

1 BETH A. GUNN, CA Bar No. 218889
beth@gunncoble.com
2 CATHERINE J. COBLE, CA Bar No. 223461
cathy@gunncoble.com
3 GUNN COBLE LLP
3555 Casitas Ave.
4 Los Angeles, CA 90039
Telephone: 818.900.0695
5 Facsimile: 818.900.0723

6 Attorneys for Plaintiff
KATHLEEN RISHI, individually
7 and on behalf of others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN FRANCISCO**

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
06/04/2021
Clerk of the Court
BY: KALENE APOLONIO
Deputy Clerk

10 KATHLEEN RISHI, individually, and on behalf
of others similarly situated

11 Plaintiff,

12 vs.

13
14 COGENT COMMUNICATIONS, INC.,
GREGORY DOMINGUEZ, AN INDIVIDUAL
15 AND DOES 1 THROUGH 25, INCLUSIVE,

16 Defendants
17
18
19
20
21
22
23
24
25
26
27
28

Case No. _____

CGC-21-592577

COMPLAINT FOR DAMAGES

1. Discrimination Based on Sex/Gender, Including Pregnancy, in Violation of FEHA;
2. Discrimination Based on Physical Disability and/or Medical Condition, in Violation of FEHA;
3. Harassment Based on Sex/Gender, Including Pregnancy, in Violation of FEHA;
4. Failure to Prevent, Investigate, and Remedy Discrimination, Harassment, or Retaliation, in Violation of FEHA;
5. Violation of California Family Rights Act
6. Retaliation for Opposing Practices Forbidden by FEHA;
7. Intentional Infliction of Emotional Distress;
8. Negligent Infliction of Emotional Distress;
9. Whistleblower Retaliation in Violation of Labor Code Section 1102.5;
10. Wrongful Termination in Violation of Public Policy
11. Failure to Reimburse Necessary Business Expenses
12. Unfair and Unlawful Business Practices
13. Penalties Under the Labor Code Private Attorneys General Act, As Representative Action

DEMAND FOR JURY TRIAL

1 Plaintiff KATHLEEN RISHI (hereinafter "PLAINTIFF") brings this action as an individual,
2 and on behalf of others similarly situated for causes of action 11, 12 and 13 against GREGORY
3 DOMINGUEZ ("DOMINGUEZ"), and COGENT COMMUNICATIONS, INC. ("COGENT"), and
4 Does 1 through 25 ("DOES"), inclusive, (DOMINGUEZ, COGENT, and DOES are hereinafter
5 collectively referred to as "DEFENDANTS"). PLAINTIFF complains and alleges as follows based
6 on personal knowledge and/or information and belief.

7 INTRODUCTION

8 COGENT embraces a culture where women are undermined, including during pregnancy.
9 When PLAINTIFF took a protected leave of absence related to her pregnancy, she was discriminated
10 against, harassed, and retaliated against. In this case, while PLAINTIFF was out on maternity leave,
11 she was forced to worry about DOMINGUEZ taking her clients and deals to undermine her.
12 PLAINTIFF was courageous enough to report the discrimination and retaliation, even though she
13 was trying to focus on doing her job as a new mother, and reported DOMINGUEZ's illegal actions
14 to her director and Human Resources at the time it occurred. COGENT refused to take any action to
15 protect PLAINTIFF or even acknowledge the discrimination and retaliation, instead sweeping the
16 conduct under the rug and forgetting about it. COGENT's failure to investigate and accommodate
17 PLAINTIFF contributed to an environment of isolation and intolerable working conditions. Worse,
18 COGENT doubled down on this toxic culture by terminating PLAINTIFF in blatant retaliation for
19 her participation as a reliable witness to another employee's sexual harassment claim against
20 DOMINGUEZ. This lawsuit seeks to hold DEFENDANTS accountable for their discriminatory and
21 retaliatory actions which are prohibited by the laws of the State of California.

22 JURISDICTION AND VENUE

23 1. The Superior Court of the State of California has jurisdiction over this action pursuant
24 to California Constitution Article VI, section 10, which grants the Superior Court "original
25 jurisdiction in all cases except those given by statute to other trial courts."

26 2. The Superior Court of the State of California has jurisdiction in this matter because
27 PLAINTIFF is a resident of the State of California. Moreover, upon information and belief, at least
28 one Defendant is a citizen of California, the alleged discriminatory acts and wrongful termination

1 occurred in California, significant relief is being sought against DEFENDANTS whose violations of
2 California employment laws form a significant basis for PLAINTIFF'S claims. Further, no federal
3 question is at issue because the claims are based solely on California law and at least one Defendant
4 is a resident of, and/or regularly conducts business in the State of California, as well as its principal
5 place of business is located within California.

6 3. Venue is proper in this judicial district and the County of San Francisco, California
7 because PLAINTIFF performed work for DEFENDANTS in the County of San Francisco,
8 DEFENDANTS maintain offices and facilities and transact business in the County of San Francisco,
9 and DEFENDANTS' illegal acts, which are the subject of this action, occurred in the County of San
10 Francisco. Thus, the County of San Francisco is the county where the unlawful employment
11 practices are alleged to have been committed pursuant to Cal. Gov't Code § 12965(b) and where a
12 substantial portion of the transactions and occurrences related to this action occurred pursuant to
13 Cal. Civ. Proc. Code § 395.

14 4. Prior to filing this action, PLAINTIFF timely exhausted her administrative remedies,
15 by timely filing an administrative complaint with the Department of Fair Employment and Housing
16 ("DFEH") and receiving a DFEH right to sue letter on December 18, 2020.

17 5. Pursuant to California Labor Code Section 2699.3, PLAINTIFF gave written notice
18 by certified mail to the California Labor and Workforce Development Agency ("LWDA") and
19 COGENT of the specific provisions of the California Labor Code alleged to have been violated,
20 including the facts and theories to support the alleged violations. PLAINTIFF's notice to the
21 LWDA is attached as Exhibit A. Within sixty-five (65) calendar days of the postmark date of
22 PLAINTIFF's notice letter, the LWDA did not provide notice to PLAINTIFF that it intends to
23 investigate the alleged violations.

24
25 **PARTIES**

26 6. PLAINTIFF is an individual who is a resident of California and at all times herein
27 mentioned was a resident of San Francisco County, California.

28 7. COGENT is, and at all times mentioned in this Complaint was, an internet service

1 provider authorized to conduct and conducting business in San Francisco County, California.
2 COGENT'S place of business, where the following causes of action took place, was in the County
3 of San Francisco, at 501 2nd Street, 4th Floor, San Francisco, California.

4 8. DOMINGUEZ is, and at all times mentioned in this Complaint was, a resident of
5 California employed by COGENT as the Sales Director and Sales Manager for COGENT at its 501
6 2nd Street, Suite 204, San Francisco, California location. DOMINGUEZ was PLAINTIFF's second
7 level supervisor at all times mentioned in this Complaint.

8 9. At all times relevant herein, PLAINTIFF has been employed by DEFENDANTS
9 within the meaning of the California Fair Employment and Housing Act ("FEHA"), California
10 Government Code section 12900, *et seq.* See Cal. Gov't Code § 12962(d). Accordingly, this lawsuit
11 is properly venued in the San Francisco County Superior Court pursuant to California Government
12 Code section 12965(b) and California Code of Civil Procedure section 395.

13 10. The true names and capacities of DOES are unknown to PLAINTIFF at this time, and
14 PLAINTIFF, therefore, sues such DOE Defendants under fictitious names. PLAINTIFF is informed
15 and believes, and thereon alleges, that each Defendant designated as a DOE is in some manner highly
16 responsible for the occurrences alleged herein, and that PLAINTIFF'S injuries and damages, as
17 alleged herein, were proximately caused by the conduct of such DOE Defendants. PLAINTIFF will
18 seek leave of the court to amend this complaint to allege the true names and capacities of such DOE
19 Defendants when ascertained.

20 11. PLAINTIFF is informed and believes, and thereon alleges, that each and every one
21 of the acts and omissions alleged herein were performed by, and/or attributable to, all
22 DEFENDANTS, each acting as agents and/or employees, and/or under the direction and control of,
23 each of the other DEFENDANTS, and that said acts and failures to act were within the course and
24 scope of said agency, employment and/or direction and control.

25 12. PLAINTIFF is informed and believes, and based thereon alleges, that each
26 DEFENDANT acted in all respects pertinent to this action as the agent of the other DEFENDANTS,
27 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
28 each DEFENDANT are legally attributable to the other DEFENDANTS.

1 13. As a direct and proximate result of the unlawful actions of DEFENDANTS,
2 PLAINTIFF has suffered, and continues to suffer, from loss of earnings in amounts as yet
3 unascertained, but subject to proof at trial, and within the jurisdiction of this Court.

4 **FACTS COMMON TO ALL CAUSES OF ACTION**

5 ***Overview of Plaintiff's employment:***

6 14. COGENT is a multinational Tier 1 internet service provider that offers internet access
7 and data transport.

8 15. At all times relevant herein, PLAINTIFF performed her work competently and, prior
9 to informing COGENT of her pregnancy in 2018, PLAINTIFF never received negative performance
10 reviews or other critiques of her work.

11 ***Plaintiff's Protected Status:***

12 16. PLAINTIFF is a female, who during the period relevant to this action was pregnant
13 and who suffered from a physical disability and/or medical condition within the meaning of FEHA.
14 PLAINTIFF therefore was a member of a protected class and entitled to the FEHA's guarantees of
15 full and equal access to employment. Cal. Gov't Code § 12926.1.

16 17. During the course of her employment, PLAINTIFF engaged in protected activity
17 when she opposed discrimination, harassment, and retaliation against her, as well as other unlawful
18 activity by DEFENDANTS involving others. Thus, PLAINTIFF is also a protected employee under
19 the California Labor Code ("Labor Code"). See Cal. Lab. Code § 1102.5.

20 ***DEFENDANTS' Adverse Employment Actions and Behavior:***

21 18. PLAINTIFF began working for COGENT in December 2009 and for the vast
22 majority of her employment at COGENT, PLAINTIFF was the only woman on her team of seven to
23 eight sales representatives who reported to DOMINGUEZ. When PLAINTIFF became pregnant,
24 DOMINGUEZ reacted with hostility and animus. After working for COGENT successfully for
25 many years, PLAINTIFF took protected Pregnancy Disability Leave from at which time the material
26 terms and conditions of her job should have been protected, including her ability to earn commissions
27 in compliance with COGENT'S usual practices.

28 19. Rather than support PLAINTIFF'S pregnancy, as required by California law, when

1 he learned of PLAINTIFF'S pregnancy, DOMINGUEZ immediately began laying the groundwork
2 to isolate and discriminate against PLAINTIFF. While PLAINTIFF was out on protected leave,
3 PLAINTIFF'S coworker Jason Bautista informed PLAINTIFF about DOMINGUEZ's actions to
4 undermine PLAINTIFF. DOMINGUEZ gave away accounts and deals to other sales representatives
5 while PLAINTIFF was out on maternity leave because DOMINGUEZ was upset that PLAINTIFF
6 had taken leave. In so doing, DOMINGUEZ deliberately contradicted his prior commitment to
7 PLAINTIFF to honor her deals while PLAINTIFF was on maternity leave and interfered with her
8 ability to meet her sales quotas and earn commissions. By giving away PLAINTIFF's accounts and
9 deals while she was on maternity leave, DOMINGUEZ was acting outside the scope of COGENT'S
10 stated business practices to PLAINTIFF'S detriment. Among other things, DOMINGUEZ lied about
11 the circumstances related to the deals to justify his actions. DOMINGUEZ'S actions were taken for
12 the purpose of harassing, isolating, and ostracizing PLAINTIFF in a manner that affected her ability
13 to earn her living.

14 20. On or about January 11, 2019, PLAINTIFF reached out to her director, James Rodela,
15 reporting DOMINGUEZ's actions, providing him with proof of DOMINGUEZ lying about how he
16 captured the deals. DOMINGUEZ had clearly taken advantage of PLAINTIFF'S absence during her
17 maternity leave to undermine her.

18 21. On or about February 6, 2019, PLAINTIFF reported this harassing and retaliatory
19 behavior to COGENT'S Human Resources director, Ted Szott. However, COGENT did not correct
20 DOMINGUEZ's unlawful behavior or take action necessary to prevent him from further retaliating
21 and harassing her.

22 22. On or about March 18, 2020, PLAINTIFF was listed as a witness to a sexual
23 harassment complaint filed against DOMINGUEZ by another COGENT employee. Despite the fact
24 that PLAINTIFF did not initiate the complaint, after it was lodged, tensions between PLAINTIFF
25 and DOMINGUEZ escalated, in part because PLAINTIFF recognized DOMINGUEZ'S patterns of
26 harassing, retaliating, and discriminating against employees in protected categories.

27 23. On or about, March 18, 2020 COGENT directed its California based employees to
28 work from home due to the COVID-19 pandemic. While PLAINTIFF and other similarly situated

1 California employees worked from home, their necessary business expenses, including, but not
2 limited to, internet service charges required to conduct work from home, office supplies, office
3 equipment, and/or computer equipment required to work from home were not reimbursed by
4 COGENT in violation of California law. When PLAINTIFF and other employees requested
5 reimbursement of these necessary business expenses from COGENT, they were told they could
6 possibly get a \$100 bonus to use towards home office equipment if they met certain sales goals, but
7 the necessary business expenses they incurred were not reimbursed in compliance with California
8 law.

9 24. On August 28, 2020, PLAINTIFF was diligent in her work as she captured and closed
10 a deal for COGENT. PLAINTIFF'S manager, Ed Robles, and DOMINGUEZ both knew that in
11 order to close the deal, PLAINTIFF had to get the order form signed by the customer even though
12 she did not at that time have the pricing approval. However, closing deals with customers before
13 obtaining a price approval was a common practice at COGENT because DEFENDANTS wanted to
14 secure every customer they could even under time constraints and with the fear of losing a customer
15 if they did not act timely.

16 25. PLAINTIFF'S manager, Ed Robles, congratulated PLAINTIFF after she closed the
17 deal with the customer, demonstrating clear approval and encouragement of PLAINTIFF'S actions.

18 26. On August 31, 2020, PLAINTIFF sent an email to Human Resources requesting
19 additional information on the furlough options that the CEO Dave Schaefer mentioned during a
20 company meeting as a response to pandemic conditions. Employees could request to be on furlough
21 if their home environment was not conducive to working remotely due to COVID. PLAINTIFF'S
22 two young children were present in her home environment, rendering it not ideal for remote work.
23 PLAINTIFF did not receive a response to her request.

24 27. On September 2, 2020, PLAINTIFF received a call from DOMINGUEZ telling
25 PLAINTIFF, "I'm sorry but today is your last day." PLAINTIFF had never received any prior
26 warning related to her performance, as was the usual practice at COGENT. Instead, PLAINTIFF was
27 blindsided by DEFENDANTS decision because PLAINTIFF had no reason to believe or foresee her
28 termination.

28. DEFENDANTS' pretextual reason for terminating PLAINTIFF'S employment was that she had ostensibly violated COGENT'S rules of engagement by not receiving prior pricing approval before closing the deal on August 28, 2020. However, DEFENDANTS had previously given PLAINTIFF approval for exactly the same practice, and in the particular instance at issue, had explicitly encouraged PLAINTIFF to finalize the client's order, fully aware of the circumstances. At no point did DEFENDANTS ask PLAINTIFF to wait before closing the August 28, 2020 deal, as they could have when they learned of it, and would have done if it had been an actual problem.

29. Instead, DEFENDANTS seized upon this falsified pretense to terminate PLAINTIFF as further means of discriminating and retaliating against her as a new mother, who had the audacity to stand up for her rights in the workplace following her pregnancy leave. It was also a convenient means of attempting to discredit and dispose of a witness to DOMINGUEZ'S sexual harassment.

30. As a result of DEFENDANTS' illegal actions, PLAINTIFF has suffered significant emotional distress and damages.

FIRST CAUSE OF ACTION

Discrimination Based on Sex, Including Pregnancy

(Violation of FEHA, Cal. Gov't Code Section 12940(a))

(Against COGENT and DOES)

31. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every allegation set forth above.

32. Under California Government Code, “it is unlawful employment practice...[f]or an employer, because of ...sex, ... to discriminate against [any] person in compensation or in terms, conditions, or privileges of employment. The FEHA defines “sex” to include “[p]regnancy or medical conditions related to pregnancy.” Cal. Gov’t Code § 12926(r)(1).

33. California's Fair Employment and Housing Act provides that "the opportunity to seek, obtain, and hold employment without discrimination because of ... sex ... is hereby recognized as and declared to be a civil right." Cal. Gov't Code § 12921(a).

34. The purpose of FEHA is to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on the account

1 of, *inter alia*, sex. FEHA recognizes that the practice of denying employment opportunities and
2 discriminating in terms of employment substantially and adversely affects the interest of employees,
3 employers, and the public in general. Cal. Gov't Code § 12920.

4 35. At all relevant times herein, PLAINTIFF was an "employee" covered by California
5 Government Code section 12926(a), which, *inter alia*, prohibits an employer from terminating the
6 employment of an employee on the basis of an employee's sex. The FEHA makes it an unlawful
7 employment practice for an employer to discriminate against an employee "in terms, conditions, or
8 privileges of employment" on the basis of the employee's sex, which includes "pregnancy" and
9 "childbirth." Gov't Code § 12926(r)(1)(A),(B).

10 36. DEFENDANTS knew that PLAINTIFF, a female, was pregnant and was therefore
11 covered under California Government Code section 12940.

12 37. As alleged herein, PLAINTIFF'S sex/gender, pregnancy, and/or other
13 characteristic(s) protected by the FEHA were motivating factors in DEFENDANTS' decision to
14 terminate PLAINTIFF'S employment and/or to take other adverse job actions against PLAINTIFF.
15 Thus, DEFENDANTS discriminated against PLAINTIFF because of her pregnancy in violation of
16 California Government Code section 12940.

17 38. The doctrines of equitable tolling and continuing violations apply to PLAINTIFF'S
18 claims of discrimination. *See Richards v. CH2M Hill, Inc.*, 26 Cal.4th 798 (2001) (an employee is
19 not required to file a lawsuit the moment conditions become intolerable for the employee); *McDonald*
20 *v. Antelope Valley Community College Dist.*, 45 Cal.4th 88 (2008).

21 39. As a proximate result of DEFENDANTS' willful, knowing, and intentional
22 discrimination against PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial
23 losses of earnings or earning capacity and other employment benefits, and has suffered and continues
24 to suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her damage
25 in a sum according to proof.

26 40. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees.
27 Pursuant to California Government Code section 12965(b), PLAINTIFF is entitled to recover
28 reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

1 41. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and
2 oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive
3 amounting to malice, and in conscious disregard of PLAINTIFF'S rights. PLAINTIFF is thus
4 entitled to punitive damages from DEFENDANTS in an amount according to proof.

5 **SECOND CAUSE OF ACTION**

6 **Discrimination Based on Physical Disability and/or Medical Condition**

7 **(Violation of FEHA, Cal. Gov't Code Section 12940(a))**

8 **(Against COGENT and DOES)**

9 42. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
10 every allegation set forth above.

11 43. The FEHA provides that "the opportunity to seek, obtain, and hold employment
12 without discrimination because of ... disabilities . . . is hereby recognized as and declared to be a
13 civil right." Cal. Gov't Code § 12921(a).

14 44. The purpose of the FEHA is to protect and safeguard the right and opportunity of all
15 persons to seek, obtain, and hold employment without discrimination or abridgment on the account
16 of, *inter alia*, disabilities. FEHA recognizes that the practice of denying employment opportunities
17 and discriminating in terms of employment substantially and adversely affects the interest of
18 employees, employers, and the public in general. *See* Cal. Gov't Code § 12920.

19 45. At all relevant times herein, PLAINTIFF was an "employee" covered by California
20 Government Code section 12926(a), which, *inter alia*, prohibits an employer from terminating the
21 employment of an employee on the basis of a "physical disability" or "medical condition." Under
22 California law, "physical disability" includes not only a current physical disability, but also being
23 perceived or regarded by the employer as having or having had a condition that currently has no
24 disabling effect but *may become* an impairment limiting the individual's ability to participate in
25 major life activities in the future (including working).

26 46. As alleged herein, DEFENDANTS knew that PLAINTIFF had a physical disability
27 and/or medical condition that required a medical leave of absence. Thus, DEFENDANTS knew that
28 PLAINTIFF had a physical disability and/or medical condition covered under the FEHA.

47. As alleged herein, PLAINTIFF'S physical disability and/or medical condition, and/or other characteristic(s) protected by the FEHA were motivating factors in DEFENDANTS' decision to alter the material terms and conditions of PLAINTIFF'S employment and to terminate her employment. Thus, DEFENDANTS discriminated against PLAINTIFF because of her physical disability and/or medical condition, in violation of California Government Code section 12940(a).

48. The doctrines of equitable tolling and continuing violations apply to PLAINTIFF'S claim of discrimination. *See Richards v. CH2M Hill, Inc.*, 26 Cal.4th 798 (2001) (an employee is not required to file a lawsuit the moment conditions become intolerable for the employee); *McDonald v. Antelope Valley Community College Dist.*, 45 Cal.4th 88 (2008).

49. As a proximate result of DEFENDANTS' willful, knowing, and intentional discrimination against PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial losses of earnings or earning capacity and other employment benefits, and has suffered and continues to suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her damage in a sum according to proof.

50. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees. Pursuant to California Government Code section 12965(b), PLAINTIFF is entitled to recover reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

51. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive amounting to malice, and in conscious disregard of PLAINTIFF'S rights. PLAINTIFF is thus entitled to punitive damages from DEFENDANTS in an amount according to proof.

THIRD CAUSE OF ACTION

Harassment Based on Sex/Gender, Including Pregnancy

(Violation of FEHA, Cal. Gov't Code Section 12940(j))

(Against DEFENDANTS)

52. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every allegation set forth above.

53. The FEHA provides that it shall be unlawful for an employer or for any person to

1 harass an employee because of a person's sex, physical disability, and/or medical condition. Cal.
2 Gov't Code § 12940(j)(1). Harassment based on a person's sex includes harassment based on
3 "pregnancy, childbirth, or related medical conditions." Cal. Gov't Code § 12940(j)(4)(C).

4 54. At all times herein mentioned, DEFENDANTS were subject to the FEHA, including
5 its prohibition against harassing any employee on the basis of an employee's sex/gender, including
6 on the basis of an employee's "pregnancy, childbirth, or related medical conditions," among other
7 things.

8 55. As alleged above, during PLAINTIFF'S employment with DEFENDANTS,
9 DEFENDANTS intentionally engaged in harassment on the basis of PLAINTIFF'S sex/gender,
10 including on the basis of PLAINTIFF'S pregnancy, childbirth, or related medical conditions.

11 56. As alleged above, DOMINGUEZ acted in a manner that was antagonistic to
12 PLAINTIFF and which exhibited harassing motivations, intentions, and consciousness.

13 57. A reasonable person subjected to the harassing conduct would find, as PLAINTIFF
14 did, that the harassment so altered PLAINTIFF'S working conditions as to make it more difficult to
15 do her job.

16 58. The doctrines of equitable tolling and continuing violations apply to PLAINTIFF'S
17 claim of discrimination. *See Richards v. CH2M Hill, Inc.*, 26 Cal.4th 798 (2001) (an employee is
18 not required to file a lawsuit the moment conditions become intolerable for the employee); *McDonald*
19 *v. Antelope Valley Community College Dist.*, 45 Cal.4th 88 (2008).

20 59. As a proximate result of DEFENDANTS' willful, knowing, and intentional
21 harassment against PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial
22 losses of earnings or earning capacity and other employment benefits, and has suffered and continues
23 to suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her damage
24 in a sum according to proof.

25 60. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees.
26 Pursuant to California Government Code section 12965(b), PLAINTIFF is entitled to recover
27 reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

28 61. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and

1 oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive
2 amounting to malice, and in conscious disregard of PLAINTIFF'S rights. PLAINTIFF is thus
3 entitled to punitive damages from DEFENDANTS in an amount according to proof.

4 **FOURTH CAUSE OF ACTION**

5 **Failure to Prevent, Investigate, and Remedy Discrimination, Harassment, or Retaliation**

6 **(Violation of FEHA, Cal. Gov't Code Section 12940(k))**

7 **(Against COGENT and DOES)**

8 62. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
9 every allegation set forth above.

10 63. California law requires employers to "take all reasonable steps necessary to prevent"
11 and correct wrongful behavior, including but not limited to, discriminatory and harassing behavior
12 in the workplace. *See* Cal. Gov't Code §12940(k). Pursuant to this statute, DEFENDANTS were
13 required to take all reasonable steps to prevent harassment, discrimination, and retaliation based on
14 PLAINTIFF'S sex, pregnancy, physical disability and/or medical condition, and/or other protected
15 characteristics.

16 64. During the course of PLAINTIFF'S employment, COGENT failed to prevent
17 DOMINGUEZ from engaging in intentional actions that resulted in PLAINTIFF being treated less
18 favorably and subjected to a hostile work environment because of PLAINTIFF'S protected statuses
19 (*i.e.*, sex, gender, physical disability and/or medical condition, and/or other protected characteristics).
20 Although COGENT was aware of a number of actions and comments to and about PLAINTIFF that
21 constituted harassment, discrimination, and retaliation, COGENT did not take immediate or
22 corrective action to prevent further harassment, discrimination, and retaliation against PLAINTIFF.

23 65. As alleged herein and above, DEFENDANTS violated California law by failing to
24 take all reasonable steps necessary to prevent the harassment, discrimination, and retaliation from
25 occurring. *See* Cal. Gov't. Code § 12940(k).

26 66. As a proximate result of DEFENDANTS' willful, knowing, and intentional failure to
27 prevent, investigate or remedy harassment, discrimination, and retaliation against PLAINTIFF,
28 PLAINTIFF has sustained and continues to sustain substantial losses of earnings or earning capacity

1 and other employment benefits, and has suffered and continues to suffer humiliation, emotional
2 distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

3 67. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees.
4 Pursuant to California Government Code section 12965(b), PLAINTIFF is entitled to recover
5 reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

6 68. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and
7 oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive
8 amounting to malice, and in conscious disregard of the rights of PLAINTIFF. PLAINTIFF is thus
9 entitled to punitive damages from DEFENDANTS in an amount according to proof.

10 **FIFTH CAUSE OF ACTION**

11 **Violation of California Family Rights Act ("CFRA")**

12 **(Violation of Cal. Gov't Code Section 12945.2)**

13 **(Against COGENT and DOES)**

14 69. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
15 every allegation set forth above.

16 70. PLAINTIFF was employed by DEFENDANTS for more than one year and had in
17 excess of 1250 hours of service during the 12-month period immediately preceding her termination.
18 PLAINTIFF was employed at a worksite where DEFENDANTS employ at least fifty (50) employees
19 within seventy-five (75) miles.

20 71. CFRA states that "[i]t shall be an unlawful employment practice for an employer to
21 ... discharge ... or discriminate against, any individual because of ... [the] individual's exercise of
22 the right to family care and medical leave provided by [CFRA]." Cal. Gov't Code § 12945.2 (l)(1).

23 72. CFRA further states that "[i]t shall be an unlawful employment practice for an
24 employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right
25 provided under [CFRA]." Cal. Gov't Code § 12945.2(t).

26 73. DEFENDANTS knew PLAINTIFF required a leave of absence for her own serious
27 medical condition, including her pregnancy, childbirth, and related medical conditions. Moreover,
28 PLAINTIFF took a leave of absence for those reasons.

74. DEFENDANTS discriminated and retaliated against PLAINTIFF, including materially altering the terms and conditions of her employment, terminating her employment, and/or taking other adverse job actions against PLAINTIFF, because PLAINTIFF asserted her right to a leave of absence pursuant to CFRA. DEFENDANTS therefore violated the CFRA. *See* Cal. Gov't Code § 12945.2.

75. As a direct and legal result of DEFENDANTS' conduct, PLAINTIFF has sustained and continues to sustain substantial losses of earnings or earning capacity and other employment benefits, and has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

76. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees. Pursuant to California Government Code section 12965(b), PLAINTIFF is entitled to recover reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

77. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive amounting to malice, and in conscious disregard of the rights of PLAINTIFF. PLAINTIFF is thus entitled to punitive damages from DEFENDANTS in an amount according to proof.

SIXTH CAUSE OF ACTION

Retaliation For Opposing Practices Forbidden by FEHA

(Violation of FEHA, Cal. Gov't Code Section 12940(h))

(Against COGENT and DOES)

78. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every allegation set forth above.

79. At all times herein mentioned, FEHA was in full force and effect and was binding on DEFENDANTS. This statute requires DEFENDANTS to refrain from retaliating against any employee for opposing practices forbidden by FEHA or who asserts rights under FEHA, including complaining of discrimination or harassment on the basis of sex, pregnancy, physical disability and/or medical condition, among other things. *See* Cal. Gov't Code § 12940(h).

80. As alleged herein, PLAINTIFF engaged in activity protected by the FEHA, including

1 taking a leave of absence due to her pregnancy, complaining about adverse actions taken against her
2 for impermissible reasons during that leave, and participating as a witness in a sexual harassment
3 complaint.

4 In retaliation for such protected activity, DEFENDANTS terminated her employment under
5 false pretenses.

6 81. The doctrines of equitable tolling and continuing violations apply to PLAINTIFF'S
7 claims of retaliation. *See Richards v. CH2M Hill, Inc.*, 26 Cal.4th 798 (2001); *McDonald v. Antelope*
8 *Valley Community College Dist.*, 45 Cal.4th 88 (2008).

9 82. As a proximate result of DEFENDANTS' willful, knowing, and intentional retaliation
10 against PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial losses of
11 earnings or earning capacity and other employment benefits, and has suffered and continues to suffer
12 humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a
13 sum according to proof.

14 83. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees.
15 Pursuant to California Government Code section 12965(b), PLAINTIFF is entitled to recover
16 reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

17 84. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and
18 oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive
19 amounting to malice, and in conscious disregard of the rights of PLAINTIFF. PLAINTIFF is thus
20 entitled to punitive damages from DEFENDANTS in an amount according to proof.

21 **SEVENTH CAUSE OF ACTION**

22 **Intentional Infliction of Emotional Distress**

23 **(Against DEFENDANTS)**

24 85. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
25 every allegation set forth above.

26 86. A person intentionally inflicts emotional distress when he/she engages in extreme and
27 outrageous conduct with either: (1) an intent to cause emotional distress; or (2) reckless disregard of
28 the probability of causing emotional distress, and actually does cause severe emotional suffering.

1 *See Hughes v. Pair*, 46 Cal.4th 1035, 1050 (2009).

2 87. DEFENDANTS owed PLAINTIFF a duty of care not to cause PLAINTIFF emotional
3 distress.

4 88. As alleged herein and above, DEFENDANTS knowingly treated PLAINTIFF cruelly
5 and illegally based on her pregnancy, sex, physical disability and/or medical condition, and her
6 identification as a witness to a sexual harassment complaint, causing her severe emotional distress.
7 DEFENDANTS further caused PLAINTIFF severe emotional distress by conspiring against
8 PLAINTIFF to isolate her and terminate her employment for discriminatory and retaliatory reasons.

9 89. DEFENDANTS were aware that treating PLAINTIFF in the manner alleged above,
10 including depriving PLAINTIFF of her livelihood, including the income and benefits provided by
11 her employment, would devastate PLAINTIFF and cause her extreme hardship.

12 90. DEFENDANTS breached their duty to PLAINTIFF by way of their own conduct, as
13 alleged herein and above.

14 91. DEFENDANTS' improper treatment of PLAINTIFF constituted severe and
15 outrageous misconduct and caused PLAINTIFF to suffer extreme emotional distress that exceeded
16 the normal risks of the employment relationship.

17 92. PLAINTIFF is informed and believes and thereon alleges that such acts of
18 DEFENDANTS were intentional, extreme, and outrageous. PLAINTIFF is further informed and
19 believes, and thereon alleges, that such actions were done with the intent to cause serious emotional
20 distress or with reckless disregard of the probability of causing PLAINTIFF serious emotional
21 distress.

22 93. As a proximate result of DEFENDANTS' extreme and outrageous conduct,
23 PLAINTIFF has suffered and continues to suffer humiliation, emotional distress, and mental and
24 physical pain and anguish, all to her damage in a sum according to proof.

25 94. As a proximate result of DEFENDANTS' extreme and outrageous conduct,
26 PLAINTIFF was compelled to and did employ the services of medical personnel, and the like, to
27 care for and treat her, and did incur, medical, professional and incidental expenses.

28 95. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and

1 oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive
2 amounting to malice, and in conscious disregard of the rights of PLAINTIFF. PLAINTIFF is thus
3 entitled to punitive damages from DEFENDANTS in an amount according to proof.

4 **EIGHTH CAUSE OF ACTION**

5 **Negligent Infliction of Emotional Distress**

6 **(Against DEFENDANTS)**

7 96. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
8 every allegation set forth above.

9 97. DEFENDANTS owed PLAINTIFF a duty of care not to cause PLAINTIFF emotional
10 distress.

11 98. As alleged herein and above, DEFENDANTS treated PLAINTIFF with wanton and
12 reckless disregard of the probability of causing PLAINTIFF to suffer extreme emotional distress.

13 99. DEFENDANTS breached their duty to PLAINTIFF by way of their own conduct, as
14 alleged herein and above.

15 100. As alleged herein and above, DEFENDANTS knowingly mistreated PLAINTIFF
16 based on her sex/gender, pregnancy, physical disability and/or medical condition, and/or
17 identification as a witness to sexual harassment, causing her severe emotional distress.
18 DEFENDANTS further caused PLAINTIFF severe emotional distress by conspiring against
19 PLAINTIFF to isolate her and terminate her employment for discriminatory and retaliatory reasons.
20 Such conduct was done in a careless or negligent manner, without consideration for the effect of
21 such conduct upon PLAINTIFF'S emotional well-being.

22 101. DEFENDANTS knew, or should have known, that treating PLAINTIFF in the
23 manner alleged above, including depriving PLAINTIFF of her livelihood, would devastate
24 PLAINTIFF and cause PLAINTIFF extreme hardship.

25 102. As a proximate result of DEFENDANTS' negligent conduct, PLAINTIFF has
26 suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and
27 anguish, all to her damage in a sum according to proof.

28 **NINTH CAUSE OF ACTION**

Whistleblower Retaliation
(Violation of Cal. Lab. Code Section 1102.5)
(Against DEFENDANTS)

103. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and every allegation set forth above.

104. At all relevant times, California Labor Code section 1102.5 was in effect and was binding on DEFENDANTS. California law prohibits DEFENDANTS from retaliating against any employee, including PLAINTIFF, for raising complaints of illegality. "An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information... if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation...." Cal. Lab. Code § 1102.5(b).

105. At all relevant times, an employer is responsible for the acts of its managers, officers, agents, and employees. *See* Cal. Lab. Code § 1104(b).

106. As alleged herein, PLAINTIFF engaged in activity protected by complaining about DEFENDANTS' violation(s) of the FEHA. In response, DEFENDANTS materially altered the terms and conditions of PLAINTIFF'S employment and terminated her employment.

107. As a proximate result of DEFENDANTS' willful, knowing, and intentional retaliation against PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial losses of earnings or earning capacity and other employment benefits, and has suffered and continues to suffer humiliation, emotional distress, and physical and mental pain and anguish, all to her damage in a sum according to proof.

108. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees. Pursuant to California Labor Code section 1102.5(j), PLAINTIFF is entitled to recover reasonable attorneys' fees in an amount according to proof.

109. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive amounting to malice, and in conscious disregard of the rights of PLAINTIFF. PLAINTIFF is thus

1 entitled to punitive damages from DEFENDANTS in an amount according to proof.

2 **TENTH CAUSE OF ACTION**

3 **Wrongful Termination in Violation of Public Policy**

4 **(Against COGENT and DOES)**

5 110. PLAINTIFF incorporates by reference and realleges as if fully stated herein each and
6 every allegation set forth above.

7 111. Under California law, it is unlawful for an employer to terminate an employee in
8 violation of a fundamental public policy of the United States of America and the State of California.

9 112. As alleged above, DEFENDANTS terminated PLAINTIFF for pretextual reasons in
10 furtherance of DEFENDANTS' illegal activity in violation of the FEHA, the CFRA, and the
11 California Labor Code.

12 113. DEFENDANTS' conduct was substantially motivated by PLAINTIFF'S protected
13 status in blatant violation of the public policy protections set forth in the FEHA, CFRA, and
14 California Labor Code. PLAINTIFF is informed and believes that DEFENDANTS' managing
15 agents made the decision to discharge PLAINTIFF, and that DEFENDANTS ratified their decision.

16 114. As a direct and proximate result of the violation of PLAINTIFF'S rights under
17 California law, PLAINTIFF has sustained and continues to sustain substantial losses of earnings and
18 employment benefits.

19 115. As a proximate result of the violation of PLAINTIFF'S rights under California law,
20 PLAINTIFF has suffered and continues to suffer humiliation, emotional distress, and physical and
21 mental pain and anguish, all to his damage in a sum according to proof.

22 116. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and
23 oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive
24 amounting to malice, and in conscious disregard of the rights of PLAINTIFF. PLAINTIFF is thus
25 entitled to punitive damages from DEFENDANTS in an amount according to proof.

26 ///

27 ///

28 ///

1 **ELEVENTH CAUSE OF ACTION**

2 **Failure to Reimburse Employment Related Expenses**

3 **(Against COGENT and DOES)**

4 117. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
5 and every allegation set forth above.

6 118. At all relevant times herein, California Labor Code section 2802 required an
7 employer to indemnify an employee "for all necessary expenditures or losses incurred by the
8 employee in direct consequence of the discharge of his or her duties...." Cal. Labor Code
9 § 2802(a). This includes costs associated with the use of home internet service for work-related
10 purposes.

11 118. At all relevant times herein, PLAINTIFF and similarly situated employees incurred
12 necessary business-related expenses and costs that were not adequately reimbursed by COGENT and
13 DOES, including, but not limited to, the cost for internet service incurred, office supplies, office
14 equipment, and/or computer equipment required to work from home in violation of California law.
15 When PLAINTIFF and other employees requested reimbursement of these necessary business
16 expenses from COGENT, they were told they could possibly get a \$100 bonus to use towards home
17 office equipment if they met certain sales goals, but the necessary business expenses they incurred
18 were not reimbursed in compliance with California law.

19 119. PLAINTIFF and similarly situated employees were routinely required to use their
20 home internet service to conduct work for COGENT and DOES from their homes.

21 120. At no point did COGENT or DOES conduct an appropriate analysis of what
22 PLAINTIFF'S or similarly situated employees' monthly internet service bills were, or what
23 "reasonable percentage" of it should be allocated as a reasonable and necessary business expense.
24 COGENT and DOES failed to consider what amounts PLAINTIFF and similarly situated
25 employees were actually paying each month for their internet service as it related to their work for
26 COGENT and DOES.

27 121. At all relevant times, COGENT and DOES intentionally and willfully failed to
28 adequately reimburse PLAINTIFF and similarly situated employees for necessary business-related

1 expenses and costs. COGENT's and DOES' company-wide practice of requiring PLAINTIFF and
2 similarly situated employees to use their own home internet service and pay for office supplies,
3 office equipment and/or computer equipment for work without proper reimbursement violates
4 California Labor Code section 2802.

5 122. PLAINTIFF and similarly situated employees have been damaged in an amount
6 according to proof at trial, and seek all expenses owed, penalties, interest, attorneys' fees,
7 expenses, and costs of suit.

8 **TWELFTH CAUSE OF ACTION**

9 **Unfair And Unlawful Business Practices**

10 **(Cal. Business & Professions Code Section 17200, *et seq.*)**

11 **(Against COGENT and DOES)**

12 123. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
13 and every allegation set forth above.

14 124. At all times herein, California Business & Professions Code provides that "person"
15 shall mean and include "natural persons, corporations, firms, partnerships, joint stock companies,
16 associations and other organizations of persons." Cal. Bus. & Prof. Code § 17201.

17 125. At all times herein, COGENT and DOES' conduct, as alleged herein, has been, and
18 continues to be, unfair, unlawful and harmful to PLAINTIFF, similarly situated employees, the
19 general public, and COGENT and DOES' competitors. PLAINTIFF and similarly situated
20 employees have suffered injury in fact and have lost money as a result of DEFENDANTS'
21 unlawful business practices.

22 126. At all times herein, COGENT and DOES' activities, as alleged herein, are
23 violations of California law, and constitute false, unfair, fraudulent and deceptive business acts and
24 practices in violation of California Business & Professions Code sections 17200 *et seq.*

25 127. Each and every one of the COGENT and DOES' acts and omissions in violation of
26 California Labor Code, as alleged herein, including, but not limited to, COGENT and DOES'
27 failure to adequately reimburse for employment related expenses constitutes an unfair and unlawful
28 business practice under California Business & Professions Code sections 17200 *et seq.*

1 128. COGENT and DOES' violations of California wage and hour laws constitute a
2 business practice because COGENT and DOES' aforementioned acts and omissions were done
3 repeatedly over a significant period of time, and in a systematic manner, to the detriment of
4 PLAINTIFF and similarly situated employees.

5 129. As a result of the violations of California law herein described, COGENT and
6 DOES unlawfully gained an unfair advantage over other businesses. PLAINTIFF and similarly
7 situated employees have suffered pecuniary loss by COGENT and DOES' unlawful business acts
8 and practices alleged herein.

9 130. Pursuant to California Business & Professions Code sections 17200 *et seq.*,
10 PLAINTIFF and similarly situated employees are entitled to restitution of the wages withheld and
11 retained by COGENT and DOES during a period that commences four years prior to the filing of
12 this complaint; a permanent injunction requiring COGENT and DOES to pay all outstanding
13 expenses due to PLAINTIFF and similarly situated employees; an award of attorneys' fees
14 pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an
15 award of costs. *See Cortez v. Purolater Air Filtration Products Co.*, 23 Cal. 4th 163 (2000)
16 (Unlawfully withheld wages, including unpaid expense reimbursements, may be recovered as
17 restitutionary remedy in UCL action); *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal. 4th 554
18 (2007).

19 **THIRTEENTH CAUSE OF ACTION**

20 **Representative Action for Civil Penalties**

21 **(Cal. Labor Code Sections 2698-2699.5)**

22 **(Against COGENT and DOES)**

23 131. PLAINTIFF incorporates by reference and realleges as if fully stated herein each
24 and every allegation set forth above.

25 132. PLAINTIFF is an "aggrieved employee" within the meaning of California Labor
26 Code Section 2699(c), and a proper representative to bring a civil action on behalf of herself and
27 other current and former employees of COGENT and DOES pursuant to the procedures specified
28 in California Labor Code Section 2699.3, because PLAINTIFF was employed by COGENT and

DOES and the alleged violations of the California Labor Code were committed against PLAINTIFF.

133. Pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Labor Code Sections 2698-2699.5, PLAINTIFF seeks to recover civil penalties, including but not limited to penalties under California Labor Code Sections 2699 from COGENT and DOES in representative action for the violations set forth above, including but not limited to violations of California Labor Code Sections 2802. PLAINTIFF is also entitled to an award of reasonable attorneys' fees and costs pursuant to California Labor Code Section 2699(g)(1).

134. Pursuant to California Labor Code Section 2699.3, PLAINTIFF gave written notice by certified mail to the California Labor and Workforce Development Agency ("LWDA") and COGENT and DOES of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. PLAINTIFF's notice to the LWDA is attached as Exhibit A. Within sixty-five (65) calendar days of the postmark date of PLAINTIFF's notice letter, the LWDA did not provide notice to PLAINTIFF that it intends to investigate the alleged violations.

135. Therefore, PLAINTIFF has complied with all of the requirements set forth in California Labor Code Section 2699.3 to commence a representative action under PAGA.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF KATHLEEN RISHI, prays for judgment against DEFENDANTS DOMINGUEZ and COGENT COMMUNICATIONS, INC, and DOES 1 through 25, inclusive, and each of them, as follows:

1. For compensatory damages, including emotional distress damages, in an amount to be ascertained at trial;

2. For punitive damages in an amount sufficient to punish or make an example of DEFENDANTS;

3. For all available injunctive, equitable and other relief, including remedies authorized by California Government Code section 12965(c);

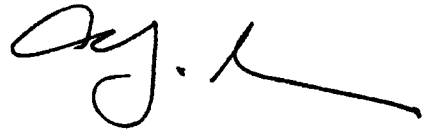
- 1 4. For "affirmative relief" as defined in California Government Code section 12926(a);
- 2 5. For reimbursement of all necessary business expenses incurred by PLAINTIFF and
- 3 similarly situated employees;
- 4 6. For restitution of all monies due to PLAINTIFF and similarly situated employees, as
- 5 well as disgorged profits from the unfair and unlawful business practices of COGENT and DOES;
- 6 7. For statutory and civil penalties according to proof, including but not limited to all
- 7 penalties authorized by the California Labor Code Section 2699;
- 8 8. For interest on the unpaid wages at 10% per annum pursuant to California Labor
- 9 Code Section 2802, California Civil Code Sections 3287, 3288, and/or any other applicable
- 10 provision providing for pre-judgment interest;
- 11 9. For reasonable attorneys' fees and costs pursuant to California Labor Code Sections
- 12 2699, 2802, California Civil Code Section 1021.5, and any other applicable provisions providing
- 13 for attorneys' fees and costs;
- 14 10. For declaratory relief; and
- 15 11. For such further relief that the Court may deem just and proper.
- 16

17 DATED: June 4, 2021

GUNN COBLE LLP

18

19

20 By: 

Beth A. Gunn
Catherine J. Coble

21

22 Attorneys for Plaintiff

23 KATHLEEN RISHI, individually

24 and on behalf of others similarly situated

25

26

27

28

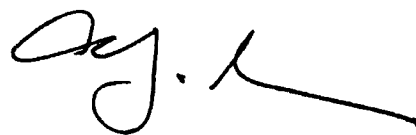
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

PLAINTIFF Kathleen Rishi hereby demands a jury trial with respect to all issues triable of right by jury. The amount demanded exceeds \$25,000. Cal. Govt. Code § 72055.

DATED: June 4, 2021

GUNN COBLE LLP



By: _____

Beth A. Gunn
Catherine J. Coble

Attorneys for Plaintiff
KATHLEEN RISHI, individually
and on behalf of others similarly situated