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Case #20CV369611
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11 *behalf of herself and all others similarly situated*

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IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

14 ANITA NARIANI SCHULZE, on behalf of herself
15 and all others similarly situated,

16 Plaintiff,

17 vs.

18 APPLE, INC., and Does 1 through 50, inclusive,

19 Defendants.

Case No. 20CV369611

**FIRST AMENDED CLASS ACTION
AND INDIVIDUAL COMPLAINT**

Unlimited Civil Case
The Amount Demanded Exceeds
\$25,000

1 Plaintiff Anita Nariani Schulze (“Plaintiff”), by her attorneys, brings this action on behalf
2 of herself, all others similarly situated, and the general public, on information and belief, except
3 those allegations that pertain to the named Plaintiff, and hereby alleges as follows:

4 **SUMMARY OF CLAIMS**

5 1. Plaintiff brings this action on an individual, class, and representative basis.

6 2. Plaintiff alleges, on an individual basis, that Apple, Inc. (“Defendant”) engaged in
7 unlawful conduct by its: (1) discrimination against Plaintiff on the basis of her sex, race, national
8 origin, and religion, in violation of California Government Code section 12940, subdivision (a);
9 (2) harassment of the Plaintiff on the basis of sex, in violation of California Government Code
10 section 12940, subdivision (j); (3) failure to take all reasonable steps to prevent the
11 discrimination and harassment of the Plaintiff in the workplace, in violation of California
12 Government Code section 12940, subdivision (k); (4) retaliation against Plaintiff on the basis of
13 her opposition to and reporting of the discriminatory and harassing conduct of Defendant, in
14 violation of California Government Code section 12940, subdivision (h); and (5) constructive
15 wrongful termination of Plaintiff on the basis of her sex, race, national origin, and religion and/or
16 in retaliation for making a protected complaint about sex discrimination, in violation of public
17 policy embodied in Article I, section 8, of the California Constitution and/or California
18 Government Code section 12940, et. seq.

19 3. In addition, Plaintiff alleges, on a class basis, that Defendant engaged in unlawful
20 conduct by its: (1) failure to compensate Plaintiff and proposed class members in salaries,
21 bonuses, and stock options in a manner that was equal to male employees in similar positions
22 and by retaliating against Plaintiff when she complained about the unequal treatment, in violation
23 of California Labor Code section 1197.5; (2) failure to compensate Plaintiff and proposed class
24 members complete payment of wages when they were due, in violation of California Labor Code
25 sections 201-204; and, (3) failure to provide Plaintiff and proposed class members with accurate
26 wage statements, in violation of California Labor Code section 226. These failures further
27 constitute unfair business practices in violation of California Business and Professions Code
28 section 17200, et. seq.

1 4. These failures further constitute violations of California Labor Code section
2 2698, et. seq., the Private Attorneys General Act of 2004 (the “PAGA”), through which Plaintiff
3 seeks civil penalties on a representative basis.

4 **JURISDICTIONAL ALLEGATIONS**

5 5. This action seeks relief from unremedied violations of California law, including,
6 inter alia; damages, reimbursements, restitution, penalties, interest and attorneys’ fees, as
7 appropriate, to members of the proposed class, aggrieved employees, and to victims of the
8 practices at issue, who have not been compensated in form of salaries, bonuses, and stock
9 options in a manner that was equal to male employees in similar, in violation of California Labor
10 Code section 1197.5; and, (2) failure to compensate Plaintiff and proposed class members
11 complete payment of wages when they were due, in violation of California Labor Code sections
12 201-204; (3) failure to provide Plaintiff and proposed class members with accurate wage
13 statements, in violation of California Labor Code section 226. Plaintiff is informed and believes
14 that the damages, reimbursements, restitution, penalties, interest and attorneys’ fees do not
15 exceed an aggregate of \$4,999,999.99 and that Plaintiff’s individual claims do not exceed
16 \$74,999.99.

17 6. Defendant is, and at all relevant times was, a corporation doing business within
18 the State of California, and employed more than five (5) persons in California. Defendant is
19 therefore an employer under California Government Code sections 12926, subdivision (d), which
20 defines an employer to include “any person regularly employing five or more persons” and under
21 applicable Industrial Welfare Commission Orders.

22 7. Plaintiff is, and at all times herein mentioned was, a resident of the State of
23 California. Plaintiff worked for Defendant in Cupertino, California throughout her employment.

24 8. The California Superior Court has jurisdiction in this matter because Plaintiff is a
25 resident of California, Defendant is qualified to do business in California, and Defendant
26 regularly conducts business in California. Further, there is no federal question at issue, as the
27 claims herein are based solely on California law.

28 9. The names and capacities of defendants sued herein under California Code of

1 Civil Procedure section 474 as Does 1 through 50, inclusive, are presently not known to Plaintiff,
2 who therefore sues these defendants by such fictitious names. Plaintiff will seek to amend this
3 Complaint and include these Doe defendants' names and capacities when they are ascertained.
4 Each fictitiously named defendant is responsible in some manner for the conduct alleged herein
5 and for the injuries suffered by Plaintiff.

6 10. At all times mentioned in the causes of action alleged herein, each and every
7 Defendant was an agent and/or employee of each and every other Defendant. In doing the things
8 alleged in the causes of action stated herein, each and every Defendant was acting within the
9 course and scope of this agency or employment and was acting with the consent, permission, and
10 authorization of each of the remaining Defendants. All actions of each Defendant as alleged in
11 the causes of action stated herein were ratified and approved by every other Defendant or their
12 officers or managing agents.

13 **GENERAL ALLEGATIONS**

14 11. In 2008, Defendant hired Plaintiff as a Technical Engineer. During Plaintiff's
15 employment, Defendant and Defendant's agents subjected Plaintiff to discrimination and
16 harassment on the basis of her sex, race, religion, and nationality.

17 12. During all relevant portions of Plaintiff's employment, Plaintiff's Senior
18 Manager was a Hindu Indian man and Plaintiff's Direct Manager was a Muslim Pakistani man.
19 Plaintiff is a Hindu Indian woman whose ancestry traces back to the Sindh region of modern-day
20 Pakistan. The Sindh region was one of numerous regions greatly impacted by the 1947 partition
21 of what was then "British India" into what is now modern-day India and Pakistan. This partition
22 created friction between the Hindu and Muslim communities in the Sindh region, often resulting
23 in violence, and spurred a mass migration of people both in and out of the region. During all
24 relevant portions of Plaintiff's employment, Plaintiff's Senior and Direct Managers knew of and
25 were familiar with Plaintiff's racial, national, and religious heritage.

26 13. Plaintiff's Senior and Direct Managers did not treat or view Plaintiff as an equal
27 because of her sex, race, national origin, and religion. Plaintiff's Senior and Direct Managers'
28 respective nationalities historically ascribed to systemic gender roles, in that women are

1 historically viewed as subservient. Plaintiff's managers discriminated against Plaintiff, treating
2 her as subservient. The fact that the Sindhi Hindu nationality is known for its technical acumen,
3 encouraging men and women alike to pursue technical careers, and encouraging women to rise
4 above their historically subservient gender role, exacerbated Plaintiff's managers' discriminatory
5 treatment toward Plaintiff.

6 14. Plaintiff's Senior and Direct Managers consistently excluded Plaintiff from team
7 meetings but included Plaintiff's male counterparts. When Plaintiff discovered errors in the
8 team's work and notified her Senior and Direct Managers, the Managers would respond in a
9 condescending manner and dismiss Plaintiff's discoveries. If team projects involving Plaintiff
10 were late, Plaintiff's Senior and Direct Managers would exclusively blame Plaintiff. Plaintiff's
11 Senior and Direct Managers would micromanage Plaintiff's work, through the monitoring of the
12 speed in which she performed assignments, something that did not happen to other male
13 employees. Finally, Plaintiff's Senior and Direct Managers told Plaintiff that she needed to be
14 more involved in her employment and that the reason she was not more involved was because
15 she had children.

16 15. Despite this treatment, Plaintiff received positive performance reviews. For
17 example, in 2017, Plaintiff directed her own "feature," or project, for Defendant. At Defendant,
18 directing a feature made you a "Directly Responsible Individual" or "DRI." DRIs at Defendant
19 typically received substantial bonus packages. For this reason, the DRI role was incredibly
20 sought after and coveted. At the completion of the feature directed by Plaintiff, Defendant gave
21 Plaintiff a performance review that stated, "[Plaintiff]'s innovation and methodical approach led
22 to her being a key contributor to the Zero Shutter Lag effort. [Plaintiff]'s drive to deliver a
23 solution for this very complex feature really helped the team realize this vision, it was one of our
24 top-level camera features this year." Despite these successes, Defendant did not give Plaintiff
25 promised promotions, bonuses, annual salary increases or restricted stock units ("RSUs"), a form
26 of compensation.

27 16. In November 2018, Plaintiff complained to Human Resources that she was not
28 receiving promised compensation (e.g., bonus) from Defendant on the basis that she is a woman.

1 In response to the complaint, Defendant began to retaliate against Plaintiff by creating poor
2 performance reviews and using these reviews as an excuse to implement a Performance
3 Improvement Plan (“PIP”) and placed Plaintiff on an internal “Do Not Hire List” at Defendant.
4 Defendant’s stated reason for implementing the PIP was as a response to Plaintiff missing
5 required meetings. However, Plaintiff only missed two meetings and her absences were due to
6 illness and childcare. Plaintiff notified her a supervisor that she disagreed with the underlying
7 basis of the PIP and her supervisor verbally agreed with her. Plaintiff’s supervisor, however,
8 informed Plaintiff that she would still need to sign the PIP. Plaintiff refused to sign the PIP.
9 Shortly after, on February 12, 2019, because Defendant ignored Plaintiff’s complaints, and
10 Plaintiff’s work place became intolerable due to the retaliation she suffered when she
11 complained of the discriminatory treatment she suffered, Plaintiff had no choice but to resign her
12 employment.

13 17. Plaintiff filed a timely charge of harassment, discrimination, retaliation, and
14 constructive wrongful termination with the Department of Fair Employment and Housing
15 (“DFEH”), on or about February 10, 2020, and received a timely notice of the right to sue in
16 California Superior Court pursuant to California Government Code section 12965, subdivision
17 (b), on or about February 10, 2020, permitting Plaintiff to bring this action. Therefore, Plaintiff
18 exhausted all of his administrative remedies.

19 **CLASS ALLEGATIONS**

20 18. Plaintiff brings this action on behalf of herself and all other similarly situated
21 female software engineers who worked for Defendant in California during the four years
22 preceding the filing of this complaint (the “proposed class”).

23 19. Because Defendant did not provide Plaintiff equal compensation in line with
24 male software engineers in the form of salary, bonuses, and stock options, complete payment of
25 wages when they were due and at time of termination or quit, and complete and accurate wage
26 statements, Plaintiff’s claims are typical of those of the proposed class.

27 20. Plaintiff will fairly and adequately represent and protect the interests of the
28 members of the proposed class in that he has no disabling conflict of interest that would be

1 antagonistic to those of the other members of the proposed class. Plaintiff retained counsel who
2 are competent and experienced in the prosecution of class action wage and hour violations.

3 21. The proposed class members are sufficiently numerous and the class members
4 are geographically dispersed throughout California, the joinder of whom in one action is
5 impracticable, such that the disposition of whose claims in a class action will provide substantial
6 benefits to both the parties and the Court.

7 22. There is a well-defined community of interest in the questions of law and fact
8 involved affecting the parties to be represented. The questions of law and fact common to
9 the proposed class predominate over questions that may affect individual class members, include
10 but are not limited to the following:

- 11 a. Whether Defendant implemented and engaged in a pattern and practice
12 whereby Defendant failed to pay Plaintiff and members of the proposed class
13 for all wages owed, including at the time of termination or within 72 hours of
14 resignation, as required by law;
- 15 b. Whether Defendant implemented and engaged in a pattern and practice
16 whereby Defendant failed to provide complete and accurate wage statements;
- 17 c. Whether Defendant implemented and engaged in a pattern and practice
18 whereby Defendant failed to provide equal compensation to women in line
19 with male software engineers in the form of salary, bonuses, stock options,
20 and benefits;
- 21 e. Whether the acts and practices of Defendant as alleged herein
22 violated, inter alia, applicable provisions of the California Labor Code,
23 including but not limited to sections 201, 202, 203, 226, 1197.5, applicable
24 Industrial Welfare Commission Orders, California Business & Professions
25 Code section 17200, et seq., and the Private Attorneys General Act of 2004
26 (the PAGA), California Labor Code section 2698, et. seq.

27 23. Plaintiff and proposed class members have all similarly suffered irreparable harm
28 and damages as a result of Defendant's unlawful and wrongful conduct, including, but not

1 limited to, Defendant's pattern and practice of failing to completely pay wages, provide complete
2 and accurate wage statements, and provide equal compensation to women in line with male
3 software engineers in the form of salary, bonuses, and stock options. These issues are common
4 to all proposed class members, making class treatment especially appropriate. Because the
5 action of Defendant toward proposed class members follow common patterns, all of which are
6 reflected in the records possessed by Defendant, this action will provide substantial benefits to
7 all proposed class members. Absent this action, Defendant's unlawful conduct will continue
8 unremedied and uncorrected.

9 **FIRST CAUSE OF ACTION**
10 **(Solely on Behalf of Plaintiff)**
11 **(Discrimination on the Basis of Sex: Cal. Gov. Code § 12940(a))**

12 24. Plaintiff incorporates by reference the allegations contained in the foregoing
13 paragraphs of this complaint as if fully set forth herein.

14 25. At all times material hereto, Plaintiff was an employee covered by California
15 Government Code section 12940, subdivision (a), which prohibits discrimination in employment
16 based on sex.

17 26. Pursuant to California Government Code section 12926, subdivision (r), "sex"
18 includes, but is not limited to, "a person's gender." In turn, "gender" is defined as "a person's
19 gender identity and gender expression." "Gender expression" is further defined as "behavior
20 whether or not stereotypically associated with the person's assigned sex at birth." The sex and
21 gender to which Plaintiff identifies are female and woman.

22 27. Defendant, through Plaintiff's Senior and Direct Manager, used Plaintiff's
23 identity as a Sindhi Hindu Indian woman as a basis for their discriminatory conduct. Plaintiff's
24 Senior Manager's identity as a Hindu Indian man and Plaintiff's Direct Manager's identity as a
25 Muslim Pakistani man gave them intimate knowledge and familiarity with the cultural norms and
26 stereotypes that are associated with Sindhi Hindu women: having high technical acumen and
27 rising above historically subservient gender roles. Plaintiff's Senior and Direct Managers
28 respective nationalities historically ascribed to systemic gender roles, in that women are
historically viewed as subservient. Plaintiff's managers discriminated against Plaintiff, treating

1 her as subservient. The fact that the Sindhi Hindu nationality is known for its technical acumen,
2 encouraging men and women alike to pursue technical careers, and encouraging women to rise
3 above their historically subservient gender role, exacerbated Plaintiff's managers' discriminatory
4 treatment toward Plaintiff. Plaintiff's Senior and Direct Managers applied this knowledge and
5 familiarity of cultural norms and stereotypes to routinely discriminate against Plaintiff on the
6 basis of her sex.

7 28. During Plaintiff's employment, Plaintiff's Senior and Direct Managers
8 consistently excluded Plaintiff from team meetings but included Plaintiff's male counterparts.
9 When Plaintiff discovered errors in the team's work and notified her Senior and Direct
10 Managers, the Managers would respond in condescending ways and dismiss Plaintiff's
11 discoveries. Additionally, Plaintiff's Senior and Direct Managers would micromanage Plaintiff's
12 work, through the monitoring of the speed in which she performed assignments, something that
13 did not happen to other male employees. Finally, Plaintiff's Senior and Direct Managers told
14 Plaintiff that she needed to be more involved in her employment and that the reason she was not
15 more involved was because she had children. This conduct resulted in Defendant denying
16 Plaintiff numerous promotions, raises, and bonuses for which she was qualified and promised.

17 29. In approximately November 2018, Plaintiff alerted Defendant of the sex based
18 discriminatory and harassing practices conducted by Plaintiff's superiors. Defendant took no
19 action to respond to the complaints of Plaintiff to stop these actions. Rather, in February 2019,
20 Defendant placed Plaintiff on PIP and an internal "Do Not Hire" list at Defendant. Plaintiff
21 contended that Defendant unfairly implemented the PIP, a supervisor verbally agreed but still
22 enforced the PIP. Plaintiff refused to sign the PIP, as it was not accurate. As a result of the
23 discriminatory and harassing practices, Plaintiff's work environment became intolerable, leaving
24 Plaintiff with no choice but to resign. In doing these actions, Defendant discriminated against
25 Plaintiff on the basis of her sex in violation of California Government Code section 12940,
26 subdivision (a).

27 30. As a proximate result of the discriminatory actions of Defendant, and
28 Defendant's employees, Plaintiff suffered and continues to suffer substantial losses in earnings,

1 bonuses, deferred compensation, and other employment benefits. This conduct also caused
2 Plaintiff to suffer severe emotional distress. Plaintiff has suffered and continues to suffer pain,
3 loss of sleep, discomfort, anxiety, anger, frustration and other emotional distress, as well as
4 physical manifestations of this emotional distress, and will continue to suffer said emotional
5 distress in the future in an amount according to proof.

6 31. Defendant, in doing the acts and failing to do the acts as herein alleged, acted
7 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and
8 in conscious disregard of said Plaintiff's rights. In addition, Defendant abused its position of
9 authority and ratified the discriminatory conduct of its employees. Plaintiff is thus entitled to
10 recover punitive damages from Defendant, according to proof. As a result of Defendant's
11 discriminatory and harassing acts as alleged herein, Plaintiff is also entitled to an award of
12 reasonable attorney's fees and costs of suit as provided by California Government Code section
13 12965(b).

14 **SECOND CAUSE OF ACTION**
15 **(Solely on Behalf of Plaintiff)**
16 **(Discrimination on the Basis of Race: Cal. Gov. Code § 12940(a))**

17 32. Plaintiff incorporates by reference the allegations contained in the foregoing
18 paragraphs of this complaint as if fully set forth herein.

19 33. At all times material hereto, Plaintiff was an employee covered by California
20 Government Code section 12940, subdivision (a), which prohibits discrimination in employment
21 based on race. Plaintiff identifies as a Sindhi Hindu Indian.

22 34. Defendant, through Plaintiff's Direct Manager, used Plaintiff's identity as a
23 Sindhi Hindu Indian woman as a basis for their discriminatory conduct. Plaintiff's Direct
24 Manager's identity as a Muslim Pakistani man gave him intimate knowledge and familiarity with
25 the cultural norms and stereotypes that are associated with Indian individuals, including
26 stereotypes specifically associated with Sindhi Hindu Indians. Plaintiff's Direct Manager
27 applied this knowledge and familiarity of cultural norms and stereotypes to routinely
28 discriminate against Plaintiff on the basis of her race.

35. During Plaintiff's employment, when Plaintiff discovered errors in the team's

1 work and notified her Direct Manager, he would respond in a condescending manner and dismiss
2 Plaintiff's discoveries. If team projects involving Plaintiff were late, Plaintiff's Direct Manager
3 would exclusively blame Plaintiff. This conduct resulted in Defendant denying Plaintiff
4 numerous promotions, raises, and bonuses for which she was qualified and promised. In doing
5 these actions, Defendant discriminated against Plaintiff on the basis of her race and violated
6 California Government Code section 12940, subdivision (a).

7 36. As a proximate result of the discriminatory actions of Defendant, and
8 Defendant's employee, Plaintiff suffered and continues to suffer substantial losses in earnings,
9 bonuses, deferred compensation, and other employment benefits. This conduct also caused
10 Plaintiff to suffer severe emotional distress. Plaintiff has suffered and continues to suffer pain,
11 loss of sleep, discomfort, anxiety, anger, frustration, and other emotional distress, as well as
12 physical manifestations of this emotional distress, and will continue to suffer said emotional
13 distress in the future in an amount according to proof.

14 37. Defendant, in doing the acts and failing to do the acts as herein alleged, acted
15 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and
16 in conscious disregard of said Plaintiff's rights. In addition, Defendant abused its position of
17 authority and ratified the discriminatory conduct of its employee. Plaintiff is thus entitled to
18 recover punitive damages from Defendant, according to proof. As a result of Defendant's
19 discriminatory and harassing acts as alleged herein, Plaintiff is also entitled to an award of
20 reasonable attorney's fees and costs of suit as provided by California Government Code section
21 12965(b).

22 **THIRD CAUSE OF ACTION**
23 **(Solely on Behalf of Plaintiff)**

24 **(Discrimination on the Basis of National Origin: Cal. Gov. Code § 12940(a))**

25 38. Plaintiff incorporates by reference the allegations contained in the foregoing
26 paragraphs of this complaint as if fully set forth herein.

27 39. At all times material hereto, Plaintiff was an employee covered by California
28 Government Code section 12940, subdivision (a), which prohibits discrimination in employment
based on national origin.

1 40. Defendant, through Plaintiff's Senior and Direct Managers, used Plaintiff's
2 identity as a Sindhi Hindu Indian woman as a basis for their discriminatory conduct. During all
3 relevant portions of Plaintiff's employment, Plaintiff's Senior Manager was a Hindu Indian man
4 and Plaintiff's Direct Manager was a Muslim Pakistani man. Plaintiff's Senior and Direct
5 Managers' respective nationalities historically ascribed to systemic gender roles, in that women
6 are historically viewed as subservient. Plaintiff's managers discriminated against Plaintiff,
7 treating her as subservient. The fact that the Sindhi Hindu nationality is known for its technical
8 acumen, encouraging men and women alike to pursue technical careers, and encouraging women
9 to rise above their historically subservient gender role, exacerbated Plaintiff's managers'
10 discriminatory treatment toward Plaintiff.

11 41. During Plaintiff's employment, when Plaintiff discovered errors in the team's
12 work and notified her Senior and Direct Managers, the Managers would respond in
13 condescending ways and dismiss Plaintiff's discoveries. If team projects involving Plaintiff
14 were late, Plaintiff's Senior and Direct Managers would exclusively blame Plaintiff. This
15 conduct resulted in Defendant denying Plaintiff numerous promotions, raises, and bonuses, for
16 which she was qualified and promised. In doing these actions, Defendant discriminated against
17 Plaintiff on the basis of her national origin and violated California Government Code section
18 12940, subdivision (a).

19 42. As a proximate result of the discriminatory actions of Defendant, and
20 Defendant's employees, Plaintiff suffered and continues to suffer substantial losses in earnings,
21 bonuses, deferred compensation, and other employment benefits. This conduct also caused
22 Plaintiff to suffer severe emotional distress. Plaintiff has suffered and continues to suffer pain,
23 loss of sleep, discomfort, anxiety, anger, frustration, and other emotional distress, as well as
24 physical manifestations of this emotional distress, and will continue to suffer said emotional
25 distress in the future in an amount according to proof.

26 43. Defendant, in doing the acts and failing to do the acts as herein alleged, acted
27 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and
28 in conscious disregard of said Plaintiff's rights. In addition, Defendant abused its position of

1 authority and ratified the discriminatory conduct of its employee. Plaintiff is thus entitled to
2 recover punitive damages from Defendant, according to proof. As a result of Defendant's
3 discriminatory and harassing acts as alleged herein, Plaintiff is also entitled to an award of
4 reasonable attorney's fees and costs of suit as provided by California Government Code section
5 12965(b).

6 **FOURTH CAUSE OF ACTION**
7 **(Solely on Behalf of Plaintiff)**
8 **(Discrimination on the Basis of Religion: Cal. Gov. Code § 12940(a))**

9 44. Plaintiff incorporates by reference the allegations contained in the foregoing
10 paragraphs of this complaint as if fully set forth herein.

11 45. At all times material hereto, Plaintiff was an employee covered by California
12 Government Code section 12940, subdivision (a), which prohibits discrimination in employment
13 based on religion. Plaintiff identifies with the Hindu religion.

14 46. Defendant, through Plaintiff's Direct Managers, used Plaintiff's identity as a
15 Sindhi Hindu Indian woman as a basis for their discriminatory conduct. Plaintiff's Direct
16 Manager's identity as a Muslim Pakistani man gave him intimate knowledge and familiarity with
17 the cultural norms and stereotypes that are associated with Hindu individuals. Plaintiff's Direct
18 Manager applied this knowledge and familiarity of cultural norms and stereotypes to routinely
19 discriminate against Plaintiff on the basis of her religion.

20 47. During Plaintiff's employment, when Plaintiff discovered errors in the team's
21 work and notified her Senior and Direct Managers, the Managers would respond in a
22 condescending manner and dismiss Plaintiff's discoveries. If team projects involving Plaintiff
23 were late, Plaintiff's Senior and Direct Managers would exclusively blame Plaintiff. This
24 conduct resulted in Defendant denying Plaintiff numerous promotions, raises, and bonuses for
25 which she was qualified and promised. In doing these actions, Defendant discriminated against
26 Plaintiff on the basis of her religion and violated California Government Code section 12940,
27 subdivision (a).

28 48. As a proximate result of the discriminatory actions of Defendant, and
Defendant's employees, Plaintiff suffered and continues to suffer substantial losses in earnings,

1 bonuses, deferred compensation, and other employment benefits. This conduct also caused
2 Plaintiff to suffer severe emotional distress. Plaintiff has suffered and continues to suffer pain,
3 loss of sleep, discomfort, anxiety, anger, frustration, and other emotional distress, as well as
4 physical manifestations of this emotional distress, and will continue to suffer said emotional
5 distress in the future in an amount according to proof.

6 49. Defendant, in doing the acts and failing to do the acts as herein alleged, acted
7 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and
8 in conscious disregard of said Plaintiff's rights. In addition, Defendant abused its position of
9 authority and ratified the discriminatory conduct of its employee. Plaintiff is thus entitled to
10 recover punitive damages from Defendant, according to proof. As a result of Defendant's
11 discriminatory and harassing acts as alleged herein, Plaintiff is also entitled to an award of
12 reasonable attorney's fees and costs of suit as provided by California Government Code section
13 12965(b).

14 **FIFTH CAUSE OF ACTION**
15 **(Solely on Behalf of Plaintiff)**
16 **(Harassment on the Basis of Sex: Cal. Gov. Code § 12940(j))**

17 50. Plaintiff incorporates by reference the allegations contained in the foregoing
18 paragraphs as if fully set forth herein.

19 51. At all times material hereto, Plaintiff was an employee covered by California
20 Government Code section 12940, subdivision (j), which prohibits harassment in employment
21 based on sex.

22 52. Defendant was, at all times material hereto, an employer within the meaning of
23 California Government Code section 12926(d), and as such, is barred from harassing on the basis
24 of sex.

25 53. Pursuant to California Government Code section 12926, subdivision (r), "sex"
26 includes, but is not limited to, "a person's gender." In turn, "gender" is defined as "a person's
27 gender identity and gender expression." "Gender expression" is further defined as "behavior
28 whether or not stereotypically associated with the person's assigned sex at birth." Plaintiff
identifies with the sex and gender of female and woman.

1 54. During her employment, Defendant, through Plaintiff's Senior and Direct
2 Manager, engaged in harassing conduct toward Plaintiff, and other women at Defendant, due to
3 their sex. For example, Plaintiff's Senior and Direct Managers told Plaintiff that she needed to
4 be more involved in her employment and that the reason she was not more involved was because
5 she had children. During Plaintiff's employment with Defendant, Plaintiff's Senior and Direct
6 Managers also consistently excluded Plaintiff from team meetings but included Plaintiff's male
7 counterparts. When Plaintiff discovered errors in the team's work and notified her Senior and
8 Direct Managers, the Managers would respond in condescending ways and dismiss Plaintiff's
9 discoveries. Additionally, Plaintiff's Senior and Direct Managers would micromanage Plaintiff's
10 work, through the monitoring of the speed in which she performed assignments, something that
11 did not happen to other male employees. In doing these actions, Defendant harassed Plaintiff on
12 the basis of her sex and violated California Government Code section 12940, subdivision (h).

13 55. Defendants harassed Plaintiff on the basis of her sex in multiple violations of
14 California Government Code section 12940 by engaging in a course of conduct intentionally
15 designed to harass Plaintiff on the basis of her sex. This conduct culminated in Defendant
16 implementing a Performance Improvement Plan ("PIP") and placing Plaintiff on an internal "Do
17 Not Hire List," making circumstances such that Defendant constructively terminated Plaintiff.

18 56. As a proximate result of the harassing actions of Defendant, and Defendant's
19 employees, Plaintiff suffered and continues to suffer substantial losses in earnings, bonuses,
20 deferred compensation, and other employment benefits. This conduct also caused Plaintiff to
21 suffer severe emotional distress. Plaintiff has suffered and continues to suffer pain, loss of sleep,
22 discomfort, anxiety, anger, frustration, and other emotional distress, as well as physical
23 manifestations of this emotional distress, and will continue to suffer said emotional distress in
24 the future in an amount according to proof.

25 57. Defendant, in doing the acts and failing to do the acts as herein alleged, acted
26 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and
27 in conscious disregard of Plaintiff's rights. In addition, Defendant abused its position of
28 authority and ratified the harassing conduct of its employee. Plaintiff is thus entitled to recover

1 punitive damages from Defendant, according to proof. As a result of Defendant's harassing acts
2 as alleged herein, Plaintiff is also entitled to an award of reasonable attorney's fees and costs of
3 suit as provided by California Government Code section 12965(b).

4 **SIXTH CAUSE OF ACTION**

5 **(Solely on Behalf of Plaintiff)**

6 **(Failure to Take Reasonable Steps to Prevent Discrimination & Harassment:
7 Cal. Gov. Code § 12940(k))**

8 58. Plaintiff incorporates by reference the allegations contained in the foregoing
9 paragraphs as if fully set forth herein.

10 59. At all times material hereto, Plaintiff was an employee covered by California
11 Government Code section 12940, subdivision (k), which requires employers to take reasonable
12 steps to prevent discrimination and harassment in the workplace.

13 60. During Plaintiff's employment, Plaintiff's Senior and Direct Managers
14 consistently engaged in discriminatory and harassing conduct on the basis of her national origin,
15 religion, race, and sex.

16 61. During all relevant portions of Plaintiff's employment, Plaintiff's Senior and
17 Direct Managers did not treat or treat or view Plaintiff as an equal because of her race, national
18 origin, and religion. Plaintiff's Senior Manager was a Hindu Indian man and Plaintiff's Direct
19 Manager was a Muslim Pakistani man. Plaintiff is a Hindu Indian woman whose ancestry traces
20 back to the Sindh region of modern-day Pakistan. Plaintiff's Senior and Direct Managers'
21 respective nationalities, historically ascribed to systemic gender roles, in that women are
22 historically viewed as subservient. Plaintiff's managers discriminated against Plaintiff, treating
23 her as subservient. The fact that the Sindhi Hindu nationality is known for its technical acumen,
24 encouraging men and women alike to pursue technical careers, and encouraging women to rise
25 above their historically subservient gender role, exacerbated Plaintiff's managers' discriminatory
26 treatment toward Plaintiff.

27 62. Plaintiff's Senior and Direct Managers consistently excluded Plaintiff from team
28 meetings but included Plaintiff's male counterparts. When Plaintiff discovered errors in the
team's work and notified her Senior and Direct Managers, the Managers would respond in

1 condescending ways and dismiss Plaintiff's discoveries. If team projects involving Plaintiff
2 were late, Plaintiff's Senior and Direct Managers would exclusively blame Plaintiff. Plaintiff's
3 Senior and Direct Managers would micromanage Plaintiff's work, through the monitoring of the
4 speed in which she performed assignments, something that did not happen to other male
5 employees. Finally, Plaintiff's Senior and Direct Managers told Plaintiff that she needed to be
6 more involved in her employment and that the reason she was not more involved was because
7 she had children.

8 63. As a result, Plaintiff filed a complaint to Human Resources explaining that she
9 was not receiving promised compensation (e.g., bonus) on the basis that she is a woman. In
10 response to the complaint, Defendant retaliated against Plaintiff by creating a Performance
11 Improvement Plan ("PIP") for Plaintiff and placing Plaintiff on an internal "Do Not Hire List" at
12 Defendant. Defendant's stated reason for implementing the PIP was as a response to Plaintiff
13 missing required meetings. However, Plaintiff only missed two meetings and her absences were
14 due to illness and childcare. Plaintiff notified her a supervisor that she disagreed with the
15 underlying basis of the PIP and her supervisor verbally agreed with her. Plaintiff's supervisor,
16 however, informed Plaintiff that she would still need to sign the PIP. Plaintiff refused to sign the
17 PIP, as it was inaccurate. Given Plaintiff's work environment became intolerable, on February
18 12, 2019, Plaintiff had no choice but to resign. In doing these actions, Defendant failed to take
19 all reasonable steps necessary to prevent discrimination and harassment from occurring, in
20 violation of California Government Code section 12940, subdivision (k).

21 64. As a proximate result of the discriminatory and harassing actions of Defendant,
22 and Defendant's employees, Plaintiff suffered and continues to suffer substantial losses in
23 earnings, bonuses, deferred compensation, and other employment benefits. This conduct also
24 caused Plaintiff to suffer severe emotional distress. Plaintiff has suffered and continues to suffer
25 pain, loss of sleep, discomfort, anxiety, anger, frustration, and other emotional distress, as well as
26 physical manifestations of this emotional distress, and will continue to suffer said emotional
27 distress in the future in an amount according to proof.

28 65. Defendant, in doing the acts and failing to do the acts as herein alleged, acted

1 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and
2 in conscious disregard of said Plaintiff's rights. In addition, Defendant abused its position of
3 authority and ratified the discriminatory conduct of its employee. Plaintiff is thus entitled to
4 recover punitive damages from Defendant, according to proof. As a result of Defendant's
5 discriminatory and harassing acts as alleged herein, Plaintiff is also entitled to an award of
6 reasonable attorney's fees and costs of suit as provided by California Government Code section
7 12965(b).

8 **SEVENTH CAUSE OF ACTION**

9 **(Solely on Behalf of Plaintiff)**

10 **(Retaliation: Cal. Gov. Code § 12940(h))**

11 66. Plaintiff incorporates by reference the allegations contained in the foregoing
12 paragraphs as if fully set forth herein.

13 67. At all times material hereto, Plaintiff was an employee covered by California
14 Government Code section 12940, subdivision (h), which prohibits employers from retaliating
15 against employees.

16 68. During Plaintiff's employment, Plaintiff's Senior and Direct Managers
17 consistently engaged in discriminatory and harassing conduct. In response to this discriminatory
18 and harassing conduct, Plaintiff complained to Defendant's Human Resource Department. After
19 Plaintiff's complaint, Defendant engaged in a course of conduct, specifically the implementation
20 of a PIP and the use of an internal do-not-hire list, intentionally designed to retaliate against
21 Plaintiff for reporting harassment and discrimination, in violation of California Government
22 Code section 12940, subdivision (h). Defendant's intentional conduct created an unreasonable
23 and intolerable working environment for Plaintiff and resulted in Plaintiff having no other
24 reasonable alternative but to resign.

25 69. As a proximate result of the discriminatory and retaliatory actions of Defendant
26 and Defendant's employees, Plaintiff suffered and continues to suffer substantial losses in
27 earnings, bonuses, deferred compensation, and other employment benefits. This conduct also
28 caused Plaintiff to suffer severe emotional distress. Plaintiff has suffered and continues to suffer
pain, loss of sleep, discomfort, anxiety, anger, frustration and other emotional distress, as well as

1 physical manifestations of this emotional distress, and will continue to suffer said emotional
2 distress in the future in an amount according to proof.

3 70. Defendant, in doing the acts and failing to do the acts as herein alleged, acted
4 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, and
5 in conscious disregard of said Plaintiff's rights. In addition, Defendant abused its position of
6 authority and ratified the discriminatory and harassing conduct of its employees. Plaintiff is thus
7 entitled to recover punitive damages from Defendant, according to proof. As a result of
8 Defendant's discriminatory and harassing acts as alleged herein, Plaintiff is also entitled to an
9 award of reasonable attorney's fees and costs of suit as provided by California Government Code
10 section 12965(b).

11 **EIGHTH CAUSE OF ACTION**

12 **(Solely on Behalf of Plaintiff)**

13 **(Constructive Wrongful Termination in Violation of Public Policy:
14 Article I, Section 8, CA Const. & Cal. Gov. Code § 12940, et. seq.)**

15 71. Plaintiff incorporates by reference the allegations contained in the foregoing
16 paragraphs of this Complaint as if fully set forth herein.

17 72. California law recognizes public policies that employees should be free from
18 discrimination and retaliation on the basis sex, race, nation origin, and religion. These public
19 policies are embodied in Article 1, section 8, of the California Constitution and California
20 Government Code section 12940, et. seq.

21 73. California law recognizes that in certain circumstances an employee's resignation
22 may amount to a constructive termination when an employer "either intentionally or knowingly
23 permits working conditions that were so intolerable or aggravated at the time of [an] employee's
24 resignation that a reasonable employer would realize that a reasonable person in the employee's
25 position would be compelled to resign." *Turner v. Anheuser-Busch, Inc.*, 7 Cal. 4th 1238, 1251
(1994).

26 74. On February 12, 2019, given Defendant's discriminatory, harassing, and
27 retaliatory conduct, Plaintiff's workplace became intolerable such that Plaintiff had no choice but
28 to resign. During Plaintiff's employment, Plaintiff's Senior and Direct Managers consistently

1 engaged in discriminatory and harassing conduct. In response to this discriminatory and
2 harassing conduct, Plaintiff complained to Defendant's Human Resource Department. After
3 Plaintiff's complaint, Defendant engaged in a course of conduct, specifically the implementation
4 of a PIP and the use of an internal do-not-hire list, intentionally designed to retaliate against
5 Plaintiff for reporting harassment and discrimination. Defendant's intentional conduct created an
6 unreasonable and intolerable working environment for Plaintiff and resulted in Plaintiff having
7 no other reasonable alternative but to resign. Since Defendant did not leave Plaintiff with a
8 reasonable alternative other than resigning, Defendant's conduct resulted in its constructive
9 termination.

10 75. Plaintiff's constructive termination was unlawful and in violation of public policy
11 embodied in Article I, section 8, of the California Constitution, and/or California Government
12 Code section 12940, et. eq. because said termination was on the basis of Plaintiff's sex, race,
13 national origin, religion, and/or in retaliation for Plaintiff filing a lawful complaint.

14 **NINTH CAUSE OF ACTION**
15 **(On Behalf of Plaintiff and Proposed Class)**
16 **(Failure to Pay All Wages: Cal. Lab. Code §§ 201 – 204)**

17 76. Plaintiff and proposed class members incorporate by reference the allegations
18 contained the foregoing paragraphs of this complaint as if fully set forth herein.

19 77. During the relevant period, Defendant failed to compensate Plaintiff and
20 proposed class members in salaries, bonuses, stock options, and other employment benefits in a
21 manner that was equal to male employees in similar positions.

22 78. In doing so, Defendant failed to pay Plaintiff and proposed class members all
23 wages when they were due, in violation of California Labor Code section 204. Defendant further
24 failed to pay Plaintiff and proposed class members whose employment with Defendant ended
25 during the relevant period these wages when due, including immediately upon termination or
26 within seventy-two (72) hours of resignation, and failed to pay those sums for up to thirty (30)
27 days thereafter, in violation of California Labor Code sections 201-202.

28 79. Defendant's willfully failed to pay all wages when due to the Plaintiff and other
proposed class members because Defendant knew or should have known wages were due to

1 Plaintiff and other proposed class members, but Defendant failed to pay them.

2 80. These violations give rise to civil penalties, pursuant to California Labor Code
3 section 203. Plaintiff and proposed class members are therefore entitled to the relief requested
4 below.

5 **TENTH CAUSE OF ACTION**
6 **(On Behalf of Plaintiff and Proposed Class)**
7 **(Wage Statement Violations: Cal. Lab. Code § 226)**

8 81. Plaintiff and proposed class members incorporate by reference the allegations
9 contained in the foregoing paragraphs of this complaint as if fully set forth herein.

10 82. During the relevant period, Defendant failed to compensate Plaintiff and
11 proposed class members in salaries, bonuses, stock options, and other employment benefits in a
12 manner that was equal to male employees in similar positions.

13 83. During the relevant time period, Defendant failed to furnish accurate itemized
14 wage statements to Plaintiff and proposed class members, containing information as required by
15 California Labor Code sections 226(a)(1) gross wages earned and (5) net wages earned. Given
16 that Defendant failed to pay Plaintiff and proposed class members at rates commensurate with
17 male employees, Defendant further violated California Labor Code section 226(a)(9) in that the
18 wage statements reflected improper rates of pay. These failures caused Plaintiff and proposed
19 class members to suffer injury as defined by California Labor Code section 226(e)(2)(B)(i). As a
20 result of Defendant's failures, Plaintiff and proposed class members are entitled to recover the
21 penalties and attorneys' fees as set forth in California Labor Code section 226(e)(1).

22 84. As a result of Defendant's violations of California Labor Code section 226(a),
23 Plaintiff and proposed class members are also entitled to recover the penalties, and interest
24 thereon, as set forth in California Labor Code section 226.3.

25 85. Plaintiff also seeks penalties for Defendant's violations of California Labor Code
26 section 226(a)(1) and (5), pursuant to California Labor Code sections 2699.3 and 2699.5, and
27 attorneys' fees pursuant to section 2699(g)(1).

28 86. Plaintiff and proposed class members are therefore entitled to the relief requested
below.

ELEVENTH CAUSE OF ACTION
(On Behalf of Plaintiff and Proposed Class)
(Failure to Pay Equal Compensation: Cal. Lab. Code § 1197.5)

87. Plaintiff and proposed class members incorporate by reference the allegations contained in the foregoing paragraphs of this complaint as if fully set forth herein.

88. During the relevant period, Defendant failed to compensate Plaintiff and proposed class members in salaries, bonuses, stock options, and other benefits of employment, in a manner that was equal to male employees in similar positions, doing similar work, and performed under similar working conditions, in violation of California Labor Code 1197.5(a).

89. As a result of Defendant's violations of California Labor Code section 1197.5(a), Plaintiff and proposed class members are entitled to recover the wages in the amount deprived by the Defendant's actions, interest thereon, and liquidated damages, as set forth in California Labor Code section 1197.5(h).

90. Plaintiff and proposed class members are therefore entitled to the relief requested below.

TWELFTH CAUSE OF ACTION
(On Behalf of Plaintiff and Proposed Class)
(Unlawful, Unfair and Fraudulent Business Practices:
Business & Professions Code § 17200, et. seq.)

91. Plaintiff and proposed class members incorporate by reference the allegations contained in the foregoing paragraphs of this complaint as if fully set forth herein.

92. At all relevant times herein, Business & Professions Code section 17200, et seq., has prohibited acts of unfair competition, defined as an "unlawful, unfair, or fraudulent business act or practice."

93. The policies, acts and practices heretofore described were and are unlawful business acts or practices because Defendant's (1) failure to compensate Plaintiff and proposed class members in salaries, bonuses, stock options, and other employment benefits in a manner that was equal to male employees in similar positions, doing similar work, and performed under similar working conditions, in violation of California Labor Code section 1197.5; (2) failure to compensate Plaintiff and proposed class members complete payment of wages when they were due and at the time of termination or within 72 hours of resignation, in violation of California

1 Labor Code section 201-204; and, (3) failure to provide Plaintiff and proposed class members
2 with accurate wage statements, in violation of California Labor Code section 226; violate
3 applicable California Labor Code sections, Industrial Welfare Commission Wage Orders, the
4 Private Attorneys General Act of 2004, Labor Code section 2698 et seq., and other provisions of
5 California common and/or statutory law. Plaintiff reserves the right to allege additional statutory
6 and common law violations by Defendant.

7 94. Further, the policies, acts or practices described herein were and are an unfair
8 business acts or practices because any justifications for Defendant's illegal and wrongful conduct
9 were and are vastly outweighed by the harm such conduct caused to Plaintiff, proposed class
10 members, aggrieved employees, and the members of the general public.

11 95. As a result of its unlawful and/or unfair and/or fraudulent acts, Defendant reaped
12 unfair benefits and illegal profits at the expense of Plaintiff and proposed class members.
13 Defendant should be made to disgorge ill-gotten gains and provide restitution to Plaintiff and
14 proposed class members for the wrongfully withheld wages pursuant to Business and Professions
15 Code section 17203.

16 96. Accordingly, Plaintiff and proposed class members respectfully request that the
17 Court award judgment and relief in their favor, to provide restitution, and other types of
18 equitable relief.

19 97. Plaintiff and the proposed class members are therefore entitled to the relief
20 requested below.

21 **THIRTEENTH CAUSE OF ACTION**
22 **(On Behalf of Plaintiff and Aggrieved Employees)**
23 **(Labor Code Private Attorneys General Act of 2004 (the "PAGA")):**
24 **Cal. Lab. Code § 2698, et. seq.)**

25 98. Plaintiff and aggrieved employees incorporate by reference the allegations
26 contained in the foregoing paragraphs of this complaint as if fully set forth herein.

27 99. The policies, acts and practices heretofore described were and are unlawful
28 because Defendant's (1) failure to compensate Plaintiff and similarly aggrieved employees,
including other female software engineers at Defendant in the State of California during the
relevant period, in salaries, bonuses, stock options, and other employment benefits, in a manner

1 that was equal to male employees in similar positions, in violation of California Labor Code
2 section 1197.5; (2) failure to compensate Plaintiff and similarly aggrieved female software
3 engineers at Defendant in the State of California during the relevant period, complete payment of
4 wages when they were due and at the time of termination or quit, in violation of California Labor
5 Code section 201-204; and (3) failure to provide Plaintiff and similarly aggrieved employees,
6 including other female software engineers at Defendant in the State of California during the
7 relevant period, with accurate wage statements, in violation of California Labor Code section
8 226; violate applicable California Labor Code sections and gives rise to statutory and civil
9 penalties as a result of such conduct, including but not limited to, penalties as provided by Labor
10 Code sections 203, 226(e), 226.3, 1197.5(h), 2698, 2699(f), 2699.3, and 2699.5, and applicable
11 Industrial Welfare Commission Wage Orders. Plaintiff, as an aggrieved employee, hereby seeks
12 recovery of civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004
13 on behalf of herself and other current and former employees of Defendant against whom one or
14 more of the violations of the Labor Code was committed. Plaintiff further seeks attorneys' fees
15 to achieve the same, pursuant to Labor Code section 2699(g)(1).

16 100. On February 12, 2020, Plaintiff gave written notice to the California Labor and
17 Workforce Development Agency by online submission through their website and by certified
18 mail to Defendant of California Labor Code violations as prescribed by California Labor Code
19 section 2699.3. Plaintiff has not received written notification by the LWDA of an intention to
20 investigate the allegations set forth in Plaintiff's February 12, 2020, letter or written notice of
21 cure by April 17, 2020, 65 calendar days after the postmark date of the notice given to the
22 LWDA, as prescribed by California Labor Code section 2699.3(a)(2)(A).

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PRAYER FOR RELIEF

WHEREFORE Plaintiff prays for judgment and relief as follows:

1. Compensatory damages as appropriate and available under each cause of action, in an amount to be proven at trial based;
2. Reasonable attorneys' fees pursuant to California Government Code section 12965(b);
3. Costs of this suit;
4. Punitive damages according to proof;
4. Pre- and post-judgment interest; and
5. Such other and further relief as the Court deems just and proper.

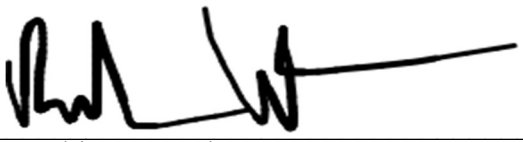
JURY DEMAND

Plaintiff hereby demands a trial by jury.

Date: September 22, 2020

WORKMAN LAW FIRM, PC

By:



Robin G. Workman
Attorney for Plaintiff Anita Nariani Schulze