Complaint the defendants, and each of them, regularly employed 5 or
17 more persons, bringing defendants within the provisions of the Government Code
18 Sections 12900 et. seq., which prohibits employers or their agents from various forms of
19 discrimination.

20 86. In performing the acts and omissions alleged hereinabove, the defendants,
21 and each of them, have violated public policy and the guarantees and provisions of law
22 embodied in California Government Code, §§12940, 12945 et seq.; California Labor Code
23 §233; California Constitution, Article I, §8; relevant provisions of the California Fair
24 Employment and Housing Act; and relevant provisions of the California Family Rights
25 Act in that defendants, and each of them, have discriminated against and harassed Plaintiff
26 on the basis of Plaintiff's ethnicity, race and/or race related characteristics.

1 87. The actions of defendants in discriminating against Plaintiff based upon
2 Plaintiff's ethnicity, race and/or race related characteristics were ratified and approved by
3 defendants at all times. Furthermore, Plaintiff was ultimately wrongfully and unlawfully
4 terminated based, in part, upon such complaints concerning defendants' misconduct. The
5 acts and omissions of the defendants, and each of them, in engaging in harassment and
6 wrongful termination of Plaintiff were not based upon any legitimate employment reason
7 or rationale.

8 88. In performing the acts and omissions alleged hereinabove, the defendants,
9 and each of them, have violated California public policy and the guarantees and
10 provisions of law embodied in California Government Code, §12940 et seq., and other
11 relevant law, in that defendants, and each of them, have discriminated against and
12 harassed Plaintiff on the basis of Plaintiff's, **race, ethnicity, age**, national origin, **gender**,
13 sexual orientation and/or **physical disability**.

14 89. As a direct and proximate result of the unlawful and discriminatory actions
15 undertaken and performed by the defendants, and each of them, as set forth hereinabove,
16 Plaintiff was caused to suffer, and continues to suffer severe emotional distress,
17 embarrassment, shame, emotional pain and suffering, equal work conditions, equal
18 employment privileges and/or job advancement, thereby causing Plaintiff to sustain
19 general damage in an amount as yet unascertained but subject to proof.

20 90. As a further direct and proximate result of the unlawful and discriminatory
21 actions undertaken and performed by the defendants, and each of them, as set forth
22 hereinabove, Plaintiff suffered loss of earnings and earning capacity, all in an amount as
23 yet unascertained but subject to proof.

24 91. As a further direct and proximate result of the unlawful and discriminatory
25 actions undertaken and performed by the defendants, and each of them, as set forth
26 hereinabove, Plaintiff has become emotionally distressed and physically ill, all to
27 Plaintiff's damage in an amount as yet unascertained but subject to proof.

1 to take all reasonable steps necessary to prevent discrimination and harassment from
2 occurring.

3 97. At all relevant times defendants failed to take all reasonable steps necessary
4 to prevent discrimination and harassment from occurring. As a result, defendants have
5 violated its policies and practices, and committed unlawful discriminatory acts including
6 but not limited to the following:

- 7 (a) A pattern, policy and practice of disability, racial, age, ethnic, age, disability
8 and gender discrimination.
- 9
- 10 (b) A policy, practice and procedure of unfair and discriminatory selection,
11 transfer and reassignment for persons based upon their disability, age, race,
12 ethnicity, national origin and/or gender.
- 13 (c) The total ineffectiveness, insensitivity, bias, futility, unreasonableness of
14 defendants' human resources department and their management,
15 administrators, directors, officers and staff, as well as the quality of any
16 meaningful, internal complaint or grievance procedures or reviews.
- 17 (d) Defendants' outright failure to take all reasonable steps necessary to
18 prevent discrimination from occurring and to take measures that were
19 reasonably calculated to end the discrimination against Plaintiff.
- 20 (e) Defendants' failure to adequately train, discipline or monitor its
21 managers, employees or agents after it had knowledge and notice of their
22 discriminatory conduct toward Plaintiff;
- 23 (f) Such other further unlawful misconduct as may not presently be known, but
24 subject to discovery.

25 98. By the use of such policies, practices and tactics against Plaintiff, defendants
26 and each of them, have violated the intent and goal of such equal employment
27 opportunities program to eliminate discrimination and harassment against employees.
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2 Plaintiff was further deprived of Plaintiff's employment and any promotional
3 opportunities to advance within defendants' organization.

4 99. Within the time provided by law, Plaintiff has filed Plaintiff's Complaints
5 with the DFEH in full compliance with the administrative requirements and received a
6 Right-to-Sue letter relating to defendants' unlawful and discriminatory misconduct.

7 97. As a proximate result of defendants' willful, knowing and intentional failure
8 to prevent discrimination and harassment Plaintiff has sustained and continues to sustain
9 substantial losses in earnings and other employment benefits.

10 98. As a proximate result of defendants' willful, knowing, and intentional
11 harassment, Plaintiff has suffered and continues to suffer general damages in a sum
12 according to proof.

13 99. Plaintiff will also seek and is entitled to recover attorney's fees in
14 connection with this cause of action under the private attorney general doctrine (Civil
15 Code § 1021.5) as well as Government Code § 12965(b).

16 100. The acts of defendants and each of them were performed with the
17 knowledge and threat of an employer's economic power over its employee. The above
18 described acts of defendants, by and through their managing agents, officers or directors,
19 were engaged in with a deliberate, cold, callous, fraudulent and intentional manner in
20 order to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff and
21 Plaintiff's rights. The acts and omissions to act by Plaintiff's supervisors, were approved,
22 tolerated, ratified and condoned by defendants. Such acts were despicable, and constitute
23 malice, fraud and/or oppression within the meaning of Civil Code §3294. Plaintiff
24 requests an assessment of punitive damages against defendants, in an amount to be proven
25 at time of trial.
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SIXTH CAUSE OF ACTION
(WRONGFUL TERMINATION IN VIOLATION OF FEHA AND PUBLIC POLICY)

(Alleged Against All Defendants)

101. Plaintiff restates and incorporates by reference each and every allegation contained in Paragraphs 1 through 100, inclusive, as though fully set forth herein.

102. Plaintiff is informed and believes, and thereupon alleges, Plaintiff's sex, gender, race, age, and physical disability were used by defendants as a substantial factor in wrongfully terminating Plaintiff's employment on January 3, 2022.

103. Plaintiff is further informed and believes, and thereupon alleges that Plaintiff's complaints about harassment, discrimination and unlawful misconduct by defendants were further substantial factors in the decision by defendants to wrongfully terminate his employment on January 3, 2022.

104. Plaintiff's employment was terminated in violation of fundamental public policies of the State of California, including, without limitation, the right to be free from harassment and discrimination in the workplace, the right to oppose, complain about or object to fraud, efforts to cheat and deprive the public, efforts to defraud the State of California; efforts to defraud the United States government, unsafe and dangerous activities that threatened to cause harm and did cause harm to the public, activities designed to cause physical and financial harm to defendants' employees, as well as the right to object to and oppose retaliation for having reported, objected to and/or opposed defendants' misconduct. These fundamental public policies inure to the benefit of the public, and not just the private interests of the employer and employee.

105. The above acts by defendants, and each of them, were wrongful and in violation of the fundamental principles of the public policy of the State of California as reflected in its laws, objectives and policies. Said laws, which establish these fundamental public policies

1 include, without limitation: Government Code §12940 et seq.; Labor Code sections 201, 203,
2 204, 206.5, 218.5, 218.6, 226, 227.3, 510, 1102.5 and 6310; Business and Professions Code
3 §2220 and related provisions of the Business and Professions Code concerning operation of
4 a medical facility by a licensed medical provider.

5 106. Plaintiff was terminated by defendants in retaliation for complaints about their
6 discrimination and harassment, and for reporting to them what Plaintiff reasonably believed
7 in good faith and suspected was illegal conduct that harmed the public as well as defendants's
8 employees. Plaintiff was terminated shortly after Plaintiff reported to higher management
9 Plaintiff's complaints concerning defendants' illegal activity and misconduct, and shortly
10 after Plaintiff refused to participate in or facilitate such unlawful misconduct by defendants.

11 107. In violating California's Labor Code's prohibitions against terminating and
12 discriminating against an employee based upon that employee's age, race, ethnicity, physical
13 disability or complaints by Plaintiff to Plaintiff's employer concerning the employer's illegal
14 business practices, defendants' termination of Plaintiff was in violation of fundamental public
15 policies for the benefit of the public. Specifically, the public policy behind those statutes was
16 the prevention of retaliation against and termination of an employee who has complained to
17 Plaintiff's employer about its illegal business practices.

18 108. Plaintiff's complaints to defendants concerning its illegal business practices,
19 and Plaintiff's refusal to participate in defendants' illegal schemes was a substantial
20 motivating and substantial factor in defendants' retaliation against Plaintiff and termination
21 of Plaintiff's employment.

22 109. Plaintiff further alleges that Plaintiff's sex, gender, race and/or racial
23 characteristics, ethnicity, age, and/or physical disability was a substantial motivating and
24 substantial factor in defendants' retaliation against Plaintiff and wrongful termination of
25 Plaintiff's employment.

26 110. As a direct and proximate result of the unlawful and discriminatory actions
27 undertaken and performed by the defendants, and each of them, as set forth hereinabove,
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1 Plaintiff was caused to suffer, and continues to suffer severe emotional distress,
2 embarrassment, shame, emotional pain and suffering, equal work conditions, equal
3 employment privileges and/or job advancement, thereby causing Plaintiff to sustain general
4 damage in an amount as yet unascertained but subject to proof.

5 111. As a further direct and proximate result of the unlawful and discriminatory
6 actions undertaken and performed by the defendants, and each of them, as set forth
7 hereinabove, Plaintiff suffered loss of earnings and earning capacity, all in an amount as yet
8 unascertained but subject to proof.

9 112. As a further direct and proximate result of the unlawful and discriminatory
10 actions undertaken and performed by the defendants, and each of them, as set forth
11 hereinabove, Plaintiff has become emotionally distressed and physically ill, all to Plaintiff's
12 damage in an amount as yet unascertained but subject to proof.

13 113. As a further direct and proximate result of the unlawful and discriminatory
14 actions undertaken and performed by the defendants, and each of them, as set forth
15 hereinabove, Plaintiff has been denied interest on the principal amounts of earnings to which
16 Plaintiff is due.

17 114. As a further direct and proximate result of the unlawful and discriminatory
18 actions undertaken and performed by the defendants, and each of them, as set forth
19 hereinabove, Plaintiff has incurred and will incur reasonable attorney fees in prosecuting this
20 action. Plaintiff is entitled to recovery of all said attorney fees pursuant to Sections 12940
21 and 12965 of the California Government Code.

22 115. Plaintiff is informed and believes, and thereupon alleges, that defendants acted
23 against Plaintiff with intent to harm Plaintiff. Plaintiff is further informed and believes, and
24 thereupon alleges, that the misconduct of defendants was approved and ratified by defendant
25 and their corporate officers/managing agents. The unlawful and discriminatory acts and
26 omissions undertaken by the defendants, and each of them, as alleged hereinabove, were done
27 willfully, oppressively and maliciously and with the intent to injure and oppress Plaintiff and,
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1 by reason thereof, Plaintiff is entitled to punitive and exemplary damages in an amount as yet
2 unascertained but sufficient to punish and make an example of defendants, and each of them.

3 **SEVENTH CAUSE OF ACTION**

4 **(AGE DISCRIMINATION)**

5 (Alleged Against All Defendants)

6 116. Plaintiff restates and incorporates by reference each and every allegation
7 contained in Paragraphs 1 through 115, inclusive, as though fully set forth herein.

8 117. Plaintiff is currently age 57. At time of termination by defendants, Plaintiff
9 was age 55. Plaintiff is informed and believes that Plaintiff was wrongfully terminated, in
10 part, due to discrimination by defendants based upon Plaintiff's age, and that Plaintiff's
11 age was unlawfully used as an unlawful substantial motivating factor in the defendants'
12 wrongful termination of Plaintiff on January 3, 2022.

13 118. Plaintiff is informed and believes and based thereon alleges that at all
14 times mentioned in this Complaint the defendants, and each of them, regularly employed 5
15 or more persons, bringing defendants within the provisions of the Government Code
16 Sections 12900 et. seq., which prohibits employers or their agents from various forms of
17 discrimination.

18 119. In performing the acts and omissions alleged hereinabove, the defendants,
19 and each of them, have violated public policy and the guarantees and provisions of law
20 embodied in California Government Code, §§12940, 12945 et seq.; California Labor Code
21 §233; California Constitution, Article I, §8; relevant provisions of the California Fair
22 Employment and Housing Act; and relevant provisions of the California Family Rights
23 Act in that defendants, and each of them, have discriminated against and harassed Plaintiff
24 on the basis of Plaintiff's ethnicity, race and/or race related characteristics.

25 120. The actions of defendants in discriminating against Plaintiff based upon
26 Plaintiff's age and/or age related characteristics were ratified and approved by defendants
27 at all times. Furthermore, Plaintiff was ultimately wrongfully and unlawfully terminated
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1 based, in part, upon such complaints concerning defendants' misconduct. The acts and
2 omissions of the defendants, and each of them, in engaging in wrongful termination of
3 Plaintiff were not based upon any legitimate employment reason or rationale.

4 121. In performing the acts and omissions alleged hereinabove, the defendants,
5 and each of them, have violated California public policy and the guarantees and
6 provisions of law embodied in California Government Code, §12940 et seq., and other
7 relevant law, in that defendants, and each of them, have discriminated against and
8 harassed Plaintiff on
9 the basis of Plaintiff's **race**, **ethnicity**, **age**, national origin, **gender**, sexual orientation
10 and/or **physical disability**.

11 122. As a direct and proximate result of the unlawful and discriminatory actions
12 undertaken and performed by the defendants, and each of them, as set forth hereinabove,
13 Plaintiff was caused to suffer, and continues to suffer severe emotional distress,
14 embarrassment, shame, emotional pain and suffering, equal work conditions, equal
15 employment privileges and/or job advancement, thereby causing Plaintiff to sustain
16 general damage in an amount as yet unascertained but subject to proof.

17 123. As a further direct and proximate result of the unlawful and discriminatory
18 actions undertaken and performed by the defendants, and each of them, as set forth
19 hereinabove, Plaintiff suffered loss of earnings and earning capacity, all in an amount as
20 yet unascertained but subject to proof.

21 124. As a further direct and proximate result of the unlawful and discriminatory
22 actions undertaken and performed by the defendants, and each of them, as set forth
23 hereinabove, Plaintiff has become emotionally distressed and physically ill, all to
24 Plaintiff's damage in an amount as yet unascertained but subject to proof.

25 125. As a further direct and proximate result of the unlawful and discriminatory
26 actions undertaken and performed by the defendants, and each of them, as set forth
27 hereinabove, Plaintiff has been denied interest on the principal amounts of earnings to
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1 which Plaintiff is due.

2 126. As a further direct and proximate result of the unlawful and discriminatory
3 actions undertaken and performed by the defendants, and each of them, as set forth
4 hereinabove, Plaintiff has incurred and will incur reasonable attorney fees in prosecuting
5 this action. Plaintiff is entitled to recovery of all said attorney fees pursuant to Sections
6 12940 and 12965 of the California Government Code.

7 127. Plaintiff is informed and believes, and thereupon alleges, that defendants
8 acted against Plaintiff with intent to harm Plaintiff. Plaintiff is further informed and
9 believes, and thereupon alleges, that the misconduct of defendants was approved and
10 ratified by defendants and their corporate officers/managing agents. The unlawful and
11 discriminatory acts and omissions undertaken by the defendants, and each of them, as
12 alleged hereinabove, were done willfully, oppressively and maliciously and with the intent
13 to injure and oppress Plaintiff and, by reason thereof, Plaintiff is entitled to punitive and
14 exemplary damages in an amount as yet unascertained but sufficient to punish and make
15 an example of defendants, and each of them.

16 **EIGHTH CAUSE OF ACTION**

17 **(UNLAWFUL BUSINESS PRACTICES PROHIBITED BY BUSINESS &**
18 **PROFESSIONS CODE §17200)**

19 (Alleged Against All Defendants)

20 128. Plaintiff restates and incorporates by reference each and every allegation
21 contained in Paragraphs 1 through 127, inclusive, as though fully set forth herein.

22 129. Defendants' violations of the law, consumer fraud, and violations of the Labor
23 Code, including wage statute and orders, outlined in the preceding causes of action, were
24 unfair and/or unlawful and/or fraudulent and thus constitute unlawful business practices
25 prohibited by Business & Professional Code §§17200 et seq. By means of these practices,
26 defendants gained an unfair competitive advantage with respect to other competing
27 companies in California which adhered to lawful norms of business conduct.
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1 130. An employer which practices shady practices has an unfair competitive
2 advantage over employers who comply with the laws. Further, the UCL's remedies are
3 cumulative to other remedies available to Plaintiff. (Bus. & Prof. Code, §17205.) Therefore,
4 injunctive relief under the UCL is an appropriate remedy where a business has engaged in an
5 unlawful practice of firing employees who tried to follow ethical rules of conduct.

6 131. The victims of these unfair, fraudulent and/or illegal business practices, include,
7 but are not limited to Plaintiff and other employees, consumers in the State of California,
8 competing companies in the State of California, and the general public. Plaintiff is informed
9 and believes and thereon alleges that defendants, and each of them, performed the above-
10 mentioned acts with the intent of gaining an unfair competitive advantage and thereby
11 injuring Plaintiff directly, employees, other competitors, and the general public.

12 132. The acts constitute continuing and ongoing unlawful activities prohibited by
13 Business and Professions Code sections 17000 et.seq. and 17200 et.seq., and justify the
14 issuance of an injunction, and all remedies and injunction pursuant to Business and
15 Professions Code Section 17205.

16 133. Pursuant to section 17203, Plaintiff is entitled to issuance of an order enjoining
17 defendants from this prohibited conduct. Moreover, under the same section, Plaintiff is
18 entitled to an order of restitution, commanding Defendants to disgorge to Plaintiff all money
19 and property acquired by means of these practices.

20 **NINTH CAUSE OF ACTION FOR PHYSICAL DISABILITY**
21 **DISCRIMINATION**

22 **(California Government Code § 12940(a) et seq.)**

23 134. Plaintiff restates and incorporates by reference each and every allegation
24 contained in Paragraphs 1 through 133, inclusive, as though fully set forth herein.

25 135. Defendants are persons, entities and/or employers governed by Government
26 Code § 12940(a) et seq.

1 136. In or about August, 2017, while Plaintiff was in course and scope of
2 employment with defendants and each of them, Plaintiff sustained work related injuries to
3 that required Plaintiff to be off work until September, 2017.

4 137. Upon return to work in September, 2017 the Plaintiff advised defendants that
5 she could perform Plaintiff's routine and customary duties with minimal or no
6 accommodations. Plaintiff did request that defendants limit requirements for heavy
7 lifting, bending or stooping, which were NOT part of Plaintiff's regular job duties, due to
8 residual medical issues.

9 138. Upon returning from medical leave in September, 2017, at all times relevant
10 herein, Plaintiff was a qualified individual with a physical disability or medical condition
11 that limited her activities of daily living.

12 139. At all times herein, Plaintiff had a "physical disability" which includes, but
13 is not limited to, all of the following: (1) Having any physiological disease, disorder,
14 condition, ...or anatomical loss that does both of the following:

15 (A) Affects one or more of the following body systems: neurological,
16 immunological, [or] respiratory [and]

17 (B) Limits a major life activity, including physical, mental and social
18 activities and working.

19 140. Despite this disability or medical condition, Plaintiff was, and is, able to
20 perform the essential functions of Plaintiff's job with reasonable accommodations.

21 141. Defendants, and each of them, knew of Plaintiff's disabilities and knew or
22 should have known that they fell within the definition of disability under Government
23 Code § 12926. Defendants further knew or should have known, and do know and are
24 aware, that despite this disability, Plaintiff could and can perform the essential functions
25 of Plaintiff's job with reasonable accommodations.

26 142. Despite their knowledge of the foregoing, defendants took adverse actions
27 against Plaintiff, including failing to accommodate Plaintiff's disability and/or medical
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1 condition. It was unlawful for defendants, because of Plaintiff's disabilities, to
2 discriminate against Plaintiff in the terms, conditions, or privileges of employment.
3 Plaintiff was treated differently by defendants than other employees without a disability.

4 143. Defendants have violated their policies and practices, and committed
5 unlawful discriminatory acts including but not limited to the following:

- 6 (a) A pattern, policy and practice of disability discrimination.
7 (b) A policy, practice and procedure of unfair and discriminatory
8 selection, transfer and reassignment for persons with disabilities.
9 (c) The total ineffectiveness, insensitivity, bias, futility,
10 unreasonableness of defendants' human resources department and
11 their management, administrators, directors, officers and staff, as
12 well as the quality of any meaningful, internal complaint or grievance
13 procedures or reviews.
14 (d) Defendants' failure to take all reasonable steps necessary to prevent
15 discrimination from occurring and to take measures that were
16 reasonably calculated to end the discrimination against Plaintiff.
17 (e) Defendants' failure to adequately train, discipline or monitor its
18 managers, employees or agents after it had knowledge and notice of
19 their discriminatory conduct toward Plaintiff.

20 144. By the use of such policies, practices and tactics against Plaintiff, defendants
21 and each of them, have violated the intent and goal of such equal employment
22 opportunities program to eliminate discrimination against disabled employees. Plaintiff
23 was deprived of Plaintiff's employment and any promotional opportunities to advance
24 within defendants' company.

25 145. In performing the acts and omissions alleged hereinabove, the defendants,
26 and each of them, have violated public policy and the guarantees and provisions of law
27 embodied in California Government Code, §§12940, 12945 et seq.; California Labor Code
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1 §233; California Constitution, Article I, §8; relevant provisions of the California Fair
2 Employment and Housing Act; and relevant provisions of the California Family Rights
3 Act in that defendants, and each of them, have discriminated against and harassed Plaintiff
4 on the basis of Plaintiff's physical disability.

5 146. The unlawful actions of corporate officers, managing supervisors and
6 agents, were ratified and approved by defendants, in that such defendants knew that
7 corporate officers, managing supervisors and agents were previously and concurrently
8 harassing and discriminating against Plaintiff. Defendants further violated California
9 Government Code 12940 et seq. and Title 2, California Code of Regulations, § 7287.5 et
10 seq. by failing to adequately supervise, prohibit, control, regulate, discipline and/or
11 otherwise penalize the conduct, acts and failure to act of its management, employees or
12 agents in dealing with the issues raised by Plaintiff. Plaintiff complained to people who
13 were in upper management of defendants' of discriminatory conduct, yet defendants failed
14 to take immediate and corrective action. In engaging in the foregoing conduct Defendants
15 have aided, abetted, incited, participated in, coerced and/or compelled unlawful
16 employment practices in violation of California's Fair Employment and Housing Act.

17 147. As a direct and foreseeable result of the aforesaid acts of said defendants,
18 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven
19 at the time of trial. Plaintiff claims such amount as damages together with pre judgment
20 interest pursuant to Civil Code § 3287 and/or any other provision of law providing for pre
21 judgment interest.

22 148. As a result of the unlawful employment practices described herein, Plaintiff
23 has sought, and will continue to need, medical treatment for these injuries and has, and
24 will incur medical expenses for the same. Plaintiff has incurred costs and expenses to
25 seek medical attention due to the discrimination Plaintiff underwent in an amount
26 exceeding the maximum jurisdiction of municipal court.

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149. As a result of the aforesaid acts of Defendants, Plaintiff claims damages for emotional distress, general anxiety, grief, shame, humiliation, embarrassment, anger, disappointment and worry, all to Plaintiff's general damage, at a minimum, in excess of the maximum jurisdiction of the municipal court.

150. In addition, pursuant to Government Code § 12970, Plaintiff requests that Plaintiff be awarded damages for emotional injuries because the effects of discrimination by defendants on the Plaintiff affected Plaintiff's: (1) Physical and mental well-being; (2) Personal integrity, dignity and privacy; (3) Ability to work, earn a living, and advance in Plaintiff's career; (4) Personal and professional reputation; (5) Family relationships and (6.) Access to the job and ability to associate with peers and coworkers, in an amount to be proven at the time of trial.

151. As a result thereof, Plaintiff has suffered loss of salary and other employee benefits both past and future. As a result of said conduct, Plaintiff has suffered other compensable damages under the Government Code § 12940 et seq. Plaintiff claims all such amounts as economic damages together with prejudgment interest at the legal rate.

152. The acts of defendants and each of them were performed with the knowledge and threat of an employer's economic power over its employee. The above described acts of defendants, by and through their managing agents, officers or directors, were engaged in with a deliberate, cold, callous, fraudulent and intentional manner in order to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff and his rights. The acts and omissions to act by Plaintiff's supervisors, were approved, tolerated, ratified and condoned by defendants. Such acts were despicable, and constitute malice, fraud and/or oppression within the meaning of Civil Code §3294. Plaintiff requests an assessment of punitive damages against defendants, in an amount to be proven at time of trial.

1 seq. by failing to adequately supervise, prohibit, control, regulate, discipline and/or
2 otherwise penalize the conduct, acts and failure to act of its management, employees or
3 agents in dealing with the issues raised by Plaintiff. Plaintiff complained to people who
4 were in upper management of defendants' of discriminatory conduct, yet defendants failed
5 to take immediate and corrective action. In engaging in the foregoing conduct Defendants
6 have aided, abetted, incited, participated in, coerced and/or compelled unlawful
7 employment practices in violation of California's Fair Employment and Housing Act.

8 158. As a direct and foreseeable result of the aforesaid acts of said defendants,
9 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven
10 at the time of trial. Plaintiff claims such amount as damages together with pre judgment
11 interest pursuant to Civil Code § 3287 and/or any other provision of law providing for pre
12 judgment interest.

13 159. As a result of the unlawful employment practices described herein, Plaintiff
14 has sought, and will continue to need, medical treatment for these injuries and has, and
15 will incur medical expenses for the same. Plaintiff has incurred costs and expenses to
16 seek medical attention due to the discrimination Plaintiff underwent in an amount
17 exceeding the maximum jurisdiction of municipal court.

18 160. As a result of the aforesaid acts of Defendants, Plaintiff claims damages for
19 emotional distress, general anxiety, grief, shame, humiliation, embarrassment, anger,
20 disappointment and worry, all to Plaintiff's general damage, at a minimum, in excess of
21 the maximum jurisdiction of the municipal court.

22 161. In addition, pursuant to Government Code § 12970, Plaintiff requests that
23 Plaintiff be awarded damages for emotional injuries because the effects of discrimination
24 by defendants on the Plaintiff affected Plaintiff's: (1) Physical and mental well-being; (2)
25 Personal integrity, dignity and privacy; (3) Ability to work, earn a living, and advance in
26 Plaintiff's career; (4) Personal and professional reputation; (5) Family relationships and
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1 (6.) Access to the job and ability to associate with peers and coworkers, in an amount to
2 be proven at the time of trial.

3 162. As a result thereof, Plaintiff has suffered loss of salary and other employee
4 benefits both past and future. As a result of said conduct, Plaintiff has suffered other
5 compensable damages under the Government Code § 12940 et seq. Plaintiff claims all
6 such amounts as economic damages together with prejudgment interest at the legal rate.

7 163. The acts of defendants and each of them were performed with the
8 knowledge and threat of an employer's economic power over its employee. The above
9 described acts of defendants, by and through their managing agents, officers or directors,
10 were engaged in with a deliberate, cold, callous, fraudulent and intentional manner in
11 order to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff and his
12 rights. The acts and omissions to act by Plaintiff's supervisors, were approved, tolerated,
13 ratified and condoned by defendants. Such acts were despicable, and constitute malice,
14 fraud and/or oppression within the meaning of Civil Code §3294. Plaintiff requests an
15 assessment of punitive damages against defendants, in an amount to be proven at time of
16 trial.

17 164. Plaintiff will also seek and is entitled to recover attorney's fees in connection
18 with this cause of action under the private attorney general doctrine (Civil Code § 1021.5)
19 as well as Government Code § 12965(b).

20
21 **WHEREFORE**, Plaintiff prays judgment against the defendants, and each of
22 them, as follows:

- 23 1. For general and special damages according to proof;
 - 24 2. For penalties and interest pursuant to applicable law;
 - 25 3. For loss of earnings and earning capacity, according to proof;
 - 26 4. For pre-judgment interest to the extent allowed by law;
 - 27 5. For costs of suit incurred herein;
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