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ANA CANTU, individually and on behalf  
of others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA CLARA**

ANA CANTU, individually, and on behalf of  
others similarly situated

Plaintiff,

vs.

GOOGLE LLC, LISA NICOLE CHEN, AND  
DOES 1 THROUGH 25, INCLUSIVE,

Defendants

Case No. 21CV392049

**FIRST AMENDED COMPLAINT FOR  
DAMAGES**

- 1. DISCRIMINATION ON THE BASIS  
OF RACE/NATIONAL  
ORIGIN/ANCESTRY IN VIOLATION  
OF THE FEHA**
- 2. HARASSMENT ON THE BASIS OF  
RACE/NATIONAL  
ORIGIN/ANCESTRY IN VIOLATION  
OF THE FEHA**
- 3. RETALIATION FOR OPPOSING  
PRACTICES FORBIDDEN BY THE  
FEHA;**
- 4. FAILURE TO PREVENT,  
INVESTIGATE, AND REMEDY  
DISCRIMINATION, HARASSMENT  
OR RETALIATION IN VIOLATION  
OF THE FEHA;**
- 5. WHISTLEBLOWER RETALIATION  
IN VIOLATION OF LABOR CODE §  
1102.5;**
- 6. INTENTIONAL INFLICTION OF  
EMOTIONAL DISTRESS;**
- 7. NEGLIGENT INFLICTION OF  
EMOTIONAL DISTRESS;**
- 8. VIOLATION OF CALIFORNIA  
EQUAL PAY ACT, LABOR CODE §  
1197.5;**

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**9. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;  
10. UNFAIR AND UNLAWFUL BUSINESS PRACTICES;  
11. PENALTIES UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT, AS REPRESENTATIVE ACTION**

**DEMAND FOR JURY TRIAL**

Plaintiff ANA CANTU (hereinafter "PLAINTIFF") brings this action against GOOGLE INC. ("GOOGLE"), LISA NICOLE CHEN ("CHEN") and Does 1 through 25 ("DOES"), inclusive, (GOOGLE, CHEN and DOES are hereinafter collectively referred to as "DEFENDANTS"). PLAINTIFF complains and alleges as follows based on personal knowledge and/or information and belief.

**JURISDICTION AND VENUE**

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

2. The Superior Court of the State of California has jurisdiction in this matter because PLAINTIFF is a resident of the State of California. Moreover, upon information and belief, at least one Defendant is a citizen of California, the alleged discriminatory acts and wrongful termination occurred in California, significant relief is being sought against DEFENDANTS whose violations of California employment laws form a significant basis for PLAINTIFF's claims. Further, no federal question is at issue because the claims are based solely on California law and at least one Defendant is a resident of, and/or regularly conducts business in the State of California, as well as its principal place of business is located within California.

3. Venue is proper in this judicial district and the County of Santa Clara, California because PLAINTIFF performed work for DEFENDANTS in the County of Santa Clara,

1 DEFENDANTS maintain offices and facilities and transact business in the County of Santa Clara,  
2 and DEFENDANTS' illegal acts, which are the subject of this action, occurred in the County of  
3 Santa Clara. Thus, the County of Santa Clara is the county where the unlawful employment practices  
4 are alleged to have been committed pursuant to California Gov't Code section 12965(b) and where  
5 a substantial portion of the transactions and occurrences related to this action occurred pursuant to  
6 California Code of Civil Procedure section 395.

7 4. Prior to filing this action, PLAINTIFF timely exhausted her administrative remedies,  
8 by timely filing an administrative complaint with the Department of Fair Employment and Housing  
9 ("DFEH") and receiving a DFEH right to sue letter on December 8, 2021.

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

### 17 PARTIES

18 6. PLAINTIFF is an individual who is a resident of San Jose, California and at all times  
19 herein mentioned was a resident of Santa Clara County, California.

20 7. GOOGLE is, and at all times mentioned in this Complaint was, a technology company  
21 that specializes in internet-related services and products authorized to conduct and conducting  
22 business in Santa Clara County, California. GOOGLE's place of business, where the following  
23 causes of action took place, was in the County of Santa Clara, at 1600 Amphitheatre Parkway,  
24 Mountain View, California 94043 and at its Sunnyvale, California location.

25 8. CHEN is, and at all times mentioned in this Complaint was, a resident of California  
26 employed by GOOGLE as Head of Internal Communications for GOOGLE and based at its 1600  
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1 Amphitheatre Parkway, Mountain View, California 94043. CHEN was PLAINTIFF's supervisor  
2 and exercised control over the terms and conditions of PLAINTIFF's employment as set forth in this  
3 Complaint.

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

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

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

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

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

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

3 ***Overview of Plaintiff's Employment:***

4 14. GOOGLE, a subsidiary of Alphabet Inc., is an American multinational technology  
5 company that specializes in internet-related services and products.

6 15. PLAINTIFF was hired by GOOGLE on or about October 2014. At all times relevant  
7 herein, PLAINTIFF performed exemplary work for GOOGLE, receiving consistently positive  
8 performance reviews and accolades for her work. However, due to GOOGLE's discriminatory,  
9 harassing and retaliatory work environment, including that which was perpetuated by CHEN,  
10 PLAINTIFF did not receive promotions commensurate with her excellent work and which GOOGLE  
11 awarded to her similarly situated White peers.

12 ***Plaintiff's Protected Status and Activity:***

13 16. PLAINTIFF identifies as ethnically Mexican and racially Indigenous. PLAINTIFF  
14 therefore was a member of a protected class and entitled to the FEHA's guarantees of full and equal  
15 access to employment. Cal. Gov't Code §§ 12940, 12926.

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 GOOGLE on or about September 2014. Initially,  
22 PLAINTIFF believed she had a positive trajectory for advancement at GOOGLE, but it became clear  
23 that despite her objectively significant contributions and positive performance evaluations, she was  
24 being denied meaningful raises and promotions, while her White colleagues received promotions  
25 and raises.

26 19. PLAINTIFF's department at GOOGLE was made up of almost all White employees.  
27 PLAINTIFF continually asked what she needed to do to be promoted and/or receive a raise like her  
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1 White colleagues, but no one at GOOGLE could articulate what she needed to do or improve on to  
2 be promoted or receive a raise.

3 20. Rather, CHEN intentionally deviated from GOOGLE protocol by withholding  
4 PLAINTIFF's contributions and awards in her performance evaluations, preferring to take credit  
5 for PLAINTIFF's work as a means of advancing her own self-interest. CHEN admitted to  
6 PLAINTIFF that had PLAINTIFF's awards and contributions been considered, PLAINTIFF would  
7 in fact have received higher ratings.

8 21. GOOGLE assigned employee job levels ranging from "L1" to "L11" based on the job  
9 position. Due to the discrimination, harassment and retaliation by CHEN and others, which was  
10 ratified by GOOGLE, PLAINTIFF languished at the job level of L5, while her White peers were  
11 promoted to job levels L6 and L7, receiving significant additional compensation, including bonus  
12 and stock option compensation awarded to job level L6 and L7 employees. PLAINTIFF was denied  
13 similar compensation.

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

16 ***PLAINTIFF Complained to Human Resources Regarding Race/National***  
17 ***Origin/Ethnicity Harassment and Bias, but GOOGLE Failed to Take Any Action to Investigate.***

18 23. PLAINTIFF complained to GOOGLE about her failure to be promoted and receive  
19 meaningful raises despite her excellent performance evaluations.

20 24. PLAINTIFF specifically complained to GOOGLE that the discriminatory bias and  
21 retaliation of CHEN and others prevented her from being promoted and paid equitably compared to  
22 her similarly situated, and in some cases, less qualified, White peers.

23 25. PLAINTIFF also complained to GOOGLE about marginalization and discrimination  
24 by CHEN in regard to material terms and conditions of her employment, including CHEN'S  
25 refusal to hold one-on-one meetings with PLAINTIFF, while she regularly conducted one-on-one  
26 meetings with all of PLAINTIFF's White peers.

1           26.     PLAINTIFF also complained about the toxic hostile work environment at  
2 GOOGLE, telling a Human Resources manager that she cried on the GOOGLE bus each day  
3 during the trip to work.

4           27.     CHEN used racist terms including “pow wow” in front of PLAINTIFF and other  
5 witnesses, and continued to use such terms even after PLAINTIFF asked CHEN to stop, informing  
6 her that the terms were offensive to her as an Indigenous woman.

7           28.     Due to this hostile work environment, PLAINTIFF sought an emergency transfer  
8 away from CHEN’s supervision. However, GOOGLE failed to protect PLAINTIFF. Rather,  
9 GOOGLE allowed CHEN to continue her discriminatory and retaliatory conduct to prevent  
10 PLAINTIFF from being promoted or paid equitably, as corroborated by PLAINTIFF’s skip level  
11 supervisor Jen Tanabe. While PLAINTIFF had been red flagged internally by GOOGLE for  
12 “calibration issues” because she “has been performing above her level” for years, PLAINTIFF did  
13 not undergo the usual calibration process for promotion. Instead, CHEN continued to sabotage  
14 PLAINTIFF by blocking her from being promoted, citing vague and unsubstantiated “performance  
15 gaps” and regularly insulting PLAINTIFF’s ability to complete basic work tasks. CHEN was  
16 assisted in this process by CHEN’s supervisor Jane Hynes, GOOGLE’s Vice President, Global  
17 Communications for Google Cloud, who continued to rely on CHEN’s evaluation of PLAINTIFF’s  
18 “performance gaps” even after PLAINTIFF complained about CHEN and stopped reporting  
19 directly to CHEN. Hynes refused to consider PLAINTIFF’s subsequent supervisors’ positive  
20 assessment of PLAINTIFF’s performance in favor of CHEN’s discriminatory, harassing, and  
21 retaliatory assessment.

22           29.     GOOGLE did nothing to address PLAINTIFF’s multiple complaints, allowing them  
23 to fester while giving lip service to diversity, equity and inclusion for Native American+ and Latinx+  
24 Googlers. GOOGLE Human Resources eventually conceded that it did nothing to investigate  
25 PLAINTIFF’s complaints, admitting to PLAINTIFF that her complaints went into a “Black Hole.”

26           30.     PLAINTIFF struggled with GOOGLE’s failure to take her complaints seriously, as  
27 well as its decision to allow her harassers to continue to harass and retaliate against her.  
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1 PLAINTIFF was so distressed that she could no longer do her job as usual, which necessitated a  
2 leave of absence. PLAINTIFF returned to work and continued to be demoralized by the ongoing  
3 discrimination, harassment and retaliation. By September 2021, PLAINTIFF could no longer  
4 tolerate DEFENDANTS' discriminatory, harassing, and retaliatory practices, the ongoing failure to  
5 promote her fairly for the work she was doing, and the adverse treatment she experienced from  
6 CHEN and others on account of their anti-Mexican and anti-Indigenous biases. Accordingly,  
7 PLAINTIFF resigned and her last day of work was September 10, 2021.

8 31. As a consequence of DEFENDANTS' conduct, PLAINTIFF has had to employ  
9 attorneys to prosecute this action, and has therefore incurred costs and attorneys' fees necessary to  
10 pursue this action.

11 **FIRST CAUSE OF ACTION**

12 **Discrimination Based on Race/National Origin/Ancestry**

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

14 **(Against GOOGLE and DOES)**

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

17 33. Under the California Government Code, "it is unlawful employment practice...[f]or  
18 an employer, because of ...race ... national origin, ancestry, to discriminate against [any] person in  
19 compensation or in terms, conditions, or privileges of employment." Cal. Gov't Code § 12940(a).

20 34. The FEHA provides that "the opportunity to seek, obtain, and hold employment  
21 without discrimination because of ... race...national origin, ancestry . . . is hereby recognized as and  
22 declared to be a civil right." Cal. Gov't Code § 12921(a).

23 35. The purpose of the FEHA is to protect and safeguard the right and opportunity of all  
24 persons to seek, obtain, and hold employment without discrimination or abridgment on the account  
25 of, *inter alia*, race, national origin and ancestry. The FEHA recognizes that the practice of denying  
26 employment opportunities and discriminating in terms of employment substantially and adversely  
27 affects the interest of employees, employers, and the public in general. Cal. Gov't Code § 12920.

1           36. At all relevant times herein, PLAINTIFF was an “employee” covered by California  
2 Government Code section 12926(a), which, *inter alia*, prohibits an employer from terminating the  
3 employment of an employee on the basis of an employee’s race, national origin, or ancestry. The  
4 FEHA makes it an unlawful employment practice for an employer to discriminate against an  
5 employee “in terms, conditions, or privileges of employment” on the basis of the employee’s race,  
6 national origin or ancestry, which “includes a perception that the person has any of those  
7 characteristics.” Cal. Gov’t Code § 12926(o).

8           37. DEFENDANTS knew that PLAINTIFF identifies as ethnically Mexican and racially  
9 Indigenous and therefore is a member of protected classes within the meaning of the FEHA and is  
10 entitled to the FEHA’s guarantees of full and equal access to employment. Cal. Gov’t Code § 12940.

11           38. As alleged herein, PLAINTIFF’s race, national origin, ancestry and/or other  
12 characteristic(s) protected by the FEHA were motivating factors in DEFENDANTS’ decisions not  
13 to promote PLAINTIFF or give PLAINTIFF a raise commensurate with the work she performed,  
14 and/or to take other adverse job actions against PLAINTIFF.

15           39. At all relevant times herein, GOOGLE, by and through its agents, knowingly  
16 discriminated against PLAINTIFF on the basis of PLAINTIFF’s race, national origin, and/or  
17 ancestry by favoring White employees in the terms and conditions of their employment, including  
18 by promoting White employees, compensating White employees with higher salaries than  
19 PLAINTIFF, and by establishing different working conditions for PLAINTIFF than her White  
20 colleagues, as alleged herein and above.

21           40. GOOGLE’s conduct, as alleged herein, violated the FEHA, and GOOGLE committed  
22 unlawful employment practices, including, without limitation, by materially affecting the terms and  
23 conditions of PLAINTIFF’s employment, culminating in the constructive termination of her  
24 employment, in whole or in part on the basis of PLAINTIFF’s race, national origin, and/or ancestry,  
25 and/or other protected characteristic(s) in violation of California Government Code section 12940(a).

26           41. The doctrines of equitable tolling and continuing violations apply to PLAINTIFF’s  
27 claims of discrimination. *See Richards v. CH2M Hill, Inc.*, 26 Cal.4th 798 (2001) (an employee is  
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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).

42. As a proximate result of GOOGLE's 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.

43. 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.

44. GOOGLE 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 GOOGLE in an amount according to proof.

## **SECOND CAUSE OF ACTION**

### **Harassment Based on Race/National Origin/Ancestry**

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

### **(Against DEFENDANTS)**

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

46. The FEHA provides that it shall be unlawful for an employer or for any person to harass an employee because of a person's race, national origin and/or ancestry. Cal. Gov't Code § 12940(j)(1).

47. As the California legislature has clarified, the purpose of the anti-harassment provisions of the FEHA "is to provide all Californians with an equal opportunity to succeed in the workplace and should be applied accordingly by the courts." Cal. Gov't Code § 12923(a). As the California legislature declared, "harassment creates a hostile, offensive, oppressive, or intimidating

1 work environment and deprives victims of their statutory right to work in a place free of  
2 discrimination when the harassing conduct sufficiently offends, humiliates, distresses, or intrudes  
3 upon its victim, so as to disrupt the victim's emotional tranquility in the workplace, affect the victim's  
4 ability to perform the job as usual, or otherwise interfere with and undermine the victim's personal  
5 sense of well-being." *Id.*

6 48. At all times herein mentioned, DEFENDANTS were subject to the FEHA, including  
7 its prohibition against harassing any employee on the basis of an employee's race, national origin  
8 and/or ancestry.

9 49. As alleged above, during PLAINTIFF's employment with DEFENDANTS,  
10 DEFENDANTS intentionally engaged in harassment on the basis of PLAINTIFF's race, national  
11 origin and/or ancestry.

12 50. As alleged above, CHEN acted in a manner that was antagonistic to PLAINTIFF and  
13 which exhibited harassing motivations, intentions, and consciousness.

14 51. A reasonable person subjected to the harassing conduct would find, as PLAINTIFF  
15 did, that the harassment so altered PLAINTIFF's working conditions as to be offensive and  
16 distressing, such that it affected PLAINTIFF's ability to do her job as usual and also undermined  
17 PLAINTIFF's sense of well being.

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

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

27 54. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees.  
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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.

55. 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**

#### **Retaliation For Opposing Practices Forbidden by FEHA**

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

#### **(Against GOOGLE and DOES)**

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

57. At all times herein mentioned, FEHA was in full force and effect and was binding on DEFENDANTS. This statute requires GOOGLE and DOES 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).

58. As alleged herein, PLAINTIFF engaged in activity protected by the FEHA, including complaining about not being promoted or given a raise because of her race, national origin, and/or ancestry, not being promoted and paid equitably compared to her similarly situated, and in some cases, less qualified, White peers, marginalization and discrimination by CHEN and others, the toxic hostile work environment at GOOGLE, and asking that CHEN stop using racist terms including "pow wow," informing her that the terms were offensive to her as an Indigenous woman, as stated above.

59. The ongoing decision not to consider PLAINTIFF for promotion, promote PLAINTIFF or give her a raise commensurate with her work was in retaliation for PLAINTIFF engaging in protected activity, including her complaints described above.

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

61. As a proximate result of GOOGLE's and DOES' 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 mental and physical pain and anguish, all to her damage in a sum according to proof.

62. 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.

63. GOOGLE and DOES 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 GOOGLE and DOES in an amount according to proof.

#### FOURTH CAUSE OF ACTION

## Failure to Prevent, Investigate, and Remedy Discrimination, Harassment, or Retaliation

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

**(Against GOOGLE and DOES)**

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

65. California law requires employers to “take all reasonable steps necessary to prevent” and correct wrongful behavior, including but not limited to, discriminatory and harassing behavior in the workplace. *See* Cal. Gov’t Code §12940(k). Pursuant to this statute, GOOGLE and DOES were required to take all reasonable steps to prevent harassment, discrimination, and retaliation based on PLAINTIFF’s race, national origin and/or ancestry, and/or other protected characteristics.

1           66.     During the course of PLAINTIFF's employment, GOOGLE failed to prevent CHEN  
2 and others from engaging in intentional actions that resulted in PLAINTIFF being treated less  
3 favorably and subjected to a hostile work environment because of PLAINTIFF's protected statuses  
4 (i.e., race, national origin and/or ancestry, and/or other protected characteristics). Although  
5 GOOGLE was aware of a number of actions and comments to and about PLAINTIFF that constituted  
6 harassment, discrimination, and retaliation, GOOGLE did not take immediate or corrective action to  
7 prevent further harassment, discrimination, and retaliation against PLAINTIFF.

8           67.     As alleged herein and above, GOOGLE and DOES violated California law by failing  
9 to take all reasonable steps necessary to prevent the harassment, discrimination, and retaliation from  
10 occurring. *See* Cal. Gov't. Code § 12940(k).

11           68.     As a proximate result of GOOGLE and DOES' willful, knowing, and intentional  
12 failure to prevent, investigate or remedy harassment, discrimination, and retaliation against  
13 PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial losses of earnings or  
14 earning capacity and other employment benefits, and has suffered and continues to suffer  
15 humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a  
16 sum according to proof.

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

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

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**FIFTH CAUSE OF ACTION**

**Whistleblower Retaliation**

**(Violation of Cal. Lab. Code Section 1102.5)**

**(Against DEFENDANTS)**

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

71. 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).

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

73. As alleged herein, PLAINTIFF engaged in activity protected by complaining about DEFENDANTS’ violation(s) of the FEHA and the California Labor Code. In response, DEFENDANTS retaliated against PLAINTIFF by taking adverse employment actions, including refusing to consider PLAINTIFF for promotion, promote PLAINTIFF or increase PLAINTIFF’s compensation commensurate with her job duties, discussed above.

74. 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.

75. 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.

76. 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**

#### **Intentional Infliction of Emotional Distress**

#### **(Against DEFENDANTS)**

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

78. A person intentionally inflicts emotional distress when he/she engages in extreme and outrageous conduct with either: (1) an intent to cause emotional distress; or (2) reckless disregard of the probability of causing emotional distress, and actually does cause severe emotional suffering. *See Hughes v. Pair*, 46 Cal.4th 1035, 1050 (2009).

79. DEFENDANTS owed PLAINTIFF a duty of care not to cause PLAINTIFF emotional distress.

80. As alleged herein and above, DEFENDANTS knowingly treated PLAINTIFF cruelly and illegally based on her race, national origin and/or ancestry, and because she engaged in other protected activity, causing her severe emotional distress.

81. DEFENDANTS caused PLAINTIFF severe and extreme emotional distress that exceeded the normal risks of the employment relationship, by harassing and discriminating against her based on her race, national origin and/or ancestry, and conspiring against PLAINTIFF to deny her a promotion and pay raise, while giving promotions and raises to her White colleagues, ultimately forcing her out of GOOGLE.

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

83. DEFENDANTS' improper treatment of PLAINTIFF constituted severe and

1 outrageous misconduct and caused PLAINTIFF to suffer extreme emotional distress that exceeded  
2 the normal risks of the employment relationship.

3 84. PLAINTIFF is informed and believes and thereon alleges that such acts of  
4 DEFENDANTS were intentional, extreme, and outrageous. PLAINTIFF is further informed and  
5 believes, and thereon alleges, that such actions were done with the intent to cause serious emotional  
6 distress or with reckless disregard of the probability of causing PLAINTIFF serious emotional  
7 distress.

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

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

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

18 **SEVENTH CAUSE OF ACTION**

19 **Negligent Infliction of Emotional Distress**

20 **(Against DEFENDANTS)**

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

23 89. DEFENDANTS owed PLAINTIFF a duty of care not to cause PLAINTIFF emotional  
24 distress.

25 90. As alleged herein and above, DEFENDANTS treated PLAINTIFF with wanton and  
26 reckless disregard of the probability of causing PLAINTIFF to suffer extreme emotional distress.

27 91. DEFENDANTS breached their duty to PLAINTIFF by way of their own conduct, as  
28

1 alleged herein and above.

2 92. As alleged herein and above, DEFENDANTS knowingly mistreated PLAINTIFF  
3 based on her race, national origin and/or ancestry, and conspired against PLAINTIFF to deny her a  
4 promotion and pay raise, while giving promotions and raises to her White colleagues, ultimately  
5 forcing her out of GOOGLE.

6 93. Such conduct was done in a careless or negligent manner, without consideration for  
7 the effect of such conduct upon PLAINTIFF's emotional well-being.

8 94. DEFENDANTS knew, or should have known, that treating PLAINTIFF in the  
9 manner alleged above, would devastate PLAINTIFF and cause PLAINTIFF extreme hardship.

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

13 **EIGHTH CAUSE OF ACTION**

14 **Violation of California Equal Pay Act**

15 **(Cal. Lab. Code § 1197.5)**

16 **(Against GOOGLE and DOES)**

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

19 97. At all relevant times, California Labor Code section 1197.5 was in effect and was  
20 binding on GOOGLE and DOES. This statute prohibits GOOGLE from paying any individual at a  
21 lower rate than employees of a different race or ethnicity for substantially similar work, when viewed  
22 as a composite of skill, effort, and responsibility, performed under similar working conditions.

23 98. GOOGLE and DOES violated California Labor Code section 1197.5 by failing to pay  
24 PLAINTIFF at the same rate as her White counterparts for substantially similar work, when viewed  
25 as a composite of skill, effort, and responsibility, performed under similar working conditions.  
26 GOOGLE and DOES knew this to be the case, as it red flagged PLAINTIFF for "calibration issues"  
27 because she "has been performing above her level" for years, yet continued to fail to pay PLAINTIFF  
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1 equal wages, which are due and owing.

2 99. As a proximate result of GOOGLE and DOE'S violation of Labor Code section  
3 1197.5, PLAINTIFF sustained substantial losses of earnings and employment benefits. PLAINTIFF  
4 is entitled to the balance of the wages, including interest, and an equal amount as liquidated damages.  
5 See Cal. Lab. Code § 1197.5(h).

6 100. Labor Code section 1197.5(k)(1) prevents employers from, "in any manner  
7 discriminat[ing] or retaliat[ing] against, any employee by reason of any action taken by the employee  
8 to invoke or assist in any manner the enforcement of [Labor Code section 1197.5]. As alleged herein,  
9 GOOGLE and DOES discriminated and retaliated against PLAINTIFF for actions she took to attain  
10 pay equity in accordance with Labor Code section 1197.5.

11 101. Pursuant to Labor Code section 1197.5(k)(2) enables employees, such as  
12 PLAINTIFF, who have "been discharged, discriminated or retaliated against, in the terms and  
13 conditions of his or her employment because the employee engaged in any conduct delineated in"  
14 Labor Code section 1197.5, PLAINTIFF seeks to recover, among other things, "reimbursement for  
15 lost wages and work benefits caused by the acts of the employer, including interest thereon, as well  
16 as appropriate equitable relief."

17 102. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees.  
18 Pursuant to Labor Code section 1197.5(h), PLAINTIFF is entitled to recover reasonable attorneys'  
19 fees and costs (including expert costs) in an amount according to proof.

## 20 **NINTH CAUSE OF ACTION**

### 21 **Wrongful Termination in Violation of Public Policy**

#### 22 **(Against GOOGLE and DOES)**

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

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

105. The laws and public policy of the State of California as declared by, *inter alia*, the California Constitution, Art.1, Section 8, the FEHA, and the California Labor Code prohibit an employer from terminating an employee on the basis of the employee's sex, gender, and sexual orientation, and/or because the employee engaged in protected activity.

106. As alleged above, PLAINTIFF's race, national origin, ancestry, and/or protected activity were substantial motivating factors in her constructive discharge from GOOGLE and DOES.

107. As a direct and proximate result of GOOGLE and DOES' violation of PLAINTIFF's rights under California law, PLAINTIFF has sustained and continues to sustain substantial losses of earnings and employment benefits, and has suffered and continues to suffer humiliation, emotional distress, and physical and mental pain and anguish, all to his damage in a sum according to proof.

108. GOOGLE and DOES 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 GOOGLE and DOES in an amount according to proof.

### TENTH CAUSE OF ACTION

## Unfair and Unlawful Business Practices

**(Cal. Bus. & Prof. Code § 17200, *et seq.*)**

**(Against GOOGLE and DOES)**

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

110. At all times herein, California Business & Professions Code provides that “person” shall mean and include “natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.” Bus. & Prof. Code § 17201.

111. At all times herein, GOOGLE's conduct, as alleged herein, was unfair, unlawful and harmful to PLAINTIFF, the general public, and GOOGLE's competitors. PLAINTIFF has suffered injury in fact and has lost money as a result of GOOGLE's unlawful business practices.

112. At all times herein, GOOGLE's activities, as alleged herein, violated California law, and constituted false, unfair, fraudulent and deceptive business acts and practices in violation of California Business & Professions Code sections 17200, *et seq.*

113. Each and every one of GOOGLE's acts and omissions in violation of the Labor Code, as alleged herein, including, but not limited to GOOGLE's failure to provide equal pay to PLAINTIFF, failure to pay PLAINTIFF all wages owed at the time of her separation; failure to timely pay PLAINTIFF all wages owed each month, and failure to furnish accurate wage statements, constituted an unfair and unlawful business practice under California Business & Professions Code sections 17200, *et seq.*

114. As a result of the violations of California law herein described, GOOGLE unlawfully gained an unfair advantage over other businesses. PLAINTIFF has suffered pecuniary loss by GOOGLE's unlawful business acts and practices alleged herein.

115. Pursuant to California Business & Professions Code sections 17200 *et seq.*, PLAINTIFF is entitled to restitution of the wages withheld and retained by GOOGLE during a period that commences four years prior to the filing of this complaint; a permanent injunction requiring GOOGLE to pay all outstanding wages due to PLAINTIFF; an award of attorneys' fees pursuant to California Code of Civil Procedure section 1021.5 and other applicable laws; and an award of costs.

#### **ELEVENTH CAUSE OF ACTION**

#### **Civil Penalties under the Private Attorneys General Act**

**(Cal. Labor Code Sections 2698, *et seq.*)**

**(Against GOOGLE and DOES)**

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

117. PLAINTIFF is an "aggrieved employee" within the meaning of California Labor Code Section 2699(c), and a proper representative to bring a civil action on behalf of herself and other current and former employees of GOOGLE and DOES pursuant to the procedures specified

1 in California Labor Code Section 2699.3, because PLAINTIFF was employed by GOOGLE and  
2 DOES and the alleged violations of the California Labor Code were committed against  
3 PLAINTIFF.

4 118. Pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code  
5 Sections 2698-2699.5, PLAINTIFF seeks to recover civil penalties, including but not limited to  
6 penalties under California Labor Code Sections 2699 from GOOGLE and DOES in representative  
7 action for the violations set forth above, including but not limited to violations of California Labor  
8 Code Sections 1197.5. PLAINTIFF is also entitled to an award of reasonable attorneys’ fees and  
9 costs pursuant to California Labor Code Section 2699(g)(1).

10 119. Pursuant to California Labor Code Section 2699.3, PLAINTIFF gave written notice  
11 by certified mail to the California Labor and Workforce Development Agency (“LWDA”) and  
12 GOOGLE and DOES of the specific provisions of the California Labor Code alleged to have been  
13 violated, including the facts and theories to support the alleged violations. PLAINTIFF’s notice to  
14 the LWDA is attached as Exhibit A. Within sixty-five (65) calendar days of the postmark date of  
15 PLAINTIFF’s notice letter, the LWDA did not provide notice to PLAINTIFF that it intends to  
16 investigate the alleged violations.

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

19 121. GOOGLE and DOES have violated *Labor Code* § 1197.5(b) by failing to pay their  
20 non-White employees at a rate equal to their White employees for performing substantially similar  
21 work with respect to their skill, effort, and responsibility and under similar working conditions.

22 122. GOOGLE and DOES have also violated *Labor Code* § 1197.5(k) by discriminating  
23 and retaliating against non-White employees because of their protected activities, including with  
24 respect to their request for promotions, increased compensation, and/or equal pay.

25 123. *Labor Code* § 1197.5(b) prescribes: An employer shall not pay any of its employees  
26 at a wage rate less than the rates paid to employees of another race or ethnicity for substantially  
27 similar work, when viewed as a composite of skill, effort, and responsibility, and performed under  
28

1 similar working conditions, except where the employer demonstrates:

2 (1) The wage differential is based upon one or more of the following factors:

3 (A) A seniority system.

4 (B) A merit system.

5 (C) A system that measures earnings by quantity or quality of production.

6 (D) A bona fide factor other than race or ethnicity, such as education, training, or  
7 experience. This factor shall apply only if the employer demonstrates that the  
8 factor is not based on or derived from a race- or ethnicity-based differential in  
9 compensation, is job related with respect to the position of this subparagraph,  
10 “business necessity” means an overriding legitimate business purpose such that  
11 the factor relied upon effectively fulfills the business purpose such that the factor  
12 relied upon effectively fulfills the business purpose it is supposed to serve. This  
13 defense shall not apply if the employee demonstrates that an alternative business  
14 practice exists that would serve the same business purpose without producing the  
15 wage differential.

16 124. *Labor Code* § 1197.5(k) prescribes:

17 (1) An employer shall not discharge, or in any manner discriminate or retaliate against,  
18 any employee by reason of any question taken by any question taken by the employee  
19 to invoke or assist in any many the enforcement of this section. An employer shall not  
20 prohibit an employee from disclosing the employee’s own wages, discussing the  
21 wages of others, inquiring about another employee’s wages, or aiding or encouraging  
22 any other employee to exercise his or her rights under this section. Nothing in this  
23 section creates an obligation to disclose wages.

24 (2) Any employee who has been discharged, discriminated or retaliated against, in the  
25 terms and conditions of his or her employment because the employee engaged in any  
26 conduct delineated in this section may recover in a civil action reinstatement and  
27 reimbursement for lost wages and work benefits caused by the acts of the employer,  
28 including interest thereon, as well as appropriate equitable relief.

(3) A civil action brought under this subdivision may be commenced no later than one year after the cause of action occurs.

125. *Labor Code* § 210 prescribes:

(a) In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows:

(1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee. For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

(b) The penalty shall be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties pursuant to this chapter or in an independent civil action. The action shall be brought in the name of the people of the State of California and the Labor Commissioner and the attorneys thereof may proceed to act for and on behalf of the people bringing these actions. Twelve and one-half percent of the penalty recovered shall be paid into a fund within the Labor and Workforce Development Agency dedicated to educating employers about state labor laws, and the remainder shall be paid into the State Treasury to the credit of the General Fund.

126. *Labor Code* § 226 prescribes: “[a]n employer to provide an accurate itemized statement in writing showing “(1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the

1 name of the employee and only the last four digits of his or her social security number or an  
2 employee identification number other than a social security number, (8) the name and address of  
3 the legal entity that is the employer...”

4 127. Labor Code § 226(e) provides that if an employer knowingly and intentionally  
5 fails to provide a statement in compliance with Labor Code § 226(a), then the employee is  
6 entitled to recover the greater of actual damages of fifty dollars (\$50) for the initial violation and  
7 one hundred dollars (\$100) for each subsequent violation, up to four thousand dollars (\$4,000).

8 128. Labor Code § 226.3 prescribes that: “any employer who violates subdivision (a) of  
9 Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per  
10 employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for  
11 each violation in a subsequent citation, for which the employer fails to provide the employee a  
12 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.  
13 The civil penalties provided for in this section are in addition to any other penalty provided by  
14 law.”

15 129. GOOGLE and DOES have violated Labor Code § 1197.5 thereby resulting in  
16 GOOGLE and DOES knowingly and intentionally failing to furnish Plaintiff and all similarly  
17 situated employees with timely accurate and itemized wage statements showing the appropriate  
18 gross wages earned based upon their violation of Labor Code § 1197.5.

19 130. *Labor Code* §§ 201 and 202 require GOOGLE and DOES to pay all compensation  
20 due and owing immediately at the time of discharge, layoff, or resignation made with at least  
21 seventy-two (72) hours’ notice, or within seventy-two (72) hours of resignation made without  
22 seventy-two (72) hours’ notice.

23 131. *Labor Code* §§ 203 prescribes: “If an employer willfully fails to pay, without  
24 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any  
25 wages of an employee who is discharged or who quits, the wages of the employee shall continue as  
26 a penalty from the due date thereof at the same rate until paid or until an action therefor is  
27 commenced; but the wages shall not continue for more than 30 days. An employee who secretes or  
28

absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment.”

132. GOOGLE and DOES have violated Labor Code § 1197.5 thereby resulting in Defendants willfully failure to pay Claimants and all similarly situated individuals all compensation earned immediately upon termination or within seventy-two (72) hours’ notice of the employees resignation.

133. Labor Code section 204(a) prescribes: “[a]ll wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. However, salaries of executive, administrative, and professional employees of employers covered by the Fair Labor Standards Act, as set forth pursuant to Section 13(a)(1) of the Fair Labor Standards Act, as amended through March 1, 1969, in Part 541 of Title 29 of the Code of Federal Regulations, as that part now reads or may be amended to read at any time hereafter, may be paid once a month on or before the 26th day of the month during which the labor was performed if the entire month’s salaries, including the unearned portion between the date of payment and the last day of the month, are paid at that time.”

134. GOOGLE and DOES have violated Labor Code § 1197.5 thereby resulting in Claimants and all similarly situated individuals not being paid for all wages due and payable in compliance with Labor Code § 204(a).

135. California law requires that all hours worked over eight (8) in a day or forty in a week or worked on the seventh consecutive day of a work week be paid at 1.5 times an employee’s regular rate of pay. *See, e.g., Cal. Lab. Code* §§ 510, 1194; *Cal. Code Regs.*, tit. 8 §§ 11040, *et seq.*

1 In addition, hours worked over twelve (12) in a day or hours over eight (8) worked on the seventh  
2 consecutive day in a week are paid at two times an employee's regular rate of pay.

3 136. Labor Code § 1194(a) provides that: "Notwithstanding any agreement to work for a  
4 lesser wage, any employee receiving less than the legal minimum wage or the legal overtime  
5 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance  
6 of the full amount of this minimum wage or overtime compensation, including interest thereon,  
7 reasonable attorney's fees, and costs of suit."

8 137. GOOGLE and DOES have violated Labor Code § 1197.5 thereby resulting in  
9 employees similarly situated to PLAINTIFF not being paid the appropriate overtime rate for  
10 overtime hours worked.

11 138. PLAINTIFF seeks to recover the prescribed civil penalties by *Labor Code* §§ §§  
12 201, 202, 203, 204, 210, 226, 1197.5(a), 1197.5(k) and/or 2699(f) for the violations referenced  
13 herein on behalf of herself and other aggrieved employees. PLAINTIFF also seeks interest and  
14 attorney's fees and costs and any other remedies prescribed and permitted by PAGA.

15  
16 **PRAYER FOR RELIEF**

17 WHEREFORE, PLAINTIFF ANA CANTU, on behalf of herself and all others similarly  
18 situated, respectfully prays for judgment against DEFENDANTS GOOGLE, CHEN and DOES, and  
19 each of them, as follows:

20 1. For economic damages for loss of past and future earnings, as well as loss of earning  
21 capacity, just promotions, advancement, and employment benefits, in excess of this Court's  
22 jurisdictional limits and according to proof;

23 2. For general damages for pain and suffering, mental and emotional trauma and  
24 anguish, for the loss of enjoyment of life, according to proof;

25 3. For economic damages including resultant past and future medical care; job search  
26 costs, other economic damages, including incidental fees and/or other costs, and/or economic losses  
27 according to proof;

28 4. For compensatory damages, as against each named Defendant, according to proof;

1           5.     For all wages (including base salary, bonuses, and stock) due pursuant to California  
2 Labor Code § 1197.5(h) in an amount to be ascertained at trial;

3           6.     For statutory and civil penalties arising from the violations of the California Labor  
4 Code alleged herein;

5           7.     For liquidated damages pursuant to California Labor Code § 1197.5(h);

6           8.     For punitive damages, as against each named Defendant, for the causes of action  
7 alleged herein, according to proof;

8           9.     For attorneys' fees, as provided by statute, according to proof;

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

11          11.    For "affirmative relief" as defined in California Government Code section 12926(a);

12          12.    For restitution of all monies due to PLAINTIFF and similarly situated employees, as  
13 well as disgorged profits from the unfair and unlawful business practices of GOOGLE and DOES;

14          13.    For statutory and civil penalties according to proof, including but not limited to all  
15 penalties authorized by the California Labor Code Section 2699;

16          14.    For interest on the unpaid wages at 10% per annum pursuant to California Labor  
17 Code section 1197.5(h), California Civil Code Sections 3287, 3288, and/or any other applicable  
18 provision providing for pre-judgment interest;

19          15.    For preliminary and permanent injunctive relief enjoining GOOGLE and DOES from  
20 violating California Labor Code § 1197.5, *et seq.*, by paying their non-White employees lower wages  
21 than they pay their White counterparts for substantially similar work; and from engaging in unfair  
22 and unlawful business practices complained of herein in violation of California Business and  
23 Professions Code § 17200, *et seq.*; and

24    ///

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27    ///

1           16.     For such further relief that the Court may deem just and proper.

2  
3     DATED: February 15, 2022

GUNN COBLE LLP

4  
5  
6     By: 

Beth Gunn  
Catherine J. Coble

7           Attorneys for Plaintiff  
8           ANA CANTU, individually and on behalf  
9           of others similarly situated

10  
11                                 **DEMAND FOR JURY TRIAL**

12           PLAINTIFF Ana Cantu hereby demands a jury trial with respect to all issues triable of right  
13     by jury. The amount demanded exceeds \$25,000. *See* Cal. Govt. Code § 72055.

14  
15     DATED: February 15, 2022

GUNN COBLE LLP

16  
17     By: 

18           Beth Gunn  
19           Catherine J. Coble

20           Attorneys for Plaintiff  
21           ANA CANTU, individually and on behalf  
22           of others similarly situated

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I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the action in which this service is made. My business address is 3555 Casitas Ave., Los Angeles, CA 90039.

# FIRST AMENDED COMPLAINT FOR DAMAGES

Felicia Davis  
feliciadavis@paulhastings.com  
Zachary Hutton  
zachhutton@paulhastings.com  
Eric Distelburger  
ericdistelburger@paulhastings.com

[X] (By Electronic Mail) Pursuant to the Court's order or an agreement of the parties to accept service my email or electronic transmission, a true and correct copy was electronically served to the email addresses listed in the service caption above. A true and correct copy of transmittal will be produced if requested by any party or the Court.

[ ] I deposited the sealed envelope or package designated by the express service carrier for collection and overnight delivery by following the ordinary business practice of Gunn Coble LLP. I am readily familiar with Gunn Coble LLP's practice for collecting and processing of correspondence for overnight delivery, said practice being that, in the ordinary course of business, correspondence for overnight delivery is deposited with delivery fees paid or provided for at the carrier's express service offices for next day delivery.

By: Catherine J. Coble