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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

JOY ANN JULIAN, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

v.

WALGREEN CO., an Illinois corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO. 20-CIV-05044

**CLASS ACTION AND INDIVIDUAL
COMPLAINT FOR:**

- (1) VIOLATION OF LABOR CODE § 201-203
[CLASS CLAIM];**
- (2) VIOLATION OF LABOR CODE § 226
[CLASS CLAIM];**
- (3) VIOLATION OF LABOR CODE § 2698,
ET SEQ. [REPRESENTATIVE CLAIM];**
- (4) UNFAIR OR UNLAWFUL BUSINESS
PRACTICES [CLASS CLAIM]**
- (5) DISABILITY DISCRIMINATION IN
VIOLATION OF THE FEHA
[INDIVIDUAL CLAIM];**
- (6) PREGNANCY DISCRIMINATION IN
VIOLATION OF THE FEHA
[INDIVIDUAL CLAIM];**
- (7) VIOLATION OF THE CALIFORNIA
FAMILY RIGHTS ACT [INDIVIDUAL
CLAIM];**
- (8) VIOLATION OF GOV'T CODE § 12945
[INDIVIDUAL CLAIM];**
- (9) FAILURE TO ACCOMMODATE IN
VIOLATION OF THE FEHA**

[INDIVIDUAL CLAIM];

(10) FAILURE TO ENGAGE IN THE
INTERACTIVE PROCESS IN
VIOLATION OF THE FEHA
[INDIVIDUAL CLAIM];

(11) RETALIATION IN VIOLATION OF
THE FEHA; [INDIVIDUAL CLAIM]

(12) FAILURE TO PREVENT
DISCRIMINATION IN VIOLATION OF
THE FEHA

(13) WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY
[INDIVIDUAL CLAIM];

(14) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS [INDIVIDUAL
CLAIM]

DEMAND EXCEEDS \$25,000.00

**DEMAND FOR JURY TRIAL ON
INDIVIDUAL CLAIMS**

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Attorneys for Plaintiff and the Class

1 Plaintiff Joy Ann Julian (“Plaintiff”) hereby submits this Class Action and Individual
2 Complaint (“Complaint”) against Defendants Walgreen Co. (“Defendant,” or the “Company”), and
3 DOES 1-50 (hereinafter collectively referred to as “Defendants”), individually and on behalf of a
4 Class of all other similarly situated current and former employees of Defendants as follows:

5 **JURISDICTION AND VENUE**

6 1. This class action is within the Court’s jurisdiction under California Labor Code §§
7 201-204, 226, 233, and 246, the California Industrial Welfare Commission’s (“IWC”) Wage Orders.
8 As alleged below, Plaintiff has met all jurisdictional prerequisites for filing suit under the Private
9 Attorneys General Act (the “PAGA”) and the Fair Employment and Housing Act (the “FEHA”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against employees of Defendants.

12 3. Plaintiff is informed and believes and based thereon alleges that Defendants jointly
13 and severally have acted knowingly and intentionally by failing to pay or timely pay all sick pay
14 wages or provide accurate itemized wage statements.

15 4. Venue is proper in San Mateo County because Defendants maintain business
16 locations in this County and Plaintiff worked at Defendant’s store located in this County.

17 **PARTIES**

18 5. On or about February 20, 2018, Plaintiff was hired by Defendant to work as a non-
19 exempt customer service associate and worked in California for Defendants for 30 or more days
20 within a year. On or about November 29, 2019, Plaintiff began a pregnancy leave. Thus, November
21 28, 2019, was the last day Plaintiff worked for Defendant. Plaintiff was unlawfully terminated on or
22 about January 29, 2020. Defendant is a retail pharmacy with locations throughout the United States,
including in San Mateo County where Plaintiff worked.

23 6. Plaintiff is a victim of the policies, practices, and customs of Defendants complained
24 of in this action in ways that have deprived Plaintiff of the rights guaranteed by California Labor
25 Code §§ 201-204, 226, 233, and 246.

26 7. Plaintiff is informed and believes and based thereon alleges that at all times herein
27 mentioned Defendants and DOES 1 through 50 are and were business entities, individuals, and
28 partnerships, licensed to do business and actually doing business in the State of California.

1 8. As such, and based upon all the facts and circumstances incident to Defendants'
2 business in California, Defendants are subject to the California Labor Code.

3 9. Plaintiff does not know the true names or capacities, whether individual, partner or
4 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason, said
5 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
6 complaint when the true names and capacities are known. Plaintiff is informed and believes and
7 based thereon alleges that each of said fictitious Defendants was responsible in some way for the
8 matters alleged herein and proximately caused Plaintiff and members of the general public and
9 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

10 10. At all times herein mentioned, each of said Defendants participated in the doing of
11 the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
12 Defendants, and each of them, were the agents, servants and employees of each of the other
13 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting
14 within the course and scope of said agency and employment.

15 11. Plaintiff is informed and believes and based thereon alleges that at all times material
16 hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint
17 venturer of, or working in concert with each of the other co- Defendants and was acting within the
18 course and scope of such agency, employment, joint venture, or concerted activity. To the extent
19 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
20 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

21 12. At all times herein mentioned, Defendants, and each of them, were members of, and
22 engaged in, a joint venture, partnership and/or common enterprise, and acting within the course
23 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

24 13. At all times herein mentioned, the acts and omissions of various Defendants, and
25 each of them, concurred and contributed to the various acts and omissions of each and all of the
26 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
27 herein mentioned, Defendants, and each of them, ratified each and every act or omission
28 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided and

1 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
2 damages as herein alleged.

3 **CLASS ACTION ALLEGATIONS**

4 14. **Definition:** Plaintiffs seek class certification, pursuant to California Code of Civil
5 Procedure § 382, of the following class:

- 6 a. All current and former non-exempt California employees who were paid
7 sick pay in the same workweek in which they earned any non-discretionary
8 incentive wages from Defendant at any time from May 20, 2016, through
9 the present (the “Sick Pay Class”).

10 15. **Numerosity and Ascertainability:** The members of the Class are so numerous
11 that joinder of all members would be impractical, if not impossible. The identity of the members
12 of the Class is readily ascertainable by review of the Defendants records, including payroll records.
13 Plaintiff is informed and believes and based thereon alleges that the Defendants failed to pay
14 employees their sick pay at their regular rate of pay. Because Defendants failed to pay all sick pay,
15 Defendants also failed to timely pay all wages due and failed provide accurate itemized wage
16 statements.

17 16. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
18 to represent fairly and adequately the interests of the class defined above. Plaintiff’s attorneys are
19 ready, willing and able to fully and adequately represent the class and the named Plaintiff.

20 Plaintiff’s attorneys have prosecuted and settled wage-and-hour class actions in the past and
21 currently have a number of wage-and-hour class actions pending in California courts. **Common**
22 **Question of Law and Fact:** There are predominant common questions of law and fact and a
23 community of interest amongst Plaintiff and the claims of the Class. Plaintiff is informed and
24 believes that Defendants uniformly administer a corporate policy and practice of routinely failing
25 to pay sick pay at the regular rate of pay, routinely failing to timely pay all wages due, and
26 routinely failing to provide accurate itemized wage statements.

27 17. **Typicality:** Plaintiff’s claims are typical of the claims of all members of the Class
28 in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner as the
Class members. Plaintiff was not paid sick pay at the regular rate. Plaintiff was paid additional

1 non-discretionary remuneration, including shift differentials and/or shift premiums, in pay periods
2 in which Plaintiff earned sick pay. Defendants did not factor these bonuses into the regular rate of
3 pay for purposes of the accrual and payment of sick pay wages. Plaintiff's sick pay was paid at
4 Plaintiff's base rate, as opposed to the higher regular rate. Further, as a result of these regular rate
5 violations, Defendants failed to timely pay Plaintiff and failed to provide accurate itemized wage
6 statements. Thus, Plaintiff's claims are typical of the class she seeks represent.

7 18. The California Labor Code is broadly remedial in nature and must be construed in
8 favor of worker protection. These laws and labor standards serve an important public interest in
9 establishing minimum working conditions and standards in California. These laws and labor
10 standards protect the average working employee from exploitation by employers who may seek to
11 take advantage of superior economic and bargaining power in setting onerous terms and conditions
12 of employment.

13 19. The nature of this action and the format of laws available to Plaintiff and Class
14 Members identified herein make the class action format a particularly efficient and appropriate
15 procedure to redress the wrongs alleged herein. If each employee were required to file an
16 individual lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage
17 since it would be able to exploit and overwhelm the limited resources of the individual employees
18 with Defendants' vastly superior financial and legal resources. Requiring each class member to
19 pursue an individual remedy would also discourage the assertion of lawful claims by employees
20 who would be disinclined to file an action against their former and/or current employer for real and
21 justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

22 20. The prosecution of separate actions by the individual class members, even if
23 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to
24 individual class members against the Defendants and which would establish potentially
25 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
26 individual Class members which would, as a practical matter, be dispositive of the interest of the
27 other Class members not parties to the adjudications or which would substantially impair or
28 impede the ability of the Class members to protect their interests. Further, the claims of the
individual members of the Class are not sufficiently large to warrant vigorous individual

1 prosecution considering all of the concomitant costs and expenses.

2 21. Such a pattern, practice and uniform administration of corporate policy regarding
3 illegal employee compensation described herein is unlawful and creates an entitlement to recovery
4 by Plaintiff and the Class identified herein, in a civil action any and all applicable penalties and/or
5 damages, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor
6 Code §§ 218, 218.5, 226, 233, 246, and 2699 and Code of Civil Procedure § 1021.5.

7 22. Proof of a common business practice or factual pattern, which the named Plaintiffs
8 experienced and are representative of, will establish the right of each of the members of the Class
9 to recovery on the causes of action alleged herein.

10 23. This action is brought for the benefit of the Class, which is commonly entitled to a
11 specific fund with respect to the compensation illegally and unfairly retained by Defendants. The
12 Class is commonly entitled to restitution of those funds being improperly withheld by Defendant.

13 **INDIVIDUAL ALLEGATIONS**

14 24. On or about February 20, 2018, Plaintiff was hired by Defendant to work as a non-
15 exempt customer service associate. On or about November 29, 2019, Plaintiff began a pregnancy
16 leave. Thus, November 28, 2019, was the last day Plaintiff worked for Defendant. Plaintiff
17 provided medical documentation to Defendant stating that she was to be placed off of work from
18 November 29, 2019, through February 14, 2020, so that Plaintiff could give birth, including
19 undergoing a caesarian section. Rather than accommodate Plaintiff's pregnancy and/or disability,
20 Plaintiff was unlawfully terminated by Defendant on or about January 29, 2020. Thus, Defendant
21 did not accommodate Plaintiff, nor engage in a good faith interactive process. To the contrary,
22 Defendant summarily terminated Plaintiff in violation of the FEHA.

23 25. Plaintiff has met all the jurisdictional requirements for proceeding with her claims
24 under the FEHA, including without limitation, California Government Code Sections 12960 and
25 12965, by timely filing administrative complaints against Defendant with the California Department
26 of Fair Employment and Housing (the "DFEH") on or about November 13, 2020. Plaintiff also
27 requested right-to-sue letters from the DFEH against Defendant. True and correct copies of the
28 DFEH complaints and right-to-sue letters are collectively attached hereto as Exhibit "A."

FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 201-204, 233, 246

(AGAINST THE DEFENDANTS AND DOES 1-50 BY PLAINTIFFS AND CLASS)

26. The preceding paragraphs are re-alleged and incorporated by this reference.

27. Labor Code § 233 provides that an employer must permit an employee to use accrued sick leave in accordance with Labor Code § 246.5 at the employee's then current rate of entitlement. Labor Code § 246 provides that an employee is entitled to sick pay wages for use of accrued sick leave. An employer must calculate paid sick leave by using one of two calculations: (i) "Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek," or (ii) "Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment."

28. As a policy and practice, Defendants unlawfully failed to pay sick pay at the regular rate of pay. Plaintiff and Class Members routinely earned non-discretionary incentive wages, such as monthly bonuses, which increased their regular rate of pay. However, when sick pay was paid, it was paid at the base rate of pay for Plaintiff and Class Members, as opposed to the correct, higher regular rate of pay.

29. Moreover, Labor Code § 204 generally provides that wages are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Consistent with Labor Code § 204, Labor Code § 246 also provides that an employer shall provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken. Labor Code § 201 provides if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Labor Code § 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Labor Code § 203 provides that if

1 an employer willfully fails to pay wages owed in accordance with Labor Code §§ 201 and 202,
2 then the wages of the employee shall continue as a penalty from the due date, and at the same rate
3 until paid, but the wages shall not continue for more than thirty (30) days.

4 30. Based on Defendants' failure to pay all sick pay to Plaintiff and Class Members,
5 and as a matter of policy and practice, Defendants failed to timely pay Plaintiff and Class Members
6 all due wages or timely pay all due wages upon separation of employment. On information and
7 belief, Defendants were advised by skilled lawyers and knew, or should have known, of the
8 mandates of the Labor Code as it relates to Plaintiff's allegations. Defendants thus violated
9 Sections 201-204 by not timely paying all due wages and not timely paying all due wages upon the
10 separation of employment.

11 31. As a pattern and practice, Defendants regularly and willfully failed to pay Plaintiff
12 and other members of the Class their correct wages and accordingly owe damages, restitution, and
13 applicable penalties, including waiting time penalties.

14 **SECOND CAUSE OF ACTION**

15 **VIOLATION OF LABOR CODE § 226(a)**

16 **(AGAINST THE DEFENDANTS AND DOES 1-50 BY PLAINTIFF AND THE CLASS)¹**

17 32. The preceding paragraphs are re-alleged and incorporated by this reference.

18 33. Defendants failed in their affirmative obligation to provide accurate itemized wage
19 statements in violation of Labor Code § 226(a). Specifically, Defendants violated Labor Code §
20 226(a)(9) by, among other actions, failing to list the correct rate of pay and gross/net wages when
21 Defendants paid sick pay to Plaintiff and Class Members in pay periods covered by additional non-
discretionary remuneration, including shift differentials and/or shift premiums.

22 34. Plaintiff is informed and believes and based thereon alleges that that the
23 Defendants' violation of Section 226(a) is class-wide.

24 35. Such a pattern, practice and uniform administration of corporate policy as described
25 herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified
26 herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226, including
27 interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor

28 ¹ This claim is being asserted for the time period of May 20, 2019, through the present.

1 Code § 226.

2 **THIRD CAUSE OF ACTION**

3 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

4 **(BY PLAINTIFF AS PROXY FOR STATE OF CALIFORNIA AGAINST ALL**
5 **DEFENDANTS)**

6 36. The preceding paragraphs are re-alleged and incorporated by this reference.

7 37. Plaintiff seeks penalties on behalf of the State of California and all similarly
8 aggrieved employees who have worked for Defendant in the State of California from May 12, 2019,
9 through the present for the violations of Labor Code §§ 201-204, 226, 226.3, 233, and 246.

10 38. On or about November 6, 2020, Plaintiff sent notice to the Labor Workforce
11 Development Agency (the "LWDA") of the aforementioned violations regarding Defendant's failure
12 to pay sick pay at the regular rate and resultant inaccurate wage statements. This violation is
13 applicable to all current and former employees of the employer, including the aggrieved employee.

14 39. As of the date of the filing of this Complaint, the LWDA has not notified Plaintiffs
15 whether it intends to investigate the claims. Therefore, Plaintiff may seek applicable penalties under
16 the PAGA.

17 40. Such a pattern, practice and uniform administration of corporate policy as described
18 herein is unlawful and creates an entitlement to recovery by the Plaintiff on behalf of the State of
19 California, in a civil action, for penalties pursuant to the PAGA, Labor Code §§ 210, 226.3 and
20 2699, attorneys' fees, and costs of suit according to the mandate of PAGA for Defendant's violations
21 of the Labor Code as well as attorneys' fees and costs.

22 **FOURTH CAUSE OF ACTION**

23 **UNLAWFUL OR UNFAIR BUSINESS PRACTICES**

24 **(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)**

25 41. The preceding paragraphs are re-alleged and incorporated by this reference.

26 42. Plaintiff is informed and believes that at Defendants have engaged and continue to
27 engage in unfair and unlawful business practices in California by utilizing the employment policies
28 and practices alleged herein, including the failures to pay all wages due.

43. Defendants' utilization of such unfair and unlawful business practices constitutes

1 unfair and unlawful competition and provides an unfair advantage over Defendants' competitors, as
2 proscribed by the UCL. Defendants have deprived Plaintiff and the Class the minimum working
3 condition standards and conditions due to them under the Labor Code and applicable IWC Wage
4 Orders.

5 44. Such a pattern, practice, and uniform administration of corporate policy is unlawful
6 and entitles Plaintiff and the Class to full restitution of all monies withheld, acquired, or converted
7 by Defendants by means of the unfair practices complained of herein, including interest thereon,
8 attorneys' fees, and costs of suit.

9 **FIFTH CAUSE OF ACTION**

10 **DISABILITY DISCRIMINATION IN VIOLATION OF THE FEHA [NON-CLASS CLAIM]** 11 **(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)**

12 45. The preceding paragraphs are re-alleged and incorporated by this reference.

13 46. The FEHA prohibits discrimination on account of a plaintiff's disability, which
14 includes medical conditions related to pregnancy. Cal. Gov't Code §§ 12926(p), 12940(a).

15 47. Defendant discriminated against Plaintiff on account of her disability and, more
16 specifically, complications relating to her pregnancy and childbirth. As alleged above, Plaintiff was
17 terminated shortly after informing Defendant that she was pregnant and taking pregnancy/medical
18 leave to undergo a caesarian section. Plaintiff is informed and believes, and based thereon alleges,
19 that she was replaced by a non-disabled employee.

20 48. As a proximate result of Defendant's discrimination against Plaintiff, she has suffered
21 and continues to suffer compensatory damages, including without limitation, lost wages, loss of
22 future earnings and earning capacity, loss of bonuses, emotional distress, mental anguish,
23 embarrassment, humiliation, loss of future advancement, and damage to her reputation in the
24 business community, in the amount of at least \$25,000.00, according to proof at the time of trial,
25 which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil
26 action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from
27 the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288,
28 and/or any other provision of law providing for prejudgment interest.

49. As a proximate result of Defendant's violation of the FEHA against Plaintiff, she has

1 been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is expected
2 to continue to incur attorneys' fees. Pursuant to California Government Code Section 12965(b),
3 Plaintiff requests the award of attorneys' fees against Defendants.

4 50. Defendants committed the acts alleged herein maliciously, fraudulently, and
5 oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious
6 disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive
7 damages in an amount according to proof.

8 **SIXTH CAUSE OF ACTION**

9 **PREGNANCY DISCRIMINATION IN VIOLATION OF THE FEHA**

10 **[NON-CLASS CLAIM]**

11 **AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)**

12 51. The preceding paragraphs are re-alleged and incorporated by this reference.

13 52. The FEHA prohibits discrimination on account of a plaintiff's sex, which includes a
14 plaintiff's pregnancy. Cal. Gov't Code §§ 12926(p), 12940(a).

15 53. Defendant discriminated against Plaintiff on account of her sex and, more
16 specifically, her pregnant status. As alleged herein, on or about November 29, 2019, Plaintiff began
17 a pregnancy leave. Thus, November 28, 2019, was the last day Plaintiff worked for Defendant.
18 Plaintiff provided medical documentation to Defendant stating that she was to be placed off of work
19 from November 29, 2019, through February 14, 2020, so that Plaintiff could give birth, including
20 undergoing a caesarian section. Rather than accommodate Plaintiff's pregnancy and/or disability,
21 Plaintiff was unlawfully terminated by Defendant on or about January 29, 2020.

22 54. As a proximate result of Defendant's discrimination against Plaintiff, she has suffered
23 and continues to suffer compensatory damages, including without limitation, lost wages, loss of
24 future earnings and earning capacity, loss of bonuses, emotional distress, mental anguish,
25 embarrassment, humiliation, loss of future advancement, and damage to her reputation in the
26 business community, in the amount of at least \$25,000.00, according to proof at the time of trial,
27 which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil
28 action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from

1 the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288,
2 and/or any other provision of law providing for prejudgment interest.

3 55. As a proximate result of Defendant's violation of the FEHA against Plaintiff, she has
4 been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is expected
5 to continue to incur attorneys' fees. Pursuant to California Government Code Section 12965(b),
6 Plaintiff requests the award of attorneys' fees against Defendants.

7 56. Defendants committed the acts alleged herein maliciously, fraudulently, and
8 oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious
9 disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive
10 damages in an amount according to proof.

11 **SEVENTH CAUSE OF ACTION**

12 **VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT**

13 **[NON-CLASS CLAIM]**

14 **AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)**

15 57. The preceding paragraphs are re-alleged and incorporated by this reference.

16 58. The Company is subject to California Government Code section 12945.2, commonly
17 known as the "California Family Rights Act" or "CFRA" in that (1) Plaintiff works at a worksite in
18 which the Company employs at least 20 employees within 75 miles, and (2) Plaintiff worked more
19 than 12 months of service with the Company and had at least 1,250 hours of service with the
20 Company during the previous 12-month period prior to her leave. Therefore, the Company is an
21 employer covered by CFRA and Plaintiff was an employee eligible to take CFRA leave.

22 59. CFRA leave entitles Plaintiff to take up to 12 workweeks of leave "for reason of the
23 birth of a child of the employee."

24 60. Plaintiff exercised her right to take leave for a qualifying CFRA leave and the
25 Company terminated Plaintiff for exercising these rights in violation of the CFRA. In other words,
26 Plaintiff suffered an adverse employment actions of retaliation and termination because of her
27 exercise of her right to CFRA leave.

28 61. As a proximate result of Defendant's violation of the CFRA against Plaintiff, she has

1 suffered and continues to suffer compensatory damages, including without limitation, lost wages,
2 loss of future earnings and earning capacity, loss of bonuses, emotional distress, mental anguish,
3 embarrassment, humiliation, loss of future advancement, and damage to her reputation in the
4 business community, in the amount of at least \$25,000.00, according to proof at the time of trial,
5 which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil
6 action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from
7 the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288,
8 and/or any other provision of law providing for prejudgment interest.

9 62. As a proximate result of Defendant's violation of the CFRA against Plaintiff, she has
10 been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is expected
11 to continue to incur attorneys' fees. Pursuant to California Government Code Section 12965(b),
12 Plaintiff requests the award of attorneys' fees against Defendants.

13 63. Defendants committed the acts alleged herein maliciously, fraudulently, and
14 oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious
15 disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive
16 damages in an amount according to proof.

17 **EIGHTH CAUSE OF ACTION**
18 **VIOLATION OF GOV'T CODE § 12945**
19 **[NON-CLASS CLAIM]**

20 **AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)**

21 64. The preceding paragraphs are re-alleged and incorporated by this reference.

22 65. California Government Code § 12945(a) provides that it is unlawful "[f]or an
23 employer to refuse to allow an employee disabled by pregnancy, childbirth, or a related medical
24 condition to take a leave for a reasonable period of time not to exceed four months and thereafter
25 return to work, as set forth in the commission's regulations. The employee shall be entitled to utilize
26 any accrued vacation leave during this period of time. Reasonable period of time means that period
27 during which the employee is disabled on account of pregnancy, childbirth, or a related medical
28 condition."

1 66. As alleged herein, on or about November 29, 2019, Plaintiff began a pregnancy leave.
2 Thus, November 28, 2019, was the last day Plaintiff worked for Defendant. Plaintiff provided
3 medical documentation to Defendant stating that she was to be placed off of work from November
4 29, 2019, through February 14, 2020, so that Plaintiff could give birth, including undergoing a
5 caesarian section. Instead of providing Plaintiff with this reasonable medical leave of less than four
6 months, Defendant terminated Plaintiff.

7 67. As a proximate result of Defendant's violation of California's Pregnancy Disability
8 Leave Law against Plaintiff, she has suffered and continues to suffer compensatory damages,
9 including without limitation, lost wages, loss of future earnings and earning capacity, loss of
10 bonuses, emotional distress, mental anguish, embarrassment, humiliation, loss of future
11 advancement, and damage to her reputation in the business community, in the amount of at least
12 \$25,000.00, according to proof at the time of trial, which is in excess of the jurisdictional minimum
13 for this lawsuit to qualify as an unlimited civil action. Plaintiff claims such amounts as damages,
14 together with prejudgment interest accruing from the date of the filing of this action pursuant to
15 California Civil Code Sections 3281 and/or 3288, and/or any other provision of law providing for
16 prejudgment interest.

17 68. As a proximate result of Defendant's violation of California's Pregnancy Disability
18 Leave Law against Plaintiff, she has been forced to hire attorneys to prosecute the claims alleged
19 herein, and has incurred and is expected to continue to incur attorneys' fees. Pursuant to California
20 Government Code Section 12965(b), Plaintiff requests the award of attorneys' fees against
21 Defendants.

22 69. Defendants committed the acts alleged herein maliciously, fraudulently, and
23 oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious
24 disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive
25 damages in an amount according to proof.

26 //

27 //

28 //

NINTH CAUSE OF ACTION

FAILURE TO ACCOMMODATE IN VIOLATION OF THE FEHA

[NON-CLASS CLAIM]

(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)

70. The preceding paragraphs are re-alleged and incorporated by this reference.

71. California Government Code Section 12940(m) requires an employer to make reasonable accommodations for physical and/or mental disabilities of an employee. Defendants denied Plaintiff reasonable accommodations, including refusing to honor Plaintiff's request for medical leave to undergo a caesarian section.

72. As a proximate result of Defendants' failure to accommodate Plaintiff, she has suffered and continues to suffer compensatory damages, including without limitation, lost wages, loss of future earnings and earning capacity, emotional distress, mental anguish, embarrassment, humiliation, loss of future advancement, and damage to her reputation in the business community, in the amount of at least \$25,000.00, according to proof at the time of trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment interest.

73. As a proximate result of Defendants' failure to accommodate Plaintiff, she has been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is expected to continue to incur attorneys' fees. Pursuant to California Government Code Section 12965(b), Plaintiff requests the award of attorneys' fees against Defendants.

74. Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive damages in an amount according to proof.

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TENTH CAUSE OF ACTION

FAILURE TO ENGAGE IN THE INTERACTIVE

PROCESS IN VIOLATION OF THE FEHA

[NON-CLASS CLAIM]

(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)

75. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 51 as though fully set for herein.

76. California Government Code Sections and 12926.1(e) and 12940(n) provide that it is unlawful for an employer to fail to engage in a timely, good faith interactive process with an employee to determine effective reasonable accommodations.

77. Defendants failed to engage in an adequate interactive process with Plaintiff, including without limitation, with respect to Plaintiff's medical leave to undergo a caesarian section.

78. As a proximate result of Defendants' failure to engage in the interactive process with Plaintiff, she has suffered and continues to suffer compensatory damages, including without limitation, lost wages, loss of future earnings and earning capacity, emotional distress, mental anguish, embarrassment, humiliation, loss of future advancement, and damage to her reputation in the business community, in the amount of at least \$25,000.00, according to proof at the time of trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment interest.

79. As a proximate result of Defendants' failure to engage in the interactive process with Plaintiff, she has been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is expected to continue to incur attorneys' fees. Pursuant to California Government Code Section 12965(b), Plaintiff requests the award of attorneys' fees against Defendants.

80. Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive damages in an amount according to proof.

ELEVENTH CAUSE OF ACTION

**RETALIATION IN VIOLATION OF THE FEHA [NON-CLASS CLAIM]
(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)**

81. The preceding paragraphs are re-alleged and incorporated by this reference.

82. California Government Code Section 12940(h) prohibits employers from retaliating against employees who have engaged in any protected activities under the FEHA.

83. Defendant is liable under Section 12940(h) for retaliating against Plaintiff because she engaged in a protected activity by informing Defendant of her pregnant status and requesting pregnancy/medical leave.

84. As alleged above, Defendants retaliated against Plaintiff, by among other acts, unlawfully terminating Plaintiff.

85. As a proximate result of Defendants' retaliation against Plaintiff, she has suffered and continues to suffer compensatory damages, including without limitation, lost wages, loss of future earnings and earning capacity, loss of bonuses, emotional distress, mental anguish, embarrassment, humiliation, loss of future advancement, and damage to her reputation in the business community, in the amount of at least \$25,000.00, according to proof at the time of trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment interest.

86. As a proximate result of Defendants' retaliation against Plaintiff, she has been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is expected to continue to incur attorneys' fees. Pursuant to California Government Code Section 12965(b), Plaintiff requests the award of attorneys' fees against Defendants.

87. Defendants committed the acts alleged herein maliciously, fraudulently, and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive damages in an amount according to proof.

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TWELFTH CAUSE OF ACTION

**FAILURE TO PREVENT DISCRIMINATION IN VIOLATION OF THE FEHA [NON-
CLASS CLAIM]**

(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)

88. The preceding paragraphs are re-alleged and incorporated by this reference.

89. California Government Code Section 12940(k) provides that it is an unlawful employment practice for an employer “to fail to take all reasonable steps necessary to prevent discrimination ... from occurring.”

90. As alleged above, Plaintiff was repeatedly discriminated against by Defendant. Defendant, however, did nothing to rectify its unlawful conduct. To the contrary, Defendant summarily and unlawfully terminated Plaintiff while she was on medical leave.

91. As a result, Defendant violated Section 12940(k) by not taking all reasonable steps to prevent discrimination from occurring and, thus, is liable for violation of the FEHA.

92. As a proximate result of Defendant’s failure to adequately prevent the continued discriminatory acts committed against Plaintiff, she has suffered and continues to suffer compensatory damages, including without limitation, lost wages, loss of future earnings and earning capacity, loss of bonuses and deferred compensation, emotional distress, mental anguish, embarrassment, humiliation, loss of future advancement, and damage to her reputation in the business community, in the amount of at least \$25,000.00, according to proof at the time of trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment interest.

93. As a proximate result of Defendant’s failure to adequately prevent the continued discrimination against Plaintiff, she has been forced to hire attorneys to prosecute the claims alleged herein, and has incurred and is expected to continue to incur attorneys’ fees. Pursuant to California Government Code Section 12965(b), Plaintiff requests the award of attorneys’ fees against Defendant.

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94. Defendant committed the acts alleged herein maliciously, fraudulently, and oppressively, callously, in bad faith, with the wrongful intent of injuring Plaintiff, and in conscious disregard of Plaintiff's rights and safety. As such, Plaintiff is entitled to an award of punitive damages in an amount according to proof.

THIRTEENTH CAUSE OF ACTION

**WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY [NON-CLASS
CLAIM]**

(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AS AN INDIVIDUAL)

95. The preceding paragraphs are re-alleged and incorporated by this reference.

96. At all times mentioned herein, the public policy of the State of California, as codified, expressed and mandated in the FEHA, prohibit employers from discriminating against employees because of pregnant/disabled status. Nevertheless, Defendants violated these public policies by terminating Plaintiff due to her pregnant status and/or request for medical/pregnancy leave to undergo a caesarian section.

97. As a proximate result of Defendants' wrongful termination of Plaintiff, she has suffered and continues to suffer compensatory damages, including without limitation, severe emotional distress, lost wages, benefits, and compensation, and loss of future earnings and earning capacity in the amount of at least \$25,000.00, according to proof at the time of trial, which is in excess of the jurisdictional minimum for this lawsuit to qualify as an unlimited civil action. Plaintiff claims such amounts as damages, together with prejudgment interest accruing from the date of the filing of this action pursuant to California Civil Code Sections 3281 and/or 3288, and/or any other provision of law providing for prejudgment interest.

98. Further, because the wrongful acts against Plaintiff were carried out, authorized, or ratified by Defendants' directors, officers, and/or managing agents, acting with malice, oppression, or fraud, or were deliberate, willful, and in conscious disregard of the probability of causing injury to Plaintiff, she seeks punitive damages to deter Defendants from committing said illegal acts in the future. Specifically, Plaintiff is informed and believes, and based thereon alleges, that Defendants' managerial employees callously decided to terminate Plaintiff's employment because she exercised her rights under the California Labor Code.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS [NON-CLASS CLAIM]
(AGAINST ALL DEFENDANTS BY PLAINTIFF AS AN INDIVIDUAL)

100. When Defendants, and the each of them, committed the acts described above, they deliberately and intentionally to cause Plaintiff to suffer humiliation, mental anguish, and emotional distress. The outrageousness of the above-described conduct is amplified due to upper management's abuse of their positions with actual and apparent authority over Plaintiff, such as is only found in employment relationships. Defendants, and each of them, were aware of their wrongful acts would cause Plaintiff to suffer extreme emotional distress and other consequential damages.

102. As a result of Defendants' intentional infliction of emotional distress, Plaintiff has suffered and continues to suffer substantial loss and damages including, loss of salary, future advancement, bonuses, benefits, embarrassment, humiliation, and mental anguish in an amount to be determined at trial.

PRAYER FOR RELIEF

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as Class Representative of the Classes as defined herein;

- 1 3. For an order appointing counsel for Plaintiff as Class Counsel;
- 2 4. Upon the First Cause of Action, for damages, including unpaid sick pay and interest
- 3 thereon, applicable penalties, and costs and attorneys' fees pursuant to Section 203, 210, 218,
- 4 218.5, 218.6, and 248.5;;
- 5 5. Upon the Second Cause of Action, for penalties and/or damages pursuant to
- 6 California Labor Code § 226, and for costs and attorneys' fees;
- 7 6. Upon the Third Cause of Action, for civil penalties, costs and attorney's fees
- 8 pursuant to, among other sections, Labor Code §§ 210, 226.3, and 2699;
- 9 7. Upon the Fourth Cause of Action, for restitution of all funds unlawfully acquired by
- 10 Defendants by any acts or practices declared to be in violation of the UCL, including interest
- 11 thereon, and for costs and attorneys' fees;
- 12 8. Upon the Fifth through Fourteenth Causes of Action, for general and special
- 13 damages, punitive damages, attorneys' fees (as applicable to the FEHA claims) and costs;
- 14 9. On all causes of action, for attorneys' fees and costs as provided by California
- 15 Labor Code §§ 218, 218.5, 226, 2699, Government Code § 12965, and Code of Civil Procedure §
- 16 1021.5; and
- 17 10. For such other and further relief as the Court may deem just and proper.

18 DATED: November 16, 2020

DIVERSITY LAW GROUP, P.C.

19 By: 
20 _____
21 Larry W. Lee
22 Attorneys for PLAINTIFF and the CLASS
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1 **DEMAND FOR JURY TRIAL**

2 Only as to Plaintiff's individual causes of action, *i.e.*, the Fifth through Fourteenth Causes
3 of Action, Plaintiff hereby demands a jury trial as provided by California law.

4 DATED: November 16, 2020

DIVERSITY LAW GROUP, P.C.

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6 By: 
7 Larry W. Lee
8 Attorneys for Plaintiff and the Class
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EXHIBIT A



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

November 13, 2020

Dennis Hyun
515 S. Figueroa St., Ste. 1250
Los Angeles, California 90071

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202011-11807513
Right to Sue: Julian / WALGREEN CO.

Dear Dennis Hyun:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

November 13, 2020

RE: **Notice of Filing of Discrimination Complaint**
DFEH Matter Number: 202011-11807513
Right to Sue: Julian / WALGREEN CO.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. This case is not being investigated by DFEH and is being closed immediately. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

November 13, 2020

Joy Ann Julian
Hyun Legal, APC, 515 S. Figueroa St., Ste. 1250
Los Angeles, California 90071

RE: **Notice of Case Closure and Right to Sue**
DFEH Matter Number: 202011-11807513
Right to Sue: Julian / WALGREEN CO.

Dear Joy Ann Julian:

This letter informs you that the above-referenced complaint was filed with the Department of Fair Employment and Housing (DFEH) has been closed effective November 13, 2020 because an immediate Right to Sue notice was requested. DFEH will take no further action on the complaint.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Joy Ann Julian

DFEH No. 202011-11807513

Complainant,

vs.

WALGREEN CO.
200 WILMOT RD
DEERFIELD, Illinois 60015

Respondents

1. Respondent **WALGREEN CO.** is an **employer WALGREEN CO.** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2.

3. Complainant **Joy Ann Julian**, resides in the City of **Los Angeles**, State of **California**.

4. Complainant alleges that on or about **January 29, 2020**, respondent took the following adverse actions:

Complainant was discriminated against because of complainant's sex/gender, disability (physical or mental), pregnancy, childbirth, breast feeding, and/or related medical conditions and as a result of the discrimination was terminated, denied reasonable accommodation for a disability, denied family care or medical leave (cfra) (employers of 50 or more people), denied accommodation for pregnancy, denied employer paid health care while on pregnancy disability leave.

Complainant experienced retaliation because complainant requested or used a pregnancy-disability related accom., requested or used a disability-related accommodation, requested or used leave under the california family rights act or fmla (employers of 50 or more people) and as a result was terminated, denied reasonable accommodation for a disability, denied family care or medical leave (cfra) (employers of 50 or more people), denied accommodation for pregnancy, denied employer paid health care while on pregnancy disability leave.

Additional Complaint Details: On or about February 20, 2018, Complainant was hired by Respondent to work as a non-exempt customer service associate. On or about November

1 29, 2019, Complainant began a pregnancy leave. Thus, November 28, 2019, was the last
2 day Complainant worked for Respondent. Complainant provided medical documentation to
3 Respondent stating that she was to be placed off of work from November 29, 2019, through
4 February 14, 2020, so that Complainant could give birth, including undergoing a caesarian
5 section. Rather than accommodate Complainant's pregnancy and/or disability, Complainant
6 was unlawfully terminated by Respondent on or about January 29, 2020. Thus, Respondent
7 did not accommodate Complainant, nor engage in a good faith interactive process. To the
8 contrary, Respondent summarily terminated Complainant in violation of the FEHA.
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1 VERIFICATION

2 I, **Dennis Hyun**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On November 13, 2020, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

7 **Los Angeles, CA**
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