

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

6 JENNIFER KRAMER, CA Bar No. 203385
jennifer@employmentattorneyla.com
7 SEREENA SINGH, CA Bar No. 276781
sereena@employmentattorneyla.com
8 HENNIG KRAMER RUIZ & SINGH LLP
3600 Wilshire Blvd., Suite 1908
9 Los Angeles, CA 90010
Telephone: (213) 310-8301

10 Attorneys for Plaintiff ANA CANTU, individually and on behalf of
11 the State of California and aggrieved employees and the proposed
12 Class

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

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

17 Plaintiff,

18 vs.

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

21 Defendants
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Case No. 21CV392049

CLASS ACTION

THIRD AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

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.**

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- 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;**
- 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;**
- 12. **FAILURE TO PAY ALL WAGES DUE TO DISCHARGED AND QUITTING EMPLOYEES (LABOR CODE §§ 201-203, 1194.5);**
- 13. **DECLARATORY JUDGMENT (C.C.P. § 1060 *et seq.*)**

DEMAND FOR JURY TRIAL

1 Plaintiff ANA CANTU (hereinafter “PLAINTIFF”) brings this action against GOOGLE
2 INC. (“GOOGLE”), LISA NICOLE CHEN (“CHEN”) and Does 1 through 25 (“DOES”), inclusive,
3 (GOOGLE, CHEN and DOES are hereinafter collectively referred to as “DEFENDANTS”) on
4 behalf of herself, and all aggrieved employees as described herein, and all CLASS and FORMER
5 EMPLOYEE SUBCLASS members as described herein. PLAINTIFF complains and alleges as
6 follows based on personal knowledge and/or information and belief.

7 **JURISDICTION AND VENUE**

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

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

19 3. Venue is proper in this judicial district and the County of Santa Clara, California
20 because PLAINTIFF performed work for DEFENDANTS in the County of Santa Clara,
21 DEFENDANTS maintain offices and facilities and transact business in the County of Santa Clara,
22 and DEFENDANTS’ illegal acts, which are the subject of this action, occurred in the County of
23 Santa Clara. Thus, the County of Santa Clara is the county where the unlawful employment practices
24 are alleged to have been committed pursuant to California Gov’t Code section 12965(b) and where
25 a substantial portion of the transactions and occurrences related to this action occurred pursuant to
26 California Code of Civil Procedure section 395.

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

3 5. Pursuant to California Labor Code section 2699.3, PLAINTIFF gave written notice
4 by certified mail to the California Labor and Workforce Development Agency (“LWDA”) and
5 GOOGLE of the specific provisions of the California Labor Code alleged to have been violated,
6 including the facts and theories to support the alleged violations. PLAINTIFF’s notice to the
7 LWDA is attached as Exhibit A. Within sixty-five (65) calendar days of the postmark date of
8 PLAINTIFF’s notice letter, the LWDA did not provide notice to PLAINTIFF that it intends to
9 investigate the alleged violations.

10 **PARTIES**

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

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

18 8. CHEN is, and at all times mentioned in this Complaint was, a resident of California
19 employed by GOOGLE as Head of Internal Communications for GOOGLE and based at its 1600
20 Amphitheatre Parkway, Mountain View, California 94043. CHEN was PLAINTIFF’s supervisor
21 and exercised control over the terms and conditions of PLAINTIFF’s employment as set forth in this
22 Complaint.

23 9. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS within
24 the meaning of the California Fair Employment and Housing Act (“FEHA”), California Government
25 Code section 12900, *et seq.* See Cal. Gov’t Code § 12962(d). Accordingly, this lawsuit is properly
26 venued in the Santa Clara County Superior Court pursuant to California Government Code section
27 12965(b) and California Code of Civil Procedure section 395.

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

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

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

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

20 **CLASS ACTION ALLEGATIONS**

21 14. **Class and Subclass Definitions:** The named PLAINTIFF brings this action on
22 behalf of herself and the class pursuant to California Code of Civil Procedure § 382 and is
23 consistent with Fed. R. Civ. P. Rules 23(a), (b)(1)-(3).

- 24 a. The "CLASS" is defined as: "All current and former Hispanic, Latinx,
25 Black/African descent, Indigenous, Native American, American Indian, Native
26 Hawaiian, Pacific Islander, and/or Alaska Native employees who worked for
27 GOOGLE in California within the last four years up to the date of trial in this
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1 Action.”

2 b. The “SUBCLASS” is defined as: “All former Hispanic, Latinx, Black/African
3 descent, Indigenous, Native American, American Indian, Native Hawaiian,
4 Pacific Islander, and/or Alaska Native employees who worked for GOOGLE in
5 California within the last four years up to the date of trial in this Action.”

6 15. **Numerosity:** The members of the class and subclass are so numerous that joinder of
7 all members would be impracticable, if not impossible. The identity of the members of the class is
8 readily ascertainable by review of GOOGLE’s business records. Plaintiff is informed and believes,
9 and thereon alleges that: class members were subject to discriminatory pay policies and practices
10 by GOOGLE, such that the class members were compensated less than White (non-Hispanic)
11 employees in the comparable job positions and for performing substantially similar work.

12 16. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
13 necessary steps to fairly and adequately represent the interests of the class, as defined above.
14 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the class, as
15 defined above, and the individually named Plaintiff, and have successfully litigated other cases
16 involving similar issues, including class actions.

17 17. **Common Questions of Law and Fact:** There are predominant common questions
18 of law and fact, and a community of interest, amongst Hispanic, Latinx, Black/African descent,
19 Indigenous, Native American, American Indian, Native Hawaiian, Pacific Islander, and/or Alaska
20 Native employees concerning:

21 a. Whether GOOGLE enforced a systemic policy and/or engaged in a practice of
22 paying Hispanic, Latinx, Black/African descent, Indigenous, Native American,
23 American Indian, Native Hawaiian, Pacific Islander, and/or Alaska Native
24 employees at lower compensation rates than White (non-Hispanic) employees
25 who performed substantially the same or similar work under similar
26 circumstances;

27 b. Whether GOOGLE’s systemic policy described in (a) was willful;
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- 1 c. Whether GOOGLE enforced a policy and/or engaged in a practice of
2 systematically withholding promotions, pay increase, and upward mobility in
3 the company from Hispanic, Latinx, Black/African descent, Indigenous, Native
4 American, American Indian, Native Hawaiian, Pacific Islander, and/or Alaska
5 Native employees, while providing the same to White (non-Hispanic) employees
6 who performed substantially the same or similar work under similar
7 circumstances with the same quantity and quality of work product;
- 8 d. Whether GOOGLE systemically hired Hispanic, Latinx, Black/African descent,
9 Indigenous, Native American, American Indian, Native Hawaiian, Pacific
10 Islander, and/or Alaska Native employees and placed them in lower job roles
11 than white employees who had comparable educational background, work
12 histories, and relevant expertise;
- 13 e. Whether GOOGLE's systemic policies and practices as described in (a)-(d)
14 violate the California Equal Pay Act, Labor Code section 1197.5; and
- 15 f. Whether GOOGLE's failure to pay equal wages to employees performing
16 substantially similar work resulted in waiting time penalties pursuant to Labor
17 Code section 203.

18 18. **Typicality:** Plaintiff's claims are typical of the claims of all members of the class.
19 Plaintiff is a member of the class and has suffered the alleged violations of the California Equal
20 Pay Act, Labor Code section 1197.5, as described herein. Defendants uniformly administered
21 company policies, practices, and/or customs regarding compensation (including the assignment of
22 initial wages, pay increases, equity opportunities, and bonuses), promotions and opportunities of
23 upward mobility in the company.

24 19. **Superiority of Class Mechanism:** The California Labor Code, upon which Plaintiff
25 bases her claims, is broadly remedial in nature. It serves an important public interest in prohibiting
26 wage discrimination and differential treatment in employment (including compensation and in the
27 terms, conditions, and/or privileges of employment) on the basis of race and/or ethnicity.

1 20. The nature of this action, and the format of laws available to Plaintiff and the
2 members of the class identified herein, makes the class action format a particularly efficient and
3 appropriate procedure to redress the wrongs alleged herein. If each employee were required to file
4 an individual lawsuit, the corporate Defendant would necessarily gain an unconscionable
5 advantage because it would be able to exploit and overwhelm the limited resources of each
6 individual aggrieved individual with their vastly superior financial resources and exceptionally
7 wider access to legal resources. Requiring each class member to pursue an individual remedy
8 would also discourage the assertion of lawful claims by employees who would be disinclined to
9 file an action against their former and/or current employer for real and justifiable fear of retaliation
10 and permanent damage to their careers in subsequent employment relationships.

11 21. The prosecution of separate actions by the individual class members, even if
12 possible, would create a substantial risk of: (a) inconsistent or varying adjudications with respect to
13 individual class members against GOOGLE that would establish potentially incompatible standards
14 of conduct for GOOGLE, and/or (b) adjudications with respect to individual class members which
15 would, as a practical matter, be dispositive of the interest of the other class members not parties to
16 the adjudications or which would substantially impair or impede the ability of the class members to
17 protect their interests. Further, the claims of the individual members of the class are not sufficiently
18 large to warrant vigorous individual prosecution considering all of the concomitant costs and
19 expenses.

20 22. Proof of a common business practice or factual pattern, of which the named Plaintiff
21 experienced, are representative and will establish the right of each of the members of the class to
22 recovery on the causes of action alleged herein.

23 23. The class is commonly entitled to a specific fund with respect to the compensation
24 illegally and unfairly retained by GOOGLE. The class is commonly entitled to restitution of those
25 funds being improperly withheld by GOOGLE. This action is brought for the benefit of the entire
26 class and will result in the creation of a common fund for the class.

1 **FACTS COMMON TO PLAINTIFF’S INDIVIDUAL CAUSES OF ACTION**

2 ***Overview of Plaintiff’s Employment:***

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

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

11 ***Plaintiff’s Protected Status and Activity:***

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

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

19 ***DEFENDANTS’ Adverse Employment Actions and Behavior:***

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

25 29. PLAINTIFF’s department at GOOGLE was made up of almost all White (non-
26 Hispanic) employees. PLAINTIFF continually asked what she needed to do to be promoted and/or
27 receive a raise like her White (non-Hispanic) colleagues, but no one at GOOGLE could articulate
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1 what she needed to do or improve on to be promoted or receive a raise.

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

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

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

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

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

19 34. PLAINTIFF specifically complained to GOOGLE that the discriminatory bias and
20 retaliation of CHEN and others prevented her from being promoted and paid equitably compared to
21 her similarly situated, and in some cases, less qualified, White (non-Hispanic) peers.

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

1 36. 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 37. 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 38. 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 39. 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 40. 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 41. 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 **FACTS REGARDING PLAINTIFF'S CLASS AND**
12 **REPRESENTATIVE CAUSES OF ACTION**

13 **GOOGLE's Equal Pay Act Violations**

14 **Systematically Affect Non-White Aggrieved and Putative CLASS Employees**

15 ***GOOGLE's Hiring and Compensation Policies and Practices:***

16 42. At all relevant times, GOOGLE's operational structure has included administrative
17 officers based in its headquarters that maintain centralized control over employees' terms and
18 conditions of employment, including recruiting, hiring, job and location assignment, career
19 progression, promotion, and compensation policies, practices and procedures. Employees working
20 in this capacity are responsible for recruiting and hiring employees, setting wages, and assigning
21 work locations for all of GOOGLE's California employees. GOOGLE's compensation, assignment
22 and promotion policies and practices are centrally determined and uniformly applied throughout all
23 of GOOGLE's operations.

24 43. At all relevant times, GOOGLE has maintained a centrally determined and uniform
25 set of policies and/or practices for determining employees' compensation throughout California,
26 including centralized policies and/or practices for setting employees' initial pay and centralized
27 policies and/or practices for giving employees pay raises, bonuses, and company equity.
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1 44. GOOGLE’s offices throughout California use a common organizational structure,
2 organizing employees by job levels and ladders. GOOGLE’s centralized pay structure establishes
3 corporate-imposed compensation ranges based on employees’ job ladder and level. GOOGLE’s
4 People Operations function and hiring teams set these compensation ranges based on employees’ job
5 ladder and level. These compensation ranges, commonly called “job levels” or “job ladders,” apply
6 across all of California’s offices.

7 45. GOOGLE assigns all jobs to a “job family.” A job family is a professional category
8 of jobs at GOOGLE, and all employees within the same job family perform similar job duties and
9 responsibilities. All jobs at GOOGLE are also assigned to a job level corresponding to salary grade.
10 According to this structure, all employees in the same job level and job position are performing a
11 like level of duties and responsibilities. GOOGLE requires jobs in different job families to have
12 standardized transferable skills so that an employee in one job level can transfer to a different job
13 family with known standard skills required for the job level.

14 46. Several job levels contain overlapping job duties and responsibilities, creating a
15 subjective element that enables decision-makers to place employees with the same job duties and
16 responsibilities into one of multiple job levels. GOOGLE uses a centralized team of recruiters who
17 assign job levels to job candidates.

18 47. GOOGLE also sets a base compensation for each job position. When PLAINTIFF
19 was hired, it was GOOGLE’s standard practice to request each job candidate’s salary history from
20 their prior three jobs as part of its employment application form. During the hiring process, GOOGLE
21 considered each potential new hire’s prior compensation in determining the new employee’s
22 compensation and in what job level the new hire would be placed. Upon information and belief,
23 GOOGLE continued this practice during the relevant time period at issue for PLAINTIFF’s
24 individual, class, and representative claims.

25 48. GOOGLE calculates annual merit raises as a percentage of an employee’s current
26 compensation, with the specific percentage raise based in part on each employee’s performance
27 ratings. Thus, the original job level and compensation set affect the amounts employees may earn on
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1 a continuing basis. As a result, any initial pay disparities arising from the hiring process are
2 compounded with an employee’s continued tenure unless the pay disparity is corrected.

3 49. GOOGLE employees generally receive raises when promoted. Typically, an
4 employee’s new salary is limited to a percentage of their prior salary. In addition, GOOGLE pays
5 higher percentages of salary increases and bonuses to employees working in higher job levels and
6 more equity compensation is available to employees working in higher job levels.

7 50. As a result of these pay practices, employees were placed in initial job levels not based
8 on skill, effort, or responsibility, but based on their prior salaries at other jobs. The original decisions
9 about how to “level” these employees followed them. These compensation practices do not reflect a
10 seniority system, a merit system, a system based on quantity or quality of production, or any other
11 bona fide factor other than race or ethnicity, such as education, training, or experience.

12 51. In fact, GOOGLE employees’ compensation was inextricably linked to their prior
13 salaries and therefore were derived from pre-existing race- and/or ethnicity-based differentials in
14 compensation, as racially and ethnically diverse employees like GOOGLE’s non-White employees.
15 Those who identify as the same racial/ethnic identity as PLAINTIFF, as Hispanic, Latinx,
16 Black/African descent, Indigenous, Native American, American Indian, Native Hawaiian, and/or
17 Alaska Native, have been historically and systematically paid disproportionately low salaries.

18 ***GOOGLE Employs Non-White Employees Who Were Aggrieved***
19 ***by GOOGLE’s Compensation Practices:***

20 52. GOOGLE requests and strongly encourages its employees to “self-report” their racial
21 and ethnic status for its recordkeeping purposes, including to help demonstrate purported compliance
22 with Office of Federal Contract Compliance Program (“OFCCP”) requirements. GOOGLE’s
23 diversity and inclusion reports characterize employees as “Black+,” “Latinx+,” “Asian+” and
24 “Native American+.”¹ Employees who self-report as falling into one or more of these categories are
25 referred to herein as “non-White.” The categories correspond to employees’ self-reported race and
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27 ¹ The “Native American+” label includes Native Americans, Alaska Natives, Native Hawaiians,
28 and other Pacific Islanders.

1 ethnicity, with the “+” signifying that the category contains intersectionally diverse racial and ethnic
2 categories.

3 53. In addition, GOOGLE is obligated to collect and report demographic workforce data,
4 including hours worked and pay data by race/ethnicity, sex and job categories, to the United States
5 Equal Employment Opportunity Commission, through mandatory EEO-1 reports. The EEO-1 reports
6 reflect several racial and ethnic demographics of employees, including employees who are “Hispanic
7 or Latino,” and “Black or African American,” “Native Hawaiian or Pacific Islander,” “Asian,”
8 “Native American or Alaska Native.” These categories similarly encompass employees who are
9 “non-White.”

10 54. Throughout the time period at issue for PLAINTIFF’s class and PAGA claims,
11 GOOGLE has paid and continues to pay its non-White employees, including those who identify as
12 Hispanic, Latinx, Black/African descent, Indigenous, Native American, American Indian, Native
13 Hawaiian, Pacific Islander, and/or Alaska Native, systematically lower total compensation (including
14 salary, stock and bonuses) than GOOGLE has paid and continues to pay White (non-Hispanic)
15 employees performing substantially similar work when viewed as a composite of skill, effort, and
16 responsibility, and performed under similar working conditions.

17 55. By relying on prior compensation to set starting salaries, and by failing to correct
18 historical discrepancies arising from inappropriately low prior compensation, GOOGLE has
19 perpetuated pay disparities between non-White, including those who identify as Hispanic, Latinx,
20 Black/African descent, Indigenous, Native American, American Indian, Native Hawaiian, Pacific
21 Islander, and/or Alaska Native, and White (non-Hispanic) employees. Specifically, GOOGLE has
22 continued to pay non-White employees lower starting salaries and to increase pay using percentages
23 of the employees’ starting salaries, resulting in lower merit increases while employees work in the
24 same position and lower compensation when employees are promoted. Further, pay disparities widen
25 when employees who start in lower positions take longer to reach the higher job levels where higher
26 percentages of salary increases and higher bonus equity compensation are available.

1 56. As a result, GOOGLE has paid and continues to pay non-White employees, including
2 those who identify as Hispanic, Latinx, Black/African descent, Indigenous, Native American,
3 American Indian, Native Hawaiian, and/or Alaska Native, less than White (non-Hispanic) employees
4 in the same job position and job level, even though GOOGLE acknowledges that employees in the
5 same job position and level perform substantially similar work. PLAINTIFF, as well as other non-
6 White employees experienced this violation of the California Equal Pay Act, Labor Code section
7 1197.5.

8 57. Further, non-White employees, including those who identify as Hispanic, Latinx,
9 Black/African descent, Indigenous, Native American, American Indian, Native Hawaiian, Pacific
10 Islander, and/or Alaska Native employees, are placed in lower job levels than White (non-Hispanic)
11 employees based on prior compensation, since GOOGLE “levels up” new employees into the job
12 level that is commensurate with the salary range of a new hire’s starting salary.

13 58. GOOGLE has also paid and continues to pay non-White employees, including those
14 who identify as Hispanic, Latinx, Black/African descent, Indigenous, Native American, American
15 Indian, Native Hawaiian, Pacific Islander, and/or Alaska Native employees, less than White (non-
16 Hispanic) employees in the same job position but different job levels because GOOGLE has placed
17 and continues to place White (non-Hispanic) employees in higher job levels than non-White
18 employees, even though non-White and White (non-Hispanic) employees in the same job title but
19 different job levels perform substantially similar work when viewed as a composite of skill, effort,
20 and responsibility, and performed under similar working conditions.

21 59. Additionally, GOOGLE systemically denied promotions to higher job levels to those
22 who identify as Hispanic, Latinx, Black/African descent, Indigenous, Native American, American
23 Indian, Native Hawaiian, Pacific Islander, and/or Alaska Native employees, while allowing White
24 employees, with comparable skill, effort, responsibility, quality and quantity of output, and
25 performance, to rise through the professional ranks and achieve higher levels of compensation.

26 60. PLAINTIFF, as well as other non-White employees, including those who identify as
27 Hispanic, Latinx, Black/African descent, Indigenous, Native American, American Indian, Native
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1 Hawaiian, Pacific Islander, and/or Alaska Native employees, experienced this violation of the
2 California Equal Pay Act, Labor Code section 1197.5.

3 ***GOOGLE's Continued Violation of the California Equal Pay Act Was Willful:***

4 61. At all relevant times, through its own internal processes and data, including its
5 calibration/pay equalization processes and reporting data, GOOGLE has known or should have
6 known of the pay disparities between its non-White employees, and White (non-Hispanic) employees
7 performing substantially similar work when viewed as a composite of skill, effort, and responsibility,
8 and performed under similar working conditions, yet GOOGLE has taken no action to equalize its
9 non-White and White (non-Hispanic) employees' pay for substantially similar work. As a result, the
10 ongoing disparity in pay between non-White, and White (non-Hispanic) employees' compensation
11 is willful and has been ratified by GOOGLE. Those who identify as Hispanic, Latinx, Black/African
12 descent, Indigenous, Native American, American Indian, Native Hawaiian, Pacific Islander, and/or
13 Alaska Native employees were a portion of the non-White employees affected by GOOGLE's pay
14 disparities.

15 62. PLAINTIFF complained to GOOGLE about ongoing pay disparity between her and
16 White (non-Hispanic) employees, putting decisionmakers at GOOGLE on notice of the obligation to
17 examine the issue and take steps to correct it.

18 63. PLAINTIFF is also aware of an internal study performed by a non-White affinity
19 group at GOOGLE evidencing pay disparity on the basis of race/ethnicity. PLAINTIFF attended an
20 internal GOOGLE conference at which the study was presented and explained. Based on information
21 provided to her during that conference, PLAINTIFF understands that a GOOGLE employee who
22 was a member of the affinity group, utilizing GOOGLE's internal data with GOOGLE's oversight
23 and knowledge, analyzed the compensation and job levels assigned to certain non-White employees
24 as compared to White (non-Hispanic) employees performing substantially similar work. The results
25 of the analysis were that non-White employees were systematically paid less than White (non-
26 Hispanic) employees and were systematically denied promotion to higher job levels at a higher rate
27 than White (non-Hispanic) employees were, which exacerbated pay disparities for employees
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1 performing substantially similar work when viewed as a composite of skill, effort, and responsibility,
2 and performed under similar working conditions. GOOGLE had knowledge of this study and its
3 results, yet GOOGLE has taken no action to equalize its non-White and White (non-Hispanic)
4 employees' pay for substantially similar work. GOOGLE knew that those who identify as Hispanic,
5 Latinx, Black/African descent, Indigenous, Native American, American Indian, Native Hawaiian,
6 Pacific Islander, and/or Alaska Native employees were a portion of the non-White employees
7 affected by GOOGLE's pay practices.

8 64. PLAINTIFF is also aware of an internal GOOGLE spreadsheet available to all
9 GOOGLE employees where GOOGLE employees voluntarily report their job level, ladder, salary,
10 bonus, additional compensation as well as demographic information, including race and ethnicity.
11 PLAINTIFF accessed this spreadsheet while she was employed by GOOGLE and saw that she made
12 less than the salary, bonus and additional compensation reported by similarly situated White (non-
13 Hispanic) GOOGLE employees. By reviewing the GOOGLE employee internal pay data
14 spreadsheet, PLAINTIFF observed that those employees who identified as Hispanic, Latinx,
15 Black/African descent, Indigenous, Native American, American Indian, Native Hawaiian, Pacific
16 Islander, and/or Alaska Native consistently reported salary, bonus and additional compensation that
17 was less than that reported by similarly situated White (non-Hispanic) GOOGLE employees.

18 65. PLAINTIFF is also aware of recent media reports regarding the leaked 2022
19 GOOGLE employee internal pay spreadsheet, including the September 7, 2023 Business Insider
20 article "Leaked Google pay data shows how much employees across different levels, races, and
21 genders report making,"² which indicate that GOOGLE employees who identify as Hispanic, Latinx,
22 Black/African descent, Indigenous, Native American, American Indian, Native Hawaiian, Pacific
23 Islander, and/or Alaska Native continue to report median base salaries, equity and bonuses which are
24 significantly less than those of White (non-Hispanic) GOOGLE employees performing substantially
25 similar work under similar working conditions.

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27 ² See <https://www.businessinsider.com/google-salaries-levels-locations-races-gender-leaked-data-2023-9>, September 7, 2023.

1 66. In addition to its mandatory EEO-1 reporting, GOOGLE also is required by law to
2 collect and report pay and hours-worked data by establishment, job category, sex, race, and ethnicity
3 to the California Department of Fair Employment and Housing on an annual basis pursuant to
4 California Government Code section 12999. This data is believed to reflect pay disparities between
5 non-White, employees, and White (non-Hispanic) employees who perform substantially similar
6 work when viewed as a composite of skill, effort, and responsibility, and performed under similar
7 working conditions, providing GOOGLE with sufficient information to understand that an ongoing
8 pay disparity exists which it has not corrected. GOOGLE knew that those who identify as Hispanic,
9 Latinx, Black/African descent, Indigenous, Native American, American Indian, Native Hawaiian,
10 Pacific Islander, and/or Alaska Native employees were a portion of the non-White employees whose
11 data reflected pay disparities.

12 ***PLAINTIFF Exhausted PAGA's Pre-Filing Notice Requirements:***

13 67. PLAINTIFF provided pre-filing notice to the California Labor and Workforce
14 Development Agency through a letter written to the agency, attached hereto as **Exhibit A**. As
15 explained in that letter, PLAINTIFF seeks to pursue PAGA claims for GOOGLE's failure to comply
16 with California Labor Code section 1197.5 based on the following facts:

17 a. The "aggrieved employees" are all current and former non-White employees
18 of GOOGLE in the State of California: (1) who were paid less than their White (non-
19 Hispanic) counterparts who performed substantially similar work when viewed as a
20 composite of skill, effort, and responsibility, and performed under similar working
21 conditions, and/or (2) who did not receive promotions and meaningful raises during their
22 employment with GOOGLE despite performing substantially similar work when viewed as
23 a composite of skill, effort, and responsibility, and performed under similar working
24 conditions as their White (non-Hispanic) counterparts who routinely received promotions and
25 meaningful raises that created unequal compensation, and/or (3) whose job performance
26 warranted additional compensation that GOOGLE failed to equalize to that of their White
27 (non-Hispanic) counterparts who performed substantially similar work when viewed as a
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1 composite of skill, effort, and responsibility, and performed under similar working
2 conditions, and/or (4) who were retaliated against for registering complaints of pay disparities
3 between non-White and White (non-Hispanic) employees who performed substantially
4 similar work when viewed as a composite of skill, effort, and responsibility, and performed
5 under similar working conditions.

6 b. PLAINTIFF is an aggrieved employee because, among other things, she was
7 a non-White employee who was compensated less than her White (non-Hispanic)
8 counterparts who performed substantially similar work when viewed as a composite of skill,
9 effort, and responsibility, and performed under similar working conditions throughout her
10 employment with GOOGLE.

11 c. GOOGLE failed to meaningfully increase PLAINTIFF's salary throughout
12 her employment despite her successful performance of her job duties. While PLAINTIFF
13 failed to receive promotions and meaningful raises during her employment with GOOGLE,
14 her White (non-Hispanic) counterparts performing substantially similar work when viewed
15 as a composite of skill, effort, and responsibility, and performed under similar working
16 conditions, routinely received significant raises and lucrative promotions.

17 d. Despite her complaints and subsequent job performance warranting additional
18 compensation, GOOGLE failed to equalize PLAINTIFF's compensation to that of her White
19 (non-Hispanic) counterparts who performed substantially similar work when viewed as a
20 composite of skill, effort, and responsibility, and performed under similar working
21 conditions, forcing her to resign on September 10, 2021.

22 e. GOOGLE was aware, through its own internal processes and data, that non-
23 White employees were being compensated less than White (non-Hispanic) employees
24 performing substantially similar work when viewed as a composite of skill, effort, and
25 responsibility, and performed under similar working conditions.

26 f. Throughout PLAINTIFF's employment at GOOGLE, she has been
27 compensated less than her White (non-Hispanic) counterparts who performed substantially
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1 similar work when viewed as a composite of skill, effort, and responsibility, and performed
2 under similar working conditions. When PLAINTIFF complained of this disparate treatment,
3 GOOGLE's management either ignored the complaints or justified the disparity based upon
4 racial and ethnic bias. GOOGLE has neither timely nor fully equalized PLAINTIFF's and
5 similarly situated other aggrieved employees' compensation with that of their White (non-
6 Hispanic) counterparts.

7 g. GOOGLE has not provided PLAINTIFF and other similarly situated
8 aggrieved employees with restitution for the years of discriminatory pay practices despite
9 GOOGLE's full knowledge of their unlawful practices.

10 h. GOOGLE retaliated against PLAINTIFF and routinely retaliated against other
11 similarly situated aggrieved employees who registered complaints of pay disparities. This
12 retaliation has manifested in the form of adverse employment actions towards minority
13 employees including, but not limited to, public attacks and belittling, demotions, denials of
14 promotions and raises, the issuance of substandard raises, elimination of job duties, and
15 terminations.

16 68. PLAINTIFF is informed and believes that, like herself, other non-White GOOGLE
17 employees who complained about pay disparities between them and White (non-Hispanic)
18 employees were retaliated against and were not given raises or promotions consistent with their
19 skills, effort and responsibilities and were otherwise adversely affected in the terms and conditions
20 of their employment.

21 69. PLAINTIFF has an understanding and belief of the above facts from her own personal
22 experiences, her communications with colleagues, and publicly-available information regarding
23 other non-White employees who have alleged discrimination and race- and ethnicity- based pay
24 inequality against GOOGLE.

1 **FIRST CAUSE OF ACTION**

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

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

4 **(Against GOOGLE and DOES on behalf of PLAINTIFF)**

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

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

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

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

18 74. At all relevant times herein, PLAINTIFF was an "employee" covered by California
19 Government Code section 12926(a), which, *inter alia*, prohibits an employer from terminating the
20 employment of an employee and assigning compensation on the basis of an employee's race,
21 ethnicity, national origin, and/or ancestry. The FEHA makes it an unlawful employment practice for
22 an employer to discriminate against an employee "in terms, conditions, or privileges of employment"
23 on the basis of the employee's race, national origin or ancestry, which "includes a perception that
24 the person has any of those characteristics." Cal. Gov't Code § 12926(o).

25 75. DEFENDANTS knew that PLAINTIFF identifies as ethnically Mexican and racially
26 Indigenous and therefore is a member of protected classes within the meaning of the FEHA and is
27 entitled to the FEHA's guarantees of full and equal access to employment. Cal. Gov't Code § 12940.

1 76. As alleged herein, PLAINTIFF's race, national origin, ancestry and/or other
2 characteristic(s) protected by the FEHA were motivating factors in DEFENDANTS' decisions not
3 to promote PLAINTIFF or give PLAINTIFF a raise commensurate with the work she performed,
4 and/or to take other adverse job actions against PLAINTIFF.

5 77. At all relevant times herein, GOOGLE, by and through its agents, knowingly
6 discriminated against PLAINTIFF on the basis of PLAINTIFF's race, national origin, and/or
7 ancestry by favoring White (non-Hispanic) employees in the terms and conditions of their
8 employment, including by promoting White (non-Hispanic) employees, compensating White (non-
9 Hispanic) employees with higher salaries than PLAINTIFF, and by establishing different working
10 conditions for PLAINTIFF than her White (non-Hispanic) colleagues, as alleged herein and above.

11 78. GOOGLE's conduct, as alleged herein, violated the FEHA, and GOOGLE committed
12 unlawful employment practices, including, without limitation, by materially affecting the terms and
13 conditions of PLAINTIFF's employment, culminating in the constructive termination of her
14 employment, in whole or in part on the basis of PLAINTIFF's race, national origin, and/or ancestry,
15 and/or other protected characteristic(s) in violation of California Government Code section 12940(a).

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

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

25 81. PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees.
26 Pursuant to California Government Code section 12965(b), PLAINTIFF is entitled to recover
27 reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.
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1 82. GOOGLE committed the acts herein despicably, maliciously, fraudulently, and
2 oppressively, with the wrongful intention of injuring PLAINTIFF , from an improper and evil motive
3 amounting to malice, and in conscious disregard of PLAINTIFF’s rights. PLAINTIFF is thus entitled
4 to punitive damages from GOOGLE in an amount according to proof.

5 **SECOND CAUSE OF ACTION**

6 **Harassment Based on Race/National Origin/Ancestry**
7 **(Violation of FEHA, Cal. Gov’t Code Section 12940(j))**
8 **(Against DEFENDANTS on behalf of PLAINTIFF)**

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

11 84. The FEHA provides that it shall be unlawful for an employer or for any person to
12 harass an employee because of a person’s race, national origin and/or ancestry. Cal. Gov’t Code
13 § 12940(j)(1).

14 85. As the California legislature has clarified, the purpose of the anti-harassment
15 provisions of the FEHA “is to provide all Californians with an equal opportunity to succeed in the
16 workplace and should be applied accordingly by the courts.” Cal. Gov’t Code § 12923(a). As the
17 California legislature declared, “harassment creates a hostile, offensive, oppressive, or intimidating
18 work environment and deprives victims of their statutory right to work in a place free of
19 discrimination when the harassing conduct sufficiently offends, humiliates, distresses, or intrudes
20 upon its victim, so as to disrupt the victim’s emotional tranquility in the workplace, affect the victim’s
21 ability to perform the job as usual, or otherwise interfere with and undermine the victim’s personal
22 sense of well-being.” *Id.*

23 86. At all times herein mentioned, DEFENDANTS were subject to the FEHA, including
24 its prohibition against harassing any employee on the basis of an employee’s race, national origin
25 and/or ancestry.

26 87. As alleged above, during PLAINTIFF’s employment with DEFENDANTS,
27 DEFENDANTS intentionally engaged in harassment on the basis of PLAINTIFF’s race, national
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1 origin and/or ancestry.

2 88. As alleged above, CHEN acted in a manner that was antagonistic to PLAINTIFF and
3 which exhibited harassing motivations, intentions, and consciousness.

4 89. A reasonable person subjected to the harassing conduct would find, as PLAINTIFF
5 did, that the harassment so altered PLAINTIFF's working conditions as to be offensive and
6 distressing, such that it affected PLAINTIFF's ability to do her job as usual and also undermined
7 PLAINTIFF's sense of well-being.

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

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

17 92. 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 93. DEFENDANTS committed the acts herein despicably, maliciously, fraudulently, and
21 oppressively, with the wrongful intention of injuring PLAINTIFF, from an improper and evil motive
22 amounting to malice, and in conscious disregard of PLAINTIFF's rights. PLAINTIFF is thus entitled
23 to punitive damages from DEFENDANTS in an amount according to proof.

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1 **THIRD CAUSE OF ACTION**

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

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

4 **(Against GOOGLE and DOES on behalf of PLAINTIFF)**

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

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

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

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

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

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

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

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

11 **FOURTH CAUSE OF ACTION**

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

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

14 **(Against GOOGLE and DOES on behalf of PLAINTIFF)**

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

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

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

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

5 106. As a proximate result of GOOGLE and DOES' willful, knowing, and intentional
6 failure to prevent, investigate or remedy harassment, discrimination, and retaliation against
7 PLAINTIFF, PLAINTIFF has sustained and continues to sustain substantial losses of earnings or
8 earning capacity and other employment benefits, and has suffered and continues to suffer
9 humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a
10 sum according to proof.

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

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

19 **FIFTH CAUSE OF ACTION**

20 **Whistleblower Retaliation**

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

22 **(Against DEFENDANTS on behalf of PLAINTIFF)**

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

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

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

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

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

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

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

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1 **SIXTH CAUSE OF ACTION**

2 **Intentional Infliction of Emotional Distress**

3 **(Against DEFENDANTS on behalf of PLAINTIFF)**

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

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

10 118. DEFENDANTS owed PLAINTIFF a duty of care not to cause PLAINTIFF emotional
11 distress.

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

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

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

22 122. DEFENDANTS' improper treatment of PLAINTIFF constituted severe and
23 outrageous misconduct and caused PLAINTIFF to suffer extreme emotional distress that exceeded
24 the normal risks of the employment relationship.

25 123. PLAINTIFF is informed and believes and thereon alleges that such acts of
26 DEFENDANTS were intentional, extreme, and outrageous. PLAINTIFF is further informed and
27 believes, and thereon alleges, that such actions were done with the intent to cause serious emotional
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1 distress or with reckless disregard of the probability of causing PLAINTIFF serious emotional
2 distress.

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

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

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

13 **SEVENTH CAUSE OF ACTION**

14 **Negligent Infliction of Emotional Distress**

15 **(Against DEFENDANTS on behalf of PLAINTIFF)**

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

18 128. DEFENDANTS owed PLAINTIFF a duty of care not to cause PLAINTIFF emotional
19 distress.

20 129. As alleged herein and above, DEFENDANTS treated PLAINTIFF with wanton and
21 reckless disregard of the probability of causing PLAINTIFF to suffer extreme emotional distress.

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

24 131. As alleged herein and above, DEFENDANTS knowingly mistreated PLAINTIFF
25 based on her race, national origin and/or ancestry, and conspired against PLAINTIFF to deny her a
26 promotion and pay raise, while giving promotions and raises to her White (non-Hispanic) colleagues,
27 ultimately forcing her out of GOOGLE.

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1 See Cal. Lab. Code § 1197.5(h).

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

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

13 141. PLAINTIFF has incurred and continues to incur legal expenses and attorneys’ fees.
14 Pursuant to Labor Code section 1197.5(h), PLAINTIFF is entitled to recover reasonable attorneys’
15 fees and costs (including expert costs) in an amount according to proof.

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18 **NINTH CAUSE OF ACTION**

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

20 **(Against GOOGLE and DOES on behalf of PLAINTIFF)**

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

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

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

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

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

9 147. GOOGLE and DOES committed the acts herein despicably, maliciously,
10 fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, from an
11 improper and evil motive amounting to malice, and in conscious disregard of the rights of
12 PLAINTIFF. PLAINTIFF is thus entitled to punitive damages from GOOGLE and DOES in an
13 amount according to proof.

14 **TENTH CAUSE OF ACTION**

15 **Unfair and Unlawful Business Practices**

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

17 **(Against GOOGLE and DOES on behalf of PLAINTIFF and the CLASS)**

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

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

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

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

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

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

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

17 **ELEVENTH CAUSE OF ACTION**

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

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

20 **(Against GOOGLE and DOES on behalf of the State of California**

21 **by and through PLAINTIFF as a proxy for all aggrieved employees)**

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

24 156. PLAINTIFF is a non-White "aggrieved employee" within the meaning of California
25 Labor Code Section 2699(c), and a proper representative to bring a civil action on behalf of herself
26 and other current and former non-White employees of GOOGLE and DOES pursuant to the
27 procedures specified in California Labor Code Section 2699.3, because PLAINTIFF was employed
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1 by GOOGLE and DOES and the alleged violations of the California Labor Code were committed
2 against PLAINTIFF.

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

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

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

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

22 161. 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.

25 162. *Labor Code* § 1197.5(b) prescribes:

26 An employer shall not pay any of its employees at a wage rate less than the
27 rates paid to employees of another race or ethnicity for substantially similar
28 work, when viewed as a composite of skill, effort, and responsibility, and
performed under similar working conditions, except where the employer

1 demonstrates:

- 2 (1) The wage differential is based upon one or more of the following
3 factors:
4 (A) A seniority system.
5 (B) A merit system.
6 (C) A system that measures earnings by quantity or quality of
7 production.
8 (D) A bona fide factor other than race or ethnicity, such as
9 education, training, or experience. This factor shall apply
10 only if the employer demonstrates that the factor is not based
11 on or derived from a race- or ethnicity-based differential in
12 compensation, is job related with respect to the position of
13 this subparagraph, "business necessity" means an overriding
14 legitimate business purpose such that the factor relied upon
15 effectively fulfills the business purpose such that the factor
16 relied upon effectively fulfills the business purpose it is
17 supposed to serve. This defense shall not apply if the
18 employee demonstrates that an alternative business practice
19 exists that would serve the same business purpose without
20 producing the wage differential.

21 163. *Labor Code* § 1197.5(k) prescribes:

- 22 (1) An employer shall not discharge, or in any manner discriminate or
23 retaliate against, any employee by reason of any question taken by
24 any question taken by the employee to invoke or assist in any many
25 the enforcement of this section. An employer shall not prohibit an
26 employee from disclosing the employee's own wages, discussing
27 the wages of others, inquiring about another employee's wages, or
28 aiding or encouraging any other employee to exercise his or her
rights under this section. Nothing in this section creates an obligation
to disclose wages.
- (2) Any employee who has been discharged, discriminated or retaliated
against, in the terms and conditions of his or her employment
because the employee engaged in any conduct delineated in this
section may recover in a civil action reinstatement and
reimbursement for lost wages and work benefits caused by the acts
of the employer, 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.

24 164. *Labor Code* § 210 prescribes:

- 25 (a) In addition to, and entirely independent and apart from, any other
26 penalty provided in this article, every person who fails to pay the
27 wages of each employee as provided in Sections 201.3, 204, 204b,
28 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a penalty as
follows:

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(1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee.

(2) 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 either be recovered by the employee as a statutory penalty pursuant to Section 98 or by the Labor Commissioner as a civil penalty through the issuance of a citation or pursuant to Section 98.3. The procedures for issuing, contesting, and enforcing judgments for citations issued by the Labor Commissioner under this section shall be the same as those set forth in subdivisions (b) through (k), inclusive, of Section 1197.1.

(c) An employee is only entitled to either recover the statutory penalty provided for in this section or to enforce a civil penalty as set forth in subdivision (a) of Section 2699, but not both, for the same violation.

165. *Labor Code § 226(a)* prescribes:

An employer... shall furnish to his or her employee...an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (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 name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee....

166. Labor Code § 226(e)(1) provides that if an employer knowingly and intentionally fails to provide a statement in compliance with Labor Code § 226(a), then the employee is entitled to recover the greater of actual damages of fifty dollars (\$50) for the initial violation and one hundred dollars (\$100) for each subsequent violation, up to four thousand dollars (\$4,000).

167. Labor Code § 226.3 prescribes:

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.

1 168. GOOGLE and DOES have violated Labor Code § 1197.5 thereby resulting in
2 GOOGLE and DOES knowingly and intentionally failing to furnish Plaintiff and all similarly
3 situated employees with timely accurate and itemized wage statements showing the appropriate
4 gross wages earned based upon their violation of Labor Code § 1197.5. [...]

5 169. Labor Code §§ 201 and 202 require GOOGLE and DOES to pay all compensation
6 due and owing immediately at the time of discharge, layoff, or resignation made with at least
7 seventy-two (72) hours' notice, or within seventy-two (72) hours of resignation made without
8 seventy-two (72) hours' notice.

9 170. *Labor Code* §§ 203 prescribes:

10 If an employer willfully fails to pay, without abatement or reduction, in
11 accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any
12 wages of an employee who is discharged or who quits, the wages of the
13 employee shall continue as a penalty from the due date thereof at the same
14 rate until paid or until an action therefor is commenced; but the wages shall
15 not continue for more than 30 days. An employee who secretes or absents
16 himself or herself to avoid payment to him or her, or who refuses to receive
17 the payment when fully tendered to him or her, including any penalty then
18 accrued under this section, is not entitled to any benefit under this section
19 for the time during which he or she so avoids payment.

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

24 172. Labor Code section 204(a) prescribes:

25 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or
26 204.2, earned by any person in any employment are due and payable twice
27 during each calendar month, on days designated in advance by the employer
28 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

1 the last day of the month, are paid at that time.

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

5 174. California law requires that all hours worked over eight (8) in a day or forty in a
6 week or worked on the seventh consecutive day of a work week be paid at 1.5 times an employee's
7 regular rate of pay. *See, e.g., Cal. Lab. Code §§ 510, 1194; Cal. Code Regs., tit. 8 §§ 11040, et seq.*
8 In addition, hours worked over twelve (12) in a day or hours over eight (8) worked on the seventh
9 consecutive day in a week are paid at two times an employee's regular rate of pay.

10 175. Labor Code § 1194(a) provides:

11 Notwithstanding any agreement to work for a lesser wage, any employee
12 receiving less than the legal minimum wage or the legal overtime
13 compensation applicable to the employee is entitled to recover in a civil
14 action the unpaid balance of the full amount of this minimum wage or
15 overtime compensation, including interest thereon, reasonable attorney's
16 fees, and costs of suit.

17 176. GOOGLE and DOES have violated Labor Code § 1197.5 thereby resulting in
18 employees similarly situated to PLAINTIFF not being paid the appropriate overtime rate for
19 overtime hours worked.

20 177. PLAINTIFF seeks to recover the prescribed civil penalties by *Labor Code §§ §§*
21 *201, 202, 203, 204, 210, 226, 1197.5(a), 1197.5(k) and/or 2699(f)* for the violations referenced
22 herein on behalf of herself and other non-White aggrieved employees. PLAINTIFF also seeks
23 interest and attorney's fees and costs and any other remedies prescribed and permitted by PAGA.

24 **TWELFTH CAUSE OF ACTION**

25 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

26 **(Cal. Labor Code §§ 201-203, 1194.5)**

27 **(Against GOOGLE and DOES on behalf of PLAINTIFF**

28 **and the FORMER EMPLOYEE SUBCLASS)**

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

1 179. Pursuant to California Labor Code §§ 201, 202 and 203, GOOGLE is required to
2 pay all earned and unpaid wages to an employee who is discharged or quits. California Labor
3 Code § 201 mandates that if an employer discharges an employee, the employee's wages accrued
4 and unpaid at the time of discharge are due and payable immediately. California Labor Code § 202
5 mandates that if an employee quits, the employee's wages accrued and unpaid at the time of
6 quitting are due and payable no later than 72 hours after the employee quits her or his employment,
7 unless the employee provided at least 72 hours of notice of her intention to quit, in which case the
8 wages are due immediately at the time of quitting.

9 180. California Labor Code § 203 provides that if an employer willfully fails to pay in
10 accordance with California Labor Code §§ 201 and 202 any wages of an employee who is
11 discharged or who quits, the employer is liable to waiting time penalties in the form of unpaid
12 compensation to the employee at the same rate for up to 30 work days.

13 181. By paying PLAINTIFF and FORMER EMPLOYEE SUBCLASS members lower
14 wages lower than wages paid to their White (non-Hispanic) counterparts for performing
15 substantially similar work under similar working conditions, GOOGLE failed and continues to fail
16 to pay all accrued wages due to PLAINTIFF and the FORMER EMPLOYEE SUBCLASS
17 members, in violation of Labor Code §§201 and 202, respectively.

18 182. As a result of GOOGLE's unlawful acts and omissions, PLAINTIFF and the
19 FORMER EMPLOYEE SUBCLASS members are entitled to all available statutory penalties,
20 including waiting time penalties provided in California Labor Code § 203, together with interest
21 thereon, as well as other available remedies.

22 **THIRTEENTH CAUSE OF ACTION**

23 **Declaratory Judgment**

24 **(Cal. C.C.P. § 1060 *et seq.*)**

25 **(Against GOOGLE and DOES on behalf of PLAINTIFF and the CLASS**

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

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

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

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

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

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

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

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

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

19 16. For statutory and civil penalties according to proof, including but not limited to all
20 waiting time penalties authorized by California Labor Code § 203;

21 17. For declaratory relief; and

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

DATED: January 22, 2024

GUNN COBLE LLP
HENNIG KRAMER RUIZ & SINGH LLP



By: _____

Catherine J. Coble
Attorneys for Plaintiff ANA CANTU,
individually and on behalf of the State of
California and aggrieved employees and the
proposed Class

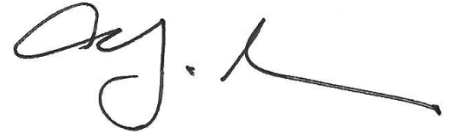
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DEMAND FOR JURY TRIAL

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

DATED: January 22, 2024

GUNN COBLE LLP
HENNIG KRAMER RUIZ & SINGH



By: _____

Catherine J. Coble
Attorneys for Plaintiff ANA CANTU,
individually and on behalf of the State of
California and aggrieved employees and the
proposed Class

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PROOF OF SERVICE
STATE OF CALIFORNIA

I am an attorney 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 Avenue, Los Angeles, CA 90039.

On January 22, 2024, I served the following documents, described as:

THIRD AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

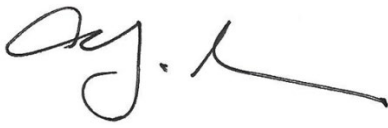
To the following parties:

- Felicia Davis
feliciadavis@paulhastings.com
- Zachary Hutton
zachhutton@paulhastings.com
- Eric Distelburger
ericdistelburger@paulhastings.com
- Matthew Honig
matthewhonig@paulhastings.com

Paul Hastings LLP
101 California Street, Forty-Eighth Floor
San Francisco, CA 94111

VIA CAL WEST ATTORNEY SERVICES, INC: Service of the foregoing document(s) on the interested parties as listed on the Service List posted on Calwest.LegalConnect.com

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and was executed on January 22, 2024, at La Crescenta, California.



By: _____
Catherine J. Coble

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [\\$28 Million Google Settlement Resolves Employee Racial Bias Class Action Lawsuit](#)
