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on behalf of herself and Aggrieved Employees

SUPERIOR COURT OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

TIFFANY DREYER, as an individual and
on behalf of Aggrieved Employees,

Plaintiff,

vs.

AUTOMATION ANYWHERE, INC., a
California Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No. 20CV372730

**FIRST AMENDED COMPLAINT FOR
DAMAGES AND PENALTIES:**

1. California Equal Pay Act Violations
(Labor Code § 1197.5)
2. Retaliation for Reporting Unlawful
Activity (Labor Code § 1102.5)
3. Violation of Labor Code § 98.6
4. Gender Discrimination in Violation
of the FEHA
5. Retaliation in Violation of the FEHA
6. Failure to Prevent Discrimination
and Retaliation
7. Wrongful Discharge in Violation of
Public Policy (*Tameny* Claim)
8. Private Attorneys General Act of
2004 (Labor Code §§ 2698, *et seq.*)
9. Unfair Competition Law (Business &
Professions Code §§ 17200, *et seq.*)

REQUEST FOR JURY TRIAL

1 Plaintiff TIFFANY DREYER (hereinafter referred to as "Plaintiff") hereby files this First
2 Amended Complaint against Defendant AUTOMATION ANYWHERE, INC., a California Corporation
3 (hereinafter referred to as "Defendant" or "the Company") and DOES 1 to 100, inclusive. On
4 information and belief, Plaintiff alleges the following:

5 **JURISDICTION AND VENUE**

6 1. The Santa Clara County Superior Court has jurisdiction in this matter due to alleged
7 violations of the California Labor Code and common law.

8 2. Venue is proper pursuant to Civil Procedure Code sections 395(a) and 395.5, in that
9 Plaintiff is informed and believes that Defendant conducts business in Santa Clara County, which is also
10 where the substantive wrongs against Plaintiff and other Aggrieved Employees took place.

11 3. For all causes of action falling within the Fair Employment and Housing Act,
12 Government Code section 12900 *et seq.* ("FEHA"), Plaintiff has exhausted administrative remedies by
13 filing a claim with the Equal Employment Opportunity Commission ("EEOC") against Defendant
14 concerning all claims asserted herein. Plaintiff received notice of the right to sue from the California
15 Department of Fair Employment and Housing ("DFEH") on December 17, 2020 and is filing this
16 lawsuit within one (1) year of receiving the right to sue notice.

17 4. Plaintiff has also sought permission pursuant to Labor Code sections 2698, *et seq.*, to
18 pursue the claims set forth in this Complaint against Defendant as a Private Attorney General on behalf
19 of herself and other Aggrieved Employees. Plaintiff defines "Aggrieved Employees" as follows:

20 All of Defendant's California-based, female employees who have or
21 continue to work for Defendant from August 19, 2019 to the date
judgement is entered.

22 Pursuant to California Labor Code section 2699.3, Plaintiff gave written notice via online submission to
23 the Labor and Workforce Development Agency ("LWDA") on August 19, 2020. In this written notice,
24 Plaintiff provided facts and legal bases for her claims within the notice to the LWDA on all violations
25 asserted under the Private Attorneys General Act cause of action. Plaintiff also submitted the \$75.00
26 filing fee. The notice was also sent via certified mail to Defendant on the same day it was uploaded to
27 the LWDA. Plaintiff is informed and believes that, to date, the LWDA has not provided any response to
28 Plaintiff's notice correspondence. Accordingly, Plaintiff is informed and believes that she has exhausted

1 all administrative remedies pursuant to the Private Attorneys General Act (“PAGA”) and may bring this
2 action on behalf of herself and all other Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A),
3 (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal.App.4th 365, 383 n.18, 385 n.19 (2005).

4 PARTIES

5 5. Plaintiff is over the age of eighteen (18) and is a resident and domiciliary of the State of
6 California.

7 6. Plaintiff is informed and believes, and thereon alleges, that AUTOMATION
8 ANYWHERE, INC., a California Corporation, is now and/or at all times mentioned in this Complaint,
9 was the owner and operator of an industry, business and/or facility licensed to do business and actually
10 doing business in the State of California.

11 7. Plaintiff is further informed and believes, and thereon alleges, that Defendant is a Silicon
12 Valley based company whose products combine traditional Robotic Process Automation (“RPA”) with
13 cognitive elements such as natural language processing and reading unstructured data. Although
14 Defendant market themselves as a start-up company, Defendant has been in existence, under the name
15 AUTOMATION ANYWHERE, INC., since 2010. As of 2018, Defendant customers included Google,
16 LinkedIn, and GM.

17 8. DOES 1 through 100 are affiliates, subsidiaries, parent corporations, integrated
18 enterprises, joint employers, joint ventures, and related entities and the alter egos of AUTOMATION
19 ANYWHERE, INC., corporate or otherwise, who participated in and are liable for the actions herein
20 alleged. Plaintiff will seek to amend this Complaint to allege the true names and capacities of these
21 DOE Defendant when they are ascertained. At all times mentioned herein, each Defendant was the
22 agent or employee of each of the other Defendants and was acting within the course and scope of such
23 agency or employment. Defendants are jointly and severally liable to Plaintiff.

24 9. At all times mentioned herein, each Defendant was the agent or employee of each of the
25 other Defendant and was acting within the course and scope of such agency or employment. The
26 Defendant are jointly and severally liable to Plaintiff.

27 10. Defendant, and each of them, are now and/or at all times mentioned in this Complaint,
28 were members of and/or engaged in a joint employment, joint venture, partnership and common

1 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
2 joint venture, partnership and common enterprise.

3 11. Defendant, and each of them, now and/or at all times mentioned in this Complaint,
4 approved, ratified, acquiesced, aided, or abetted the acts and omissions alleged in this Complaint.

5 **GENERAL ALLEGATIONS**

6 12. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 11 as though
7 fully set forth herein.

8 13. In this Complaint, Plaintiff and Aggrieved Employees allege that Defendant, acting
9 through their agents and employees, engaged in a pattern and practice of discriminating against Plaintiff
10 and Aggrieved Employees by systematically paying them less wages and bonuses than male employees
11 and disparately targeting them for layoffs and hostile, demeaning treatment.

12 14. Specifically, Plaintiff and Aggrieved Employees allege male employees in Director
13 positions are regularly paid upwards of \$200,000.00 per year as a starting wage, whereas Defendant paid
14 similarly situated women in this position (including Plaintiff), a wage of, at least, ten (10) to fifteen (15)
15 thousand dollars per year less. A similar wage disparity between male and female employees is true for
16 Mangers, Senior Managers, and Vice Presidents, particularly in the Marketing Department(s).

17 15. Plaintiff and Aggrieved Employees are aware of, at least, one instance where a female
18 Director made, and is making, a significantly lower wage than a male employee with less experience, in
19 a lower ranked position as Senior Manager.

20 16. In addition to the wage disparity that exists between male and female employees, there
21 are also significantly fewer women than men working at the Company. For instance, Plaintiff and
22 Aggrieved Employees estimate that the workforce at the Company is approximately seventy (70)
23 percent male. This disparity is even more pronounced in the Executive and Vice President positions,
24 where females occupy less than five (5) percent of the positions. Additionally, since the April and June
25 2020 layoffs targeted many higher-level female employees, this gender disparity has only become more
26 pronounced over the last year.

27 17. Defendant's workplace culture is also toxic and demeaning towards women. Women are
28 looked at as assistants, not leaders. Women are told to "stay in your lane" and "know your place."

1 Women are frequently cut off and ignored in meetings, and if they do speak up, they are considered
2 “bitchy and emotional.” Women are often excluded from projects and men are given credit for tasks
3 they did not complete. Women are scrutinized for taking vacation while men are left alone. Despite
4 meeting the objective standards set out in Objective and Key Results, women are given poor
5 performance ratings and pushed out of the company.

6 18. In fact, in the summer of 2020, Defendant held a roundtable discussion for female
7 professionals. In this roundtable forum, one of the top executives at the Company suggested – behind a
8 veil of concern over the work/life balance for working women with children in the Covid-19 era – that
9 women may want to consider the option of reducing their hours and taking a pay reduction. This
10 “suggestion” was not put forth to male employees.

11 19. Due to concerns over disparate treatment and hostility in the workplace over the last six
12 (6) plus months, Plaintiff and Aggrieved Employees, filed ethics complaints and reports with the
13 Company. These reports/complaints included concerns about wage disparity and a disparity in treatment
14 between male and female employees. Specifically, Plaintiff and Aggrieved Employees reported: (1)
15 they were unjustly receiving negative performance ratings in early 2020; (2) they did not receive earned
16 bonus payments; (3) they were having their job duties removed from them in favor of male counterparts;
17 (4) they were being ignored and sabotaged in their efforts to complete their job duties; and (5) they
18 regularly did not receive credit for work performed and, in some cases, the credit was directly mis-
19 attributed to their male co-workers.

20 20. Unfortunately for Plaintiff and Aggrieved Employees, their efforts to bring the
21 Company’s attention to this disparity and toxic culture were ignored. Even worse, in some cases,
22 including Plaintiff’s, such reports were followed by Defendant’ notice of termination, either in the first
23 layoff in April 2020, or the following layoff in June 2020.

24 21. Plaintiff started working for Defendant on June 26, 2019, with the title of “Creative
25 Director.” Plaintiff was initially paid an annual salary of \$185,000, which was increased to \$191,000 in
26 or around November 2019, after she received a stellar performance review from her, then, female
27 supervisor. Plaintiff’s job duties included building and managing an in-house creative content team
28 consisting of graphic design, motion graphics, and video production work in addition to art direction of

1 global support agencies. In March 2020, Defendant demoted Plaintiff and stripped her of her
2 management responsibilities, even though she had demonstrated she was capable of, and excelling at,
3 performing her job duties.

4 22. Not long after Plaintiff started working for Defendant, Defendant brought in a new Chief
5 Marketing Officer (CMO) Riadh Dridi. Within a few months at his new post, Dridi launched a
6 restructuring campaign at the Company, which included Company layoffs and power shifting. Although
7 Defendant claimed that these layoffs and restructuring were due to Covid-19, the Company
8 reorganization was an excuse to push out senior and mid-level female employees, including Plaintiff,
9 and replace them with men.

10 23. As part of these initial layoffs, Defendant laid off Plaintiff's former supervisor Annalisa
11 Camarillo, as well as Vice Presidents, Kristen Diamond, and Kristy Junio.

12 24. Defendant then brought in a man to replace Plaintiff. Initially, Defendant led Plaintiff
13 to believe that they were bringing in a new Vice President to replace Ms. Camarillo and that he would
14 help Plaintiff in building up her content/creative team. Instead, Dridi hired one of his former Ring
15 Central colleagues, Michael Baumert, and put him in an almost identical position to Plaintiff, with the
16 title "Director of Creative Services". Apart from some additional experience in the technical industry,
17 Mr. Baumert held the equivalent experience and education as Plaintiff. Despite being in an equivalent
18 position to Mr. Baumert, Plaintiff is informed and believes that Defendant paid Mr. Baumert a higher
19 wage per year than Plaintiff.

20 25. Shortly after Mr. Baumert's arrival, Defendant demoted Plaintiff by stripping her of all
21 management responsibilities for her creative team, which consisted of six (6) employees and one (1)
22 contractor. Due to Plaintiff's concerns over these developments, and the appearance of gender and wage
23 discrimination in the workplace, Plaintiff initially reported her concerns to the Senior Vice President of
24 Human Resources, Tom Brown, via email in both February and early March 2020, when it first started
25 to become evident what was happening. Plaintiff also met with Mr. Brown in person on March 2, 2020.
26 At the meeting, Plaintiff reiterated her concerns over the toxic and biased workplace culture, as well as
27 her concern over being discriminated against. Plaintiff also directly expressed her fear that speaking out
28 would result in some sort of retaliation. In this conversation, Mr. Brown did express concern over what

1 Plaintiff was going through but could not entirely allay Plaintiff's concerns over potential retaliation.
2 Mr. Brown further informed Plaintiff that this was not the first time he had received complaints of this
3 nature about upper management at the Company.

4 26. In March and April 2020, the situation at work only continued to deteriorate. For
5 instance, in late March 2020, management at the Company gave an explicit directive to Plaintiff's
6 former team members and the executive staff that they should only be reporting to, and working directly
7 with, Mr. Baumert. In other words, by the end of March 2020, there was no doubt that Mr. Baumert had
8 entirely taken over Plaintiff's position at the Company.

9 27. In response to this continued devolution in Plaintiff's position, Plaintiff sent another
10 email to Mr. Brown in or around April 2, 2020. In this email, Plaintiff expressed her frustration over the
11 fact that nothing was being done to correct the disparate and unfair treatment she and others in the
12 Company had reported. She also directly expressed her fear of retaliation and termination. These
13 reports, however, continued to "fall on deaf ears", as Plaintiff explicitly stated they would.

14 28. Worse, in June 2020, Plaintiff was notified by Defendant that she was being laid-off.
15 And, the man that Dridi handpicked to "work with" Plaintiff to help build her team ended up entirely
16 eliminating Plaintiff's position and, ultimately, replacing her.

17 **CAUSES OF ACTION**

18 **FIRST CAUSE OF ACTION**
19 **VIOLATION OF CALIFORNIA'S EQUAL PAY ACT**
20 **(As Against Defendant)**

21 29. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 28 as though fully
22 set forth herein.

23 30. Labor Code section 1197.5, states that, "[a]n employer shall not pay any of its employees
24 at wage rates less than the rates paid to employees of the opposite sex for substantially similar work,
25 when viewed as a composite of skill, effort, and responsibility, and performed under similar working
26 conditions..."

27 31. Labor Code section 1197.5, subdivision (c) further states that, "[a]ny employer who
28 violates [this section] is liable to the employee affected in the amount of the wages, and interest thereon,
of which the employee is deprived by reason of the violation, and an additional equal amount as

1 liquidated damages.”

2 32. Here, Plaintiff was systematically paid lower wages than male employees with similar
3 skill, education, and experience for substantially similar work under similar working conditions.

4 33. Plaintiff, therefore, suffered damages proximately caused by Defendant, and each of their
5 agent’s acts as stated in the section below entitled “DAMAGES,” which is incorporated here to the
6 extent pertinent as if set forth here in full.

7 **SECOND CAUSE OF ACTION**
8 **RETALIATION IN VIOLATION OF LABOR CODE § 1102.5**
9 **(As Against Defendant)**

10 34. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 33 as though fully
11 set forth herein.

12 35. California Labor Code section 1102.5(a) states that an employer may not, “make, adopt,
13 or enforce any rule, regulation, or policy preventing an employee from disclosing information to a . . .
14 person with authority over the employee, or to another employee who has authority to investigate,
15 discover, or correct the violation or noncompliance, . . . if the employee has reasonable cause to believe
16 that the information discloses a violation of state or federal statute, or a violation of or noncompliance
17 with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part
18 of the employee’s job duties.”

19 36. An employer also may not, “retaliate against an employee for disclosing information, or
20 because the employer believes that the employee disclosed or may disclose information, to a
21 government or law enforcement agency, to a person with authority over the employee or another
22 employee who has the authority to investigate, discover, or correct the violation or noncompliance, . . . if
23 the employee has reasonable cause to believe that the information discloses a violation of state or federal
24 statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of
25 whether disclosing the information is part of the employee’s job duties.” Cal. Labor Code § 1102.5(b).

26 37. Lastly, an employer may, “not retaliate against an employee for refusing to participate in
27 an activity that would result in a violation of state or federal statute, or a violation or noncompliance
28 with a state or federal rule or regulation.” Cal. Labor Code § 1102.5(c).

38. Plaintiff had a reasonable, good faith belief that Defendant’s practice treating her male

1 colleague, Michael Baumert, more favorably than her was against the law and reported this to
2 Defendant. Specifically, in February and March of 2020, Plaintiff reported to Human Resources that her
3 male colleague was taking over her job duties even though he had the same job classification and
4 experience. A few months later, Defendant terminated Plaintiff.

5 39. Defendant's aforesaid acts of retaliating against and terminating Plaintiff for reporting
6 unlawful activity were malicious, oppressive, despicable, and in conscious disregard of Plaintiff's rights.
7 As such, punitive damages are warranted against Defendant to punish them and make an example of
8 their actions.

9 40. Plaintiff suffered damages proximately caused by these Defendant's wrongful acts as
10 stated in the section below entitled "DAMAGES" which is incorporated here to the extent pertinent as if
11 set forth in full.

12 **THIRD CAUSE OF ACTION**
13 **VIOLATION OF LABOR CODE § 98.6**
(As Against Defendant)

14 41. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 40 as though fully
15 set forth herein.

16 42. A person "shall not discharge an employee or in any manner discriminate, retaliate, or
17 take any adverse action against any employee or applicant for employment because the employee or
18 applicant engaged in any conduct delineated in this chapter, including the conduct described in
19 subdivision (k) of Section 96, and Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or
20 because the employee or applicant for employment has filed a bona fide complaint or claim . . . under or
21 relating to his or her rights that are under the jurisdiction of the Labor Commissioner . . . or because of
22 the exercise by the employee or applicant for employment on behalf of himself, herself, or others of any
23 rights afforded him or her." See Labor Code § 98.6. As described above, Defendant violated Labor
24 Code section 1102.5, by terminating Plaintiff's employment after she reported to Defendant that they
25 were treating her male colleague, Michael Baumert, more favorably than her in violation of the law.

26 43. Defendant's aforesaid acts of retaliating against and terminating Plaintiff for reporting
27 unlawful activity were malicious, oppressive, despicable, and in conscious disregard of Plaintiff's rights.
28 As such, punitive damages are warranted against Defendant to punish them and make an example of

1 their actions.

2 44. Plaintiff suffered damages proximately caused by these Defendant's wrongful acts as
3 stated in the section below entitled "DAMAGES" which is incorporated here to the extent pertinent as if
4 set forth in full.

5 **FOURTH CAUSE OF ACTION**
6 **DISCRIMINATION BASED ON GENDER/SEX IN VIOLATION OF GOVERNMENT**
7 **CODE SECTION 12490, *et seq.***
8 **(As Against Defendant)**

9 45. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 44 as though fully
10 set forth herein.

11 46. At all times herein mentioned, California Government Code section 12900, *et seq.* (Fair
12 Employment and Housing Act, "FEHA") was in effect and binding upon Defendant. This section, *inter*
13 *alia*, required Defendant to refrain from discriminatory practices against any employee based on
14 gender/sex.

15 47. A *prima facie* case for discrimination under the FEHA requires a plaintiff to show: 1) she
16 is a member of a protected class; 2) she was qualified for the position; 3) she suffered an adverse
17 employment action; and 4) some other circumstances which suggest discriminatory motive on the
18 employer's part. *See Guz v. Bechtel Nat'l, Inc.*, 24 Cal.4th 317, 355 (2000).

19 48. At all times herein mentioned, Plaintiff was qualified for her position and was performing
20 well. Despite this, Plaintiff hired a male employee, Michael Baumert, with similar qualifications and
21 experience, to replace Plaintiff. Initially, Defendant led Plaintiff to believe that Mr. Baumert would be
22 working with her and her team; however, shortly after Defendant hired Mr. Baumert, Defendant stripped
23 Plaintiff of all her team management duties in favor of Mr. Baumert. By the end of March 2020,
24 Plaintiff was completely cut-off from her team and the executive staff. Although Plaintiff complained to
25 HR about the apparent disparate treatment between her and Mr. Baumert, nothing was done to correct
26 and remedy the problem. In fact, in June 2020, Defendant terminated Plaintiff's employment and
27 replaced her with Mr. Baumert.

28 49. At all relevant times, Defendant had actual and constructive knowledge of the
discriminatory conduct described and alleged herein, and condoned, ratified and participated in the
discrimination.

50. As a direct and proximate result of Defendant's willful, knowing, and intentional discrimination against Plaintiff and creation of a hostile environment, Plaintiff has suffered mental distress, anguish, and indignation and past and future wage loss.

51. As such, Plaintiff suffered damages legally caused by Defendant's acts as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

52. Defendant's discriminatory employment practices alleged herein, including removing Plaintiff's job duties and then terminating her, were malicious, oppressive, despicable, and in conscious disregard of Plaintiff's rights. As such, punitive damages are warranted against Defendant to punish it and make an example of its actions.

FIFTH CAUSE OF ACTION
RETALIATION IN VIOLATION OF GOVERNMENT CODE SECTION 12940, et seq.
(As Against Defendant)

53. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 52 as though fully set forth herein.

54. At all times herein mentioned, California Government Code section 12900, *et seq.* (Fair Employment and Housing Act, “FEHA”) was in effect and binding upon Defendant. This section, *inter alia*, required Defendant to refrain from retaliating against any employee who reasonably reports a potential violation of the FEHA.

55. A *prima facie* case for retaliation under the FEHA requires Plaintiff to show: 1) she engaged in a protected activity, including opposing practices she reasonably believed violated the FEHA; 2) Defendant subjected Plaintiff to an adverse employment action; and 3) a causal link exists between the protected activity and the employer's action. *See Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1044.

56. Plaintiff engaged in a protected activity under FEHA when she reported verbally and in writing to HR that she was being treated less favorably than a similarly situated male employee. Specifically, Plaintiff reported to HR that she was having her duties and access to her team removed in favor of Mr. Baumert. Plaintiff further reported that other employees shared some similar concerns.

1 57. Shortly after making this report, Defendant only further undermined Plaintiff's
2 position and then terminated her in June 2020.

3 58. As a direct and proximate result of Defendant's willful, knowing, and intentional
4 retaliation against Plaintiff, Plaintiff has suffered mental distress, anguish, and indignation and past and
5 future wage loss.

6 59. As such, Plaintiff suffered damages legally caused by Defendant's acts as stated in the
7 section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth
8 here in full.

9 60. Defendant's retaliatory employment practices alleged herein, including removing
10 Plaintiff's job duties and then terminating her, were malicious, oppressive, despicable, and in conscious
11 disregard of Plaintiff's rights. As such, punitive damages are warranted against Defendant to punish it
12 and make an example of its actions.

13 **SIXTH CAUSE OF ACTION**
14 **FAILURE TO PREVENT DISCRIMINATION/RETALIATION IN VIOLATION OF**
 GOVERNMENT CODE SECTION 12940, et seq.
 (As Against Defendant)

15 61. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 60 as though
16 fully set forth herein.

17 62. Pursuant to the FEHA, Defendant was obligated to, "take all reasonable steps
18 necessary to prevent discrimination and harassment from occurring." See Cal. Gov't Code 12940(k).

19 63. As detailed herein, Plaintiff advised Defendant that she was being discriminated
20 against and treated less favorably than her male colleague. Instead of taking any action to prevent
21 and remedy further discrimination from occurring, Defendant failed to take any action. In fact, after
22 reporting discriminatory treatment, Defendant took further action to remove Plaintiff's job duties and
23 then terminated her.

24 64. Defendant, by and through its agents, acquiesced and ratified this discriminatory
25 practice.

26 65. As a direct and proximate result of Defendant's willful, knowing, and intentional failure
27 to act to prevent discrimination, Plaintiff has suffered mental distress, anguish, and indignation and past
28 and future wage loss.

1 66. As such, Plaintiff suffered damages legally caused by Defendant's acts as stated in the
2 section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth
3 here in full.

4 **SEVENTH CAUSE OF ACTION**
5 **WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY**
6 **(As Against Defendant)**

7 67. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 66 as though fully
8 set forth herein.

9 68. An employer's violation of a statute on a particular subject is a violation of public
10 policy. *See, e.g., Jie v. Liang Tai Knitwear Co.*, 89 Cal.App.4th 654, 660-61 (2001); *See Stevenson*
11 *v. Sup. Ct. (Huntington Mem. Hosp.)*, 16 Cal.4th 880 (1997).

12 69. Thus, a violation of the California Labor Code and the FEHA is a violation of public
13 policy.

14 70. An employee need not prove that the employer actually violated the law; rather, "it
15 suffices if the employer fired him for reporting his 'reasonably based suspicions' of illegal activity."
16 *Green v. Ralee Engineering Co.*, 19 Cal. 4th 66, 87 (1998). In this case, the employee may still bring a
17 wrongful discharge tort claim. *Id.*

18 71. Here, Defendant discharged Plaintiff in violation of public policy, as found in California
19 Labor Code section 1102.5 and Government Code section 12940, *et seq.*, protecting employees from
20 retaliation, as well as the general public policy of the State of California to keep workplaces free from
21 discrimination based on sex/gender.

22 72. In this case, Plaintiff is specifically alleging that Defendant retaliated and discriminated
23 against her by terminating her employment after she reported a reasonable suspicion of gender/sex
24 discrimination and then replaced her with a comparable male employee.

25 73. Defendant's decision to wrongfully discharge Plaintiff was malicious, oppressive,
26 despicable, and in conscious disregard of Plaintiff's rights. As such, punitive damages are warranted
27 against Defendant to punish them and make an example of their actions.

28 //

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1 74. Plaintiff suffered damages proximately caused by Defendant's wrongful acts as stated in
2 the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth
3 here in full.

4 **EIGHTH CAUSE OF ACTION**
5 **PRIVATE ATTORNEYS GENERAL ACT**
6 **(As Against Defendant)**

7 75. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 74 as though fully
8 set forth herein.

9 76. Plaintiff has alleged to the LWDA that Defendant has violated the following provision(s)
10 of the Labor Code in their dealing with Plaintiff and Aggrieved Employees:

- 11 • Violation of Labor Code section 1197.5 (Violation of the California Fair Pay Act);
- 12 • Violation of Labor Code section 1102.5 (Retaliation for Reporting a Reasonable
13 Suspicion of Unlawful Activity); and
- 14 • Violation of Labor Code § 98.6 (Discharge, Discrimination, or Retaliation).

15 77. Plaintiff has received authorization, based on the LWDA's failure to send notice of its
16 intent to pursue Plaintiff's claims, to act on behalf of the Labor Commissioner to assess civil penalties
17 against Defendant.

18 78. Plaintiff seeks default civil penalties against Defendant pursuant to Labor Code section
19 2699(f)(2) to the extent there is no enumerated penalty provision for the specific section cited above.

20 79. Plaintiff seeks these penalties on behalf of herself and Aggrieved Employees from
21 Defendant pursuant to Labor Code sections 2699(a) and 2699.3.

22 **NINTH CAUSE OF ACTION**
23 **UNFAIR COMPETITION**
24 **(As Against Defendant)**

25 80. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 79 as though fully
26 set forth herein.

27 81. Unfair competition shall mean and include any unlawful, unfair, or fraudulent business
28 act or practice and unfair, deceptive, untrue, or misleading advertising and any act prohibited by Chapter
1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code. *See*
California Business and Professions ("B&P") Code §§ 17200, *et seq.*

82. As alleged above, Plaintiff was denied equal wages and discriminated and retaliated against because of her gender and for reporting potentially unlawful activity in violation of California Labor Code and the California Government Code sections 12940, *et seq.*

83. Plaintiff further alleges that such actions and/or conduct constitute a violation of the California Unfair Competition Law (“UCL”) (Business and Professions Code section 17200, *et seq.*) pursuant to *Cortez v. Purolator Air Filtration Products Co.*, 23 Cal.4th 163, 173-78 (2000) and *Herr v. Nestle U.S.A., Inc.*, 109 Cal.App.4th 779, 789–90 (2003) (holding that a pattern and practice of discrimination in violation of the FEHA could support a UCL claim).

84. As a direct and legal result of the Defendant's conduct, as alleged herein, pursuant to the UCL (including B&P Code § 17203), Plaintiff is entitled to restitution, including, but not limited to, interest and penalties, as well as injunctive relief pursuant to Business & Professions Code sections 17203, 17208, for violations of California Labor Code sections 1197.5, 1102.5 and California Government Code sections 12940, *et seq.*, all in an amount as yet unascertained but subject to proof.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. Plaintiff requests a jury trial;
2. As to the First Cause of Action (Cal. Labor Code § 1197.5):
 - a. For wages that Plaintiff was deprived of due to Equal Pay Act violations and any interest thereon, according to proof;
 - b. For liquidated damages in an equal amount, according to proof;
 - c. For reasonable attorney's fees and costs pursuant to Labor Code section 1197.5 (h);
3. As to the Second and Third Causes of Action (Cal. Labor Code §§ 98.6, 1102.5):
 - a. For compensatory damages, including lost wages, earnings, retirement benefits, and other employee benefits, and all other sums of money, together with interest on these amounts;
 - b. For a money judgment for mental pain and anguish and emotional Distress, according to proof;

- 1 c. Penalties in the amount of \$10,000.00 pursuant to Labor Code
2 sections 1102.5(f) and 98.6 (b)(3);
3 d. For an award of punitive damages, according to proof;
4 e. For reasonable attorney's fees according to Labor Code section 1102.5 (j);
5 4. As to the Fourth Through Sixth Cause of Action (Gender Discrimination, Retaliation and
6 Failure to Prevent in Violation of the FEHA):
7 a. For compensatory damages, including lost wages, earnings, retirement benefits
8 and other employee benefits, and all other sums of money, together with interest
9 on these amounts, according to proof;
10 b. For a money judgment for mental pain and anguish and emotional distress,
11 according to proof;
12 c. For an award of punitive damages, according to proof;
13 d. For reasonable attorneys' fees and costs pursuant to Government Code sections
14 12970 and 12965(b),
15 5. As to the Seventh Cause of Action (Wrongful Termination in Violation of Public
16 Policy):
17 a. For compensatory damages, including lost wages, earnings, retirement
18 benefits and other employee benefits, and all other sums of money, together
19 with interest on these amounts, according to proof;
20 b. For a money judgment for mental pain and anguish and emotional distress,
21 according to proof;
22 c. For an award of punitive damages, according to proof;
23 4. As to the Eighth Cause of Action: (Cal. Labor Code § 2698, *et seq.*, (PAGA)):
24 a. Penalties as enumerated by statute;
25 b. Default penalties according to the following schedule: for any initial violation,
26 one hundred dollars (\$100.00) for each Aggrieved Employee per pay period; for
27 any subsequent violation, two hundred dollars (\$200.00) for each Aggrieved
28 Employee per pay period;

- 1 c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699(g)(1).
2 5. For such other and further relief as this Court may deem just and proper, including, but
3 not limited to:
4 a. Special and general damages;
5 b. Injunctive and declaratory relief;
6 c. Attorney's fees and costs; and
7 d. Pre and Post Judgment Interest.
8

9 Dated: March 15, 2021

Shimoda Law Corp.

10
11 By: 

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Jessica L. Hart
Attorneys for Plaintiff

1 *Dreyer v Automation Anywhere, Inc., et al.*
2 *Santa Clara Superior Court Case No. 20CV3727330*

3 **PROOF OF SERVICE — CCP §§ 1010.6, 1013a and 2015.5**
4 **and California Rules of Court, Rule 1.21, Rule 2.150, and Rule 2.251**

5 I, Melissa A. Phillips, declare that:

6 I am a citizen of the United States and am over the age of eighteen years and not a party
7 to the within above-entitled action.

8 On March 15, 2021, I served the following documents on the party below:

- 9 • First Amended Complaint for Damages and Penalties

10 Leah Cameron (SBN 274637)
11 Alison Tsao (SBN 198250)
12 Candace DesBaillets (SBN 315284)
13 600 Montgomery Street, Suite 440
14 San Francisco, CA 94111
Phone: (415) 981-3233
Email: lcameron@cdflaborlaw.com;
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Laura L. Ho (SBN 173179)
Mengfei Sun (SBN 328829)
Goldstein, Borgen, Dardarian & Ho
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Oakland, CA 94612-3767
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msun@gbdhlegal.com

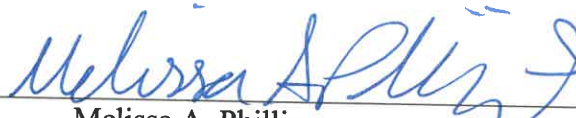
15 [XXX] [By Mail] I am familiar with my employer's practice for the collection and
16 processing of correspondence for mailing with the United States Postal
17 Service and that each day's mail is deposited with the United States Postal
18 Service that same day in the ordinary course of business. On the date set forth
19 above, I served the aforementioned document(s) on the parties in said action
by placing a true copy thereof enclosed in a sealed envelope with postage
thereon fully prepaid, for collection and mailing on this date, following
ordinary business practices, at Sacramento, California, addressed as set forth
above.

20 [] [By Personal Service] By personally delivering a true copy thereof to the
21 office of the addressee above.

22 [] [By Electronic Mail] I e-mailed the documents(s) to the person(s)
shown above. No error was reported by the e-mail service that I used.

23 [] [By Overnight Courier] By causing a true copy and/or original thereof to be
24 personally delivered via the following overnight courier service:_____.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct, and that this declaration was executed on March 15, 2021, at
Sacramento, California.

27 
28 Melissa A. Phillips