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6 Attorney for Plaintiff
 DOMINIQUE HARKNESS, an individual
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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 9 **FOR THE COUNTY OF LOS ANGELES – STANLEY MOSK COURTHOUSE**

10
 11 DOMINIQUE HARKNESS, an individual;

12 Plaintiff,

13 v.

14 REALOGY BROKERAGE GROUP, LLC, a
 15 limited liability company; COLDWELL
 16 BANKER RESIDENTIAL BROKERAGE
 17 COMPANY, a California corporation;
 PAMELA TOPA UPCHURCH, an individual;
 18 ASHLEY BURKE, an individual; and DOES
 1-50, inclusive.

19 Defendants.
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Case No.: **21STCV35661**

**COMPLAINT FOR DAMAGES;
 DEMAND FOR JURY TRIAL**

1. **SEX HARASSMENT (PREGNANCY)**
(Cal. Gov't Code § 12940(j))
2. **SEX DISCRIMINATION (PREGNANCY)**
(Cal. Gov't Code § 12940(a))
3. **SEX RETALIATION (PREGNANCY)**
(Cal. Gov't Code § 12940(h))
4. **GENDER HARASSMENT**
(Cal. Gov't Code § 12940(j))
5. **GENDER DISCRIMINATION**
(Cal. Gov't Code § 12940(a))
6. **GENDER RETALIATION**
(Cal. Gov't Code § 12940(h))
7. **DISABILITY DISCRIMINATION**
(Cal. Gov't Code § 12940(a))
8. **VIOLATION OF THE PREGNANCY DISABILITY LEAVE LAW (PDLL)**
(Cal. Gov't Code § 12945)

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- 9. **VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT**
(Cal. Gov't Code § 12945.2, et seq.)
- 10. **RETALIATION FOR REQUESTING A REASONABLE ACCOMMODATION**
(Cal. Gov't Code § 12940(m)(2))
- 11. **WHISTLEBLOWER VIOLATIONS**
(Cal. Labor Code § 1102.5)
- 12. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
- 13. **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

Plaintiff, DOMINIQUE HARKNESS (hereinafter referred to as "Plaintiff"), as an individual, complains and alleges as follows:

JURISDICTION AND VENUE

1. The Court has personal jurisdiction over the Defendants because they are residents of and/or are doing business in the State of California.

2. Venue is proper in this county in accordance with Section 395(a) of the California Code of Civil Procedure because the Defendants, or some of them, reside in this county, and the injuries alleged herein occurred in this County. Venue is further appropriate in this county in accordance with Section 395(a) and Section 395.5 of the California Code of Civil Procedure because Defendants and Plaintiff contracted to perform their obligations in this County, the contract was entered into in this County, and because the liability, obligation and breach occurred within this County. Venue is further appropriate in this County in accordance with Section 12965(b) of the California Government Code because the unlawful practices alleged by Plaintiff in violation of the California Fair Employment and Housing Act [Cal. Gov't Code §§ 12940, et sq.] were committed in this County.

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PARTIES

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2 3. Plaintiff is informed and believes, and thereon alleges, that Defendant
3 REALOGY BROKERAGE GROUP (hereinafter referred to as “Realogy,” and collectively
4 referred to with COLDWELL and DOES 1-25 as “Realogy/Coldwell”) is, and at all times
5 mentioned herein, was a limited liability company with its principal place of business in
6 New Jersey, and a business entity qualified to and doing business in the State of California,
7 including in Los Angeles County. Realogy is, and at all relevant times mentioned herein,
8 was an “employer” within the meaning of the FEHA. At all relevant times, Realogy
9 employed 50 or more employees.

10 4. Plaintiff is informed and believes, and thereon alleges, that Defendant
11 COLDWELL BANKER RESIDENTIAL BROKERAGE COMPANY (hereinafter referred
12 to as “Coldwell,” and collectively referred to with REALOGY and DOES 1-25 as
13 “Realogy/Coldwell”) is, and at all times mentioned herein, was a California corporation
14 with its principal place of business in New Jersey, and a business entity qualified to and
15 doing business in the State of California, including in Los Angeles County. Coldwell is, and
16 at all relevant times mentioned herein, was an “employer” within the meaning of the FEHA.
17 At all relevant times, Coldwell employed 50 or more employees.

18 5. Defendant PAMELA TOPA UPCHURCH (hereinafter referred to as
19 “Upchurch,” and collectively referred to with REALOGY, ASHLEY BURKE, and DOES
20 1-50 as “Defendants”) is, and was at all relevant times, an officer and managing agent of
21 Realogy/Coldwell who held supervisory authority over Plaintiff. Plaintiff is informed and
22 believes, and thereon alleges, that Defendant Pamela Topa Upchurch resides and, at all
23 relevant times, resided in the County of Los Angeles, California.

24 6. Defendant ASHLEY BURKE (hereinafter referred to as “Burke,” and
25 collectively referred to with REALOGY, PAMELA TOPA UPCHURCH and DOES 1-50 as
26 “Defendants”) is, and was at all relevant times, an officer and managing agent of
27 Realogy/Coldwell who held supervisory authority over Plaintiff. Plaintiff is informed and
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1 believes, and thereon alleges, that Defendant Ashley Burke resides and, at all relevant times,
2 resided in the County of Los Angeles, California.

3 7. The true names and capacities, whether corporate, associate, individual or
4 otherwise, of Defendants DOES 1 through 50, inclusive, are unknown to Plaintiff, who
5 therefore sues said Defendants by such fictitious names. Each of the Defendants designated
6 herein as a DOE is legally responsible in some manner for the events and happenings herein
7 referred to and caused injuries and damages proximately thereby to Plaintiff, as herein
8 alleged. Plaintiff will seek leave of Court to amend this Complaint to show their names and
9 capacities when the same have been ascertained.

10 8. Plaintiff is informed and believes, and thereon alleges, that Defendants
11 REALOGY and DOES 1 through 25 (“Realogy/Coldwell”) are a single employer, joint
12 employers, and/or form a highly integrated enterprise. Plaintiff is further informed and
13 believes, and thereon alleges, that Realogy/Coldwell were owned and/or controlled by DOES
14 1 through 25. REALOGY, COLDWELL, and DOES 1- through 25 each constitute an
15 “employer” or “other entity covered by [FEHA]” as those terms are defined by FEHA.

16 9. At all times herein mentioned, DOES 26 through 50, and each of them, were
17 the agents, representatives, employees, successors and/or assignees of Defendants
18 REALOGY and/or DOES 1-25, and at all times pertinent hereto were acting within the
19 course and scope of their authority as such agents, representatives, employees, successors
20 and/or assignees, and acting on behalf of, under the authority of, and subject to the control
21 of Defendants.

22 10. Plaintiff DOMINIQUE HARKNESS (“Plaintiff”) was employed with
23 Defendants REALOGY and/or COLDWELL and/or DOES 1-25 from in or around 2016
24 until on or about March 29, 2021. Plaintiff was, at all relevant times mentioned herein, an
25 “employee” within the meaning of the FEHA.

26 **INTRODUCTION**

27 11. On or about March 8, 2021, in the midst of the COVID-19 pandemic and
28 nationwide lockdown, Plaintiff Dominique Harkness needed help. Not only was she the

1 mother to a newborn baby of only five (5) months old, but her six-year-old daughter was
2 attending school remotely from home, and would not complete the academic year for
3 another three months. Her pregnancy leave was coming to an end, and she was scheduled to
4 return to work at the Brentwood office of Realogy/Coldwell where she had worked since
5 2016.

6 12. In a world without COVID, Plaintiff would have left her newborn with a
7 daycare facility that took children under six (6) months old. But COVID had changed
8 everything. She feared for the health of her child.

9 13. As her return date approached, Plaintiff heard that Realogy/Coldwell was
10 allowing some of its staff to work from home. She asked for the same. The response was as
11 swift as it was unsympathetic. Realogy/Coldwell's Human Resources Business Partner,
12 Defendant Ashley Burke, told Plaintiff that while the company was in a position to offer her
13 a work-from-home arrangement, it would not do so.

14 14. Burke told Plaintiff that the one and only reason why Realogy/Coldwell
15 refused to allow Plaintiff to work from home was because she was a new mother. If she had
16 not just had a baby, Burke told her, the company would have been happy to let her work
17 from home.

18 15. Indeed, Burke told Plaintiff specifically, **“We may have been able to make**
19 **a concession if you hadn't had the newborn, but we can't allow you to work from home**
20 **being the primary caregiver to your newborn.”**

21 16. As a five-year employee of Realogy/Coldwell with a solid track record –
22 including promotions, pay raises, and written praise – Plaintiff rightly believed that the
23 company's response was unnecessarily hostile, and its decision constituted discrimination
24 based on Plaintiff's status as a new mother and the company's perception that Plaintiff
25 would be distracted from her work responsibilities by her newborn baby.

26 17. Compounding the situation was the fact that March 17, 2021 was the first
27 anniversary of Plaintiff's brother's death. Plaintiff's therapist recognized the anniversary
28 could trigger mental disabilities that she had already been struggling with since her brother's

1 passing, and her therapist provided a note to Realogy/Coldwell that Plaintiff could not return
2 to work until after the anniversary.

3 18. Realogy/Coldwell responded by unilaterally placing Plaintiff on two weeks
4 paid COVID leave – even though Plaintiff did not have COVID. Plaintiff complained to
5 Burke that placing her on COVID leave would deprive her of time off if she were to actually
6 contract the virus.

7 19. As her return date of March 29, 2021 approached, and while she was on
8 leave for grief, Burke called Plaintiff and told her that if she was not going to return to work,
9 she needed to resign. Plaintiff, suspecting Realogy/Coldwell was forcing her to resign so
10 that it could escape liability for her unemployment benefits, refused to do so.

11 20. As such, on March 29, 2021, Realogy/Coldwell wrongfully terminated
12 Plaintiff.

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

14 **A. Ms. Hakness’s Employment with Realogy/Coldwell**

15 21. Realogy describes itself as “the leading and most integrated provider of U.S.
16 residential real estate services...” It has offices throughout the nation and in California,
17 including in Brentwood. Realogy’s subsidiaries include Coldwell Banker Residential
18 Brokerage Company.

19 22. Plaintiff Dominique Harkness began her employment with
20 Realogy/Coldwell’s Brentwood office as a temp in or around 2016. On or about November
21 18, 2017, she became a permanent weekend receptionist. Eight (8) months later, she was
22 promoted to full-time office coordinator. In or around November 2019, the company
23 promoted her to Sales Support Administration.

24 23. About three months after her promotion to Sales Support Administration, in
25 February 2020, Plaintiff informed Realogy/Coldwell that she was pregnant.

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1 **B. Plaintiff Suffers a Family Loss; Works From Home During COVID Lockdown**

2 24. On or about March 17, 2020, Plaintiff's brother passed unexpectedly, causing
3 her tremendous grief, shock, anxiety, and depression.

4 25. On or about March 19, 2020, California began a statewide lockdown to
5 combat the COVID-19 pandemic.

6 26. From on or about March 19, 2020, until April 2020, all of
7 Realogy/Coldwell's staff, including Plaintiff, worked from home.

8 27. In April 2020, Realogy/Coldwell furloughed Plaintiff to deal with the
9 economic ramifications of the lockdown.

10 28. Four months later, Realogy/Coldwell brought back Plaintiff full-time.

11 29. From about August 17, 2020 until October 9, 2020, Realogy/Coldwell
12 allowed Plaintiff, along with its other staff, to work from home.

13 30. During the entire time Plaintiff worked from home, she was able to meet one
14 hundred percent (100%) of her job responsibilities, without any performance issues.

15 **C. Plaintiff Gives Birth, Takes Pregnancy Leave**

16 31. Plaintiff gave birth on October 12, 2020. She immediately took pregnancy
17 leave.

18 32. While still on pregnancy leave, beginning in or around February 2021,
19 Plaintiff's supervisor, Defendant Pamela Topa Upchurch, began calling and texting Plaintiff
20 repeatedly, harassing her about when Plaintiff planned to return to work.

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22 **D. Plaintiff Seeks a Work-From-Home Arrangement Upon Return from**
23 **Pregnancy Leave, and an Accommodation for Mental Disabilities Related to**
24 **Her Brother's Death**

25 33. On or about March 8, 2021, before Plaintiff's pregnancy leave had ended,
26 Defendants Pamela Topa Upchurch and Ashley Burke called Plaintiff and asked when she
27 would be returning to work.

28 34. Plaintiff communicated to Upchurch and Burke that she had concerns about
making outside arrangements for the care of her newborn, then aged five (months), because

1 of her fear that her baby could get sick with COVID. Plaintiff had heard that other staff from
2 Realogy had been allowed to continue to work from home, and she requested the same.

3 35. Plaintiff also requested – and provided a note from her therapist – that she be
4 allowed to take off work on March 17, 2021 because the anniversary of her brother’s death
5 was triggering mental disabilities, including depression.

6 36. On March 9, 2021, Realogy agreed that Plaintiff could delay her return to
7 work until after March 17, 2021 – the anniversary of her brother’s death.

8 37. Then, on March 15, 2021, Realogy/Coldwell informed Plaintiff that, in order
9 to accommodate her request for leave due to her mental disabilities, they had placed her on
10 the two weeks of paid COVID leave to which she was legally entitled if and when she ever
11 got COVID.

12 38. Plaintiff immediately objected to Realogy/Coldwell – specifically to Burke –
13 that this was not what she had requested, and that the company’s unilateral decision
14 deprived her of her legally-protected COVID leave if she were to actually contract the virus.

15 39. That same day, Burke called Plaintiff and demanded that, upon the expiration
16 of her COVID leave, she return to the office rather than continue to work from home. When
17 Plaintiff reiterated her concern about her newborn’s safety during COVID, Burke told her:
18 **“We may have been able to make a concession if you didn’t have the newborn... We**
19 **can’t allow you to work from home being the primary caregiver of your newborn.”**

20 40. Plaintiff immediately responded to Burke. **“If you hear me being**
21 **frustrated, please know I’m not frustrated with you as a person,”** Plaintiff told Burke.
22 **“But do you really mean to tell me that if I hadn’t had my baby, I could be working**
23 **from home?”** Burke confirmed that this was Realogy’s position.

24 41. Realogy maintained this position even though Plaintiff had worked from
25 home for months without any problem, and even though Realogy’s Brentwood office was
26 under construction – rendering Plaintiff’s workspace uninhabitable.

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1 **E. Realogy/Coldwell Terminates Plaintiff**

2 42. As her return date of March 29, 2021 approached, and while she was on
3 leave for grief, Burke called Plaintiff and told her that if she was not going to physically
4 return to the office, she needed to resign. Suspecting that Realogy/Coldwell was attempting
5 to disqualify her from unemployment benefits, Plaintiff refused.

6 43. As such, on March 29, 2021, Realogy/Coldwell wrongfully terminated
7 Plaintiff.

8 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

9 44. On September 28, 2021, Plaintiff timely filed a charge of discrimination with
10 the Department of Fair Employment and Housing (“DFEH”). The DFEH issued a right-to-
11 sue letter on this charge the same day. A copy of the of right-to-sue notice is attached hereto
12 as **Exhibit A**.

13 **I.**

14 **FIRST CAUSE OF ACTION**

15 **SEX HARASSMENT (PREGNANCY)**

16 **(Cal. Gov’t Code § 12940(j))**

17 **(Against Defendants REALOGY, COLDWELL, UPCHURCH, and BURKE and**

18 **DOES 1-50)**

19 45. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 as
20 though set forth in full.

21 46. FEHA expressly provides that it is an unlawful employment practice for an
22 “employer or other entity covered by [FEHA]” to harass a person because of the person’s
23 sex. *Gov’t Code* § 12940(j).

24 47. FEHA’s definition of “sex” includes, but is not limited to, pregnancy or
25 medical conditions related to pregnancy, and childbirth or medical conditions related to
26 childbirth. *Gov’t Code* § 12926(r)(1).

27 48. Defendants Realogy, Coldwell, and DOES 1-50 harassed Plaintiff based on
28 her pregnancy and/or childbirth and/or medical conditions related to her pregnancy.

1 54. FEHA expressly provides that it is an unlawful employment practice for an
2 “employer or other entity covered by [FEHA]” to discharge or otherwise discriminate against
3 a person because of the person’s sex. *Gov’t Code* § 12940(a).

4 55. FEHA’s definition of “sex” includes, but is not limited to, pregnancy or
5 medical conditions related to pregnancy, and childbirth or medical conditions related to
6 childbirth. *Gov’t Code* § 12926(r)(1).

7 56. Defendants Realogy, Coldwell, and DOES 1-25 discriminated against Plaintiff
8 based on her pregnancy and/or childbirth and/or medical conditions related to her pregnancy.
9 Defendants subjected Plaintiff to discriminatory, adverse employment actions by denying her
10 a work-from-home arrangement, forcing her to take COVID leave when she did not have
11 COVID, pressuring her to resign, and wrongfully terminating her.

12 57. Defendants had an employment practice that had a disproportionate adverse
13 effect on pregnant women and women with newborn children, including Plaintiff.

14 58. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
15 has been directly and legally caused to suffer actual damages including, but not limited to,
16 loss of earnings and future earning capacity, and other pecuniary loss not presently
17 ascertained.

18 59. As a further direct and legal result of the acts and conduct of Defendants, and
19 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
20 emotional and mental distress. The exact nature and extent of said injuries is presently
21 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
22 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
23 injuries are reasonably certain to be permanent in character.

24 60. As a result of Defendants’ acts and conduct, as alleged herein, Plaintiff is
25 entitled to reasonable attorneys’ fees and costs of suit as provided in Section 12965(b) of the
26 *California Government Code*.

27 61. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
28 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or

1 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
2 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
3 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
4 determined at trial.

5 **III.**

6 **THIRD CAUSE OF ACTION**

7 **SEX RETALIATION (PREGNANCY)**

8 **(Cal. Gov't Code § 12940(h))**

9 **(Against Defendants REALOGY, COLDWELL and DOES 1-25)**

10 62. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and
11 46 through 52 and 54 through 61, as though set forth in full.

12 63. FEHA expressly provides that it is an unlawful employment practice for an
13 employer “to discharge, expel, or otherwise discriminate against any person because the
14 person has opposed any practices forbidden under [the FEHA] or because the person has
15 filed a complaint, testified, or assisted in any proceeding under [the FEHA].”

16 64. Defendants Realogy, Coldwell, and DOES 1-25 retaliated against Plaintiff
17 based on her complaints of harassment and discrimination based on her pregnancy and/or
18 childbirth and/or medical conditions related to her pregnancy. Defendants subjected Plaintiff
19 to discriminatory, adverse employment actions by denying her a work-from-home
20 arrangement, forcing her to take COVID leave when she did not have COVID, pressuring her
21 to resign, and wrongfully terminating her.

22 65. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
23 has been directly and legally caused to suffer actual damages including, but not limited to,
24 loss of earnings and future earning capacity, and other pecuniary loss not presently
25 ascertained.

26 66. As a further direct and legal result of the acts and conduct of Defendants, and
27 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
28 emotional and mental distress. The exact nature and extent of said injuries is presently

1 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
2 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
3 injuries are reasonably certain to be permanent in character.

4 67. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is
5 entitled to reasonable attorneys' fees and costs of suit as provided in Section 12965(b) of the
6 California *Government Code*.

7 68. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
8 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or
9 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
10 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
11 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
12 determined at trial.

13 **IV.**

14 **FOURTH CAUSE OF ACTION**

15 **GENDER HARASSMENT**

16 **(Cal. *Gov't Code* § 12940(a))**

17 **(Against Defendants REALOGY, COLDWELL UPCHURCH, and BURKE and**

18 **DOES 1-50)**

19 69. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and
20 46 through 52 and 54 through 61 and 63 through 68, as though set forth in full.

21 70. FEHA expressly provides that it is an unlawful employment practice for an
22 "employer or other entity covered by [FEHA]" to harass a person because of the person's
23 gender. *Gov't Code* § 12940(j).

24 71. Defendants Realogy, Coldwell, and DOES 1-50 harassed Plaintiff based on
25 her pregnancy and/or childbirth and/or medical conditions related to her pregnancy.

26 72. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
27 has been directly and legally caused to suffer actual damages including, but not limited to,
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1 loss of earnings and future earning capacity, and other pecuniary loss not presently
2 ascertained.

3 73. As a further direct and legal result of the acts and conduct of Defendants, and
4 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
5 emotional and mental distress. The exact nature and extent of said injuries is presently
6 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
7 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
8 injuries are reasonably certain to be permanent in character.

9 74. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is
10 entitled to reasonable attorneys' fees and costs of suit as provided in Section 12965(b) of the
11 *California Government Code*.

12 75. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
13 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or
14 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
15 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
16 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
17 determined at trial.

18 V.

19 **FIFTH CAUSE OF ACTION**

20 **GENDER DISCRIMINATION**

21 **(Cal. Gov't Code § 12940(a))**

22 **(Against Defendants REALOGY, COLDWELL and DOES 1-25)**

23 76. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and
24 46 through 52 and 54 through 61 and 63 through 68 and 70 through 75, as though set forth
25 in full.

26 77. FEHA expressly provides that it is an unlawful employment practice for an
27 "employer or other entity covered by [FEHA]" to discharge or otherwise discriminate against
28 a person because of the person's gender. *Gov't Code* § 12940(a).

1 78. Defendants Realogy, Coldwell, and DOES 1-25 discriminated against Plaintiff
2 based on her gender. Defendants subjected Plaintiff to discriminatory, adverse employment
3 actions by denying her a work-from-home arrangement, forcing her to take COVID leave
4 when she did not have COVID, pressuring her to resign, and wrongfully terminating her.

5 79. Defendants had an employment practice that had a disproportionate adverse
6 effect on female employees, including Plaintiff.

7 80. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
8 has been directly and legally caused to suffer actual damages including, but not limited to,
9 loss of earnings and future earning capacity, and other pecuniary loss not presently
10 ascertained.

11 81. As a further direct and legal result of the acts and conduct of Defendants, and
12 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
13 emotional and mental distress. The exact nature and extent of said injuries is presently
14 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
15 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
16 injuries are reasonably certain to be permanent in character.

17 82. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is
18 entitled to reasonable attorneys' fees and costs of suit as provided in Section 12965(b) of the
19 *California Government Code*.

20 83. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
21 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or
22 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
23 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
24 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
25 determined at trial.

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VI.
SIXTH CAUSE OF ACTION
GENDER RETALIATION
(Cal. Gov't Code § 12940(h))

(Against Defendants REALOGY, COLDWELL, and DOES 1-25)

84. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and 46 through 52 and 54 through 61 and 63 through 68 and 70 through 75 and 77 through 83, as though set forth in full.

85. FEHA expressly provides that it is an unlawful employment practice for an employer “to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under [the FEHA] or because the person has filed a complaint, testified, or assisted in any proceeding under [the FEHA].”

86. Defendants Realogy, Coldwell, and DOES 1-25 retaliated against Plaintiff based on her complaints of harassment and discrimination based on her gender. Defendants subjected Plaintiff to discriminatory, adverse employment actions by denying her a work-from-home arrangement, forcing her to take COVID leave when she did not have COVID, pressuring her to resign, and wrongfully terminating her.

87. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earnings and future earning capacity, and other pecuniary loss not presently ascertained.

88. As a further direct and legal result of the acts and conduct of Defendants, and each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer emotional and mental distress. The exact nature and extent of said injuries is presently unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the injuries are reasonably certain to be permanent in character.

1 disabilities, by denying her a work-from-home arrangement, forcing her to take COVID
2 leave when she did not have COVID, pressuring her to resign, and wrongfully terminating
3 her.

4 96. Defendants had an employment practice that had a disproportionate adverse
5 effect on disabled employees and/or employees Defendants perceived to be disabled,
6 including Plaintiff.

7 97. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
8 has been directly and legally caused to suffer actual damages including, but not limited to,
9 loss of earnings and future earning capacity, and other pecuniary loss not presently
10 ascertained.

11 98. As a further direct and legal result of the acts and conduct of Defendants, and
12 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
13 emotional and mental distress. The exact nature and extent of said injuries is presently
14 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
15 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
16 injuries are reasonably certain to be permanent in character.

17 99. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is
18 entitled to reasonable attorneys' fees and costs of suit as provided in Section 12965(b) of the
19 *California Government Code*.

20 100. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
21 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or
22 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
23 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
24 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
25 determined at trial.

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VIII.

EIGHTH CAUSE OF ACTION

VIOLATION OF THE PREGNANCY DISABILITY LEAVE LAW (PDLL)

(Cal. Gov't Code § 12945; Cal. Code Regs. tit. 2, § 11043)

(Against Defendants REALOGY, COLDWELL, and DOES 1-25)

101. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and 46 through 52 and 54 through 61 and 63 through 68 and 70 through 75 and 77 through 83 and 85 through 90 and 92 through 100, as though set forth in full.

102. Under FEHA, the Pregnancy Disability Leave Law (PDLL) expressly provides: “An employee who exercises her right to take pregnancy disability leave is guaranteed a right to return to the same position, or [...] to a comparable position, and the employer shall provide the guarantee in writing upon request of the employee. It is an unlawful employment practice for any employer, after granting a requested pregnancy disability leave or transfer, to refuse to honor its guarantee of reinstatement[.]” *Code Regs.* tit. 2, § 11043(a); see also *Cal. Gov. Code* § 12945.

103. At all relevant times, Plaintiff was eligible for pregnancy leave under the PDLL.

104. The PDLL also requires that an employer inform the employee of available comparable positions by means “reasonably calculated” to give her notice of the job openings. *Code Regs.* tit. 2, § 11043(c)(2)(B).

105. Defendants did not return Plaintiff to the same position or a comparable position. Neither did Defendants inform Plaintiff of available comparable positions. Instead, Defendants terminated Plaintiff.

106. The PDLL also prohibits an employer from interfering with, restraining, or denying the exercise of, or the attempt to exercise, any right provided under the PDLL. See, *Cal. Gov. Code* § 12945.

1 107. Defendants attempted to, or did actually interfere, restrain or deny Plaintiff
2 her rights provided under the PDLL, including, but not limited to, calling her while on leave
3 and pressuring her to return to work.

4 108. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
5 has been directly and legally caused to suffer actual damages including, but not limited to,
6 loss of earnings and future earning capacity, and other pecuniary loss not presently
7 ascertained.

8 109. As a further direct and legal result of the acts and conduct of Defendants, and
9 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
10 emotional and mental distress. The exact nature and extent of said injuries is presently
11 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
12 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
13 injuries are reasonably certain to be permanent in character.

14 110. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is
15 entitled to reasonable attorneys' fees and costs of suit as provided in Section 12965(b) of the
16 California *Government Code*.

17 111. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
18 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or
19 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
20 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
21 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
22 determined at trial.

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1 IX.

2 NINTH CAUSE OF ACTION

3 VIOLATION OF THE CALIFORNIA FAMILY RIGHTS ACT

4 (Cal. Gov't Code § 12945.2, et seq. and California Code of Regulations § 11089)

5 (Against Defendants REALOGY, COLDWELL, and DOES 1-25)

6 112. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and
7 46 through 52 and 54 through 61 and 63 through 68 and 70 through 75 and 77 through 83
8 and 85 through 90 and 92 through 100 and 102 through 111, as though set forth in full.

9 113. At all times herein mentioned, California Family Rights Act (“CFRA”),
10 *Government Code* §12945.2, was in full force and effect, and was binding upon Defendants.
11 Said section required Defendants, their employees and agents, to not retaliate against Plaintiff
12 for requesting and/or taking time off for statutory family care and medical leave, including,
13 but not limited to, medical leave for Plaintiff’s pregnancy. Moreover, at all times herein
14 mentioned, *California Code of Regulations* Title 2 §11089 was in full force and effect and
15 was binding upon Defendants.

16 114. The CFRA expressly provides that an employer “must provide the employee
17 with a guarantee of reinstatement to the same or a comparable position” upon the
18 termination of Plaintiff’s CFRA leave. Gov. Code § 12945.2(a); California Code of
19 Regulations § 11089.

20 115. CFRA also prohibits an employer from interfering with, restraining, or
21 denying the exercise of, or the attempt to exercise, any right provided under CFRA. See,
22 *Cal. Gov. Code* § 12945.2.

23 116. At all relevant times, Plaintiff was eligible for statutory family care and
24 medical leave under CFRA.

25 117. Plaintiff requested and/or took CFRA leave for her own serious health
26 condition that made her temporarily unable to perform the functions of her job.

27 118. Plaintiff provided reasonable notice to Defendants of her need for CFRA
28 leave.

1 119. Defendants retaliated against Plaintiff based on her request for and/or taking
2 CFRA leave by denying her a work-from-home arrangement, forcing her to take COVID
3 leave when she did not have COVID, pressuring her to resign, and wrongfully terminating
4 her.

5 120. Plaintiff's request for and/or taking CFRA leave was a substantial motivating
6 reason for Defendants' decision to subject her to adverse employment actions.

7 121. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
8 has been directly and legally caused to suffer actual damages including, but not limited to,
9 loss of earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary
10 loss not presently ascertained.

11 122. As a further direct and legal result of the acts and conduct of Defendants, and
12 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
13 emotional and mental distress. The exact nature and extent of said injuries is presently
14 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
15 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
16 injuries are reasonably certain to be permanent in character.

17 123. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
18 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or
19 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
20 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
21 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
22 determined at trial.

23 124. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is
24 entitled to reasonable attorneys' fees and costs of suit as provided in Section 12965(b) of the
25 *California Government Code*.

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1 X.

2 **TENTH CAUSE OF ACTION**

3 **RETALIATION FOR REQUESTING A REASONABLE ACCOMMODATION**

4 **(Cal. Gov't Code § 12940(m)(2))**

5 **(Against Defendants REALOGY, COLDWELL, and DOES 1-25)**

6 125. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and
7 46 through 52 and 54 through 61 and 63 through 68 and 70 through 75 and 77 through 83
8 and 85 through 90 and 92 through 100 and 102 through 111 and 113 through 124, as though
9 set forth in full.

10 126. FEHA expressly provides that it is an unlawful employment practice “[f]or an
11 employer or other entity covered by [FEHA] to [...] retaliate or otherwise discriminate
12 against a person for requesting accommodation [...], regardless of whether the request was
13 granted.” *Gov't Code* § 12940(m)(2).

14 127. Plaintiff requested that Defendants provide her with reasonable
15 accommodations for her medical conditions and/or mental disabilities.

16 128. Defendants discriminated and retaliated against Plaintiff for requesting
17 accommodations by denying her a work-from-home arrangement, forcing her to take COVID
18 leave when she did not have COVID, pressuring her to resign, and wrongfully terminating
19 her.

20 129. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
21 has been directly and legally caused to suffer actual damages including, but not limited to,
22 loss of earnings and future earning capacity, and other pecuniary loss not presently
23 ascertained.

24 130. As a further direct and legal result of the acts and conduct of Defendants, and
25 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
26 emotional and mental distress. The exact nature and extent of said injuries is presently
27 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
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1 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
2 injuries are reasonably certain to be permanent in character.

3 131. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is
4 entitled to reasonable attorneys' fees and costs of suit as provided in Section 12965(b) of the
5 California *Government Code*.

6 132. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
7 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or
8 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
9 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
10 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
11 determined at trial.

12 **XI.**

13 **ELEVENTH CAUSE OF ACTION**

14 **WHISTLEBLOWER VIOLATIONS**

15 **(Cal. Labor Code § 1102.5)**

16 **(Against Defendants REALOGY, COLDWELL, and DOES 1-25)**

17 133. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and
18 46 through 52 and 54 through 61 and 63 through 68 and 70 through 75 and 77 through 83
19 and 85 through 90 and 92 through 100 and 102 through 111 and 113 through 124 and 126
20 through 132, as though set forth in full.

21 134. As alleged herein, Plaintiff had reasonable cause to believe that Defendants,
22 and each of them, were violating federal, state, and local laws and regulations prohibiting,
23 among other things, the unlawful use of legally-required COVID leave and unemployment
24 benefits fraud.

25 135. As alleged herein, Plaintiff complained about, raised concerns and/or
26 otherwise disclosed information about said violations, among others, to Defendant, including
27 to persons with authority over her and to employees who had the authority to investigate,
28 discover, or correct the violation of noncompliance.

1 136. As alleged herein and in violation of *Labor Code* § 1102.5, *et seq.*,
2 Defendants subjected Plaintiff to adverse employment actions by denying her a work-from-
3 home arrangement, forcing her to take COVID leave when she did not have COVID,
4 pressuring her to resign, and wrongfully terminating her.

5 137. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
6 has been directly and legally caused to suffer actual damages including, but not limited to,
7 loss of earnings and future earning capacity, and other pecuniary loss not presently
8 ascertained.

9 138. As a further direct and legal result of the acts and conduct of Defendants, and
10 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
11 emotional and mental distress. The exact nature and extent of said injuries is presently
12 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of
13 said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the
14 injuries are reasonably certain to be permanent in character.

15 139. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is
16 entitled to reasonable attorneys' fees and costs of suit as provided in *Code of Civil Procedure*
17 § 1021.5.

18 140. The aforesaid acts and omissions of Defendants, and each of them, justify the
19 imposition of any and all civil penalties pursuant to *Labor Code* § 1102.5.

20 141. Plaintiff is informed and believes, and thereon alleges, that the Defendants,
21 and each of them, by engaging in the aforementioned acts and/or in authorizing and/or
22 ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable
23 conduct, and acted with willful and conscious disregard of the rights, welfare and safety of
24 Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be
25 determined at trial.

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XII.

TWELFTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(Against Defendants REALOGY, COLDWELL, UPCHURCH, and BURKE and DOES 1-50)

142. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and 46 through 52 and 54 through 61 and 63 through 68 and 70 through 75 and 77 through 83 and 85 through 90 and 92 through 100 and 102 through 111 and 113 through 124 and 126 through 132 and 134 through 141, as though set forth in full.

143. Defendants' conduct as described above was extreme and outrageous and done with the intent of causing Plaintiff to suffer emotional distress and/or with reckless disregard as to whether Plaintiff would suffer emotional distress.

144. As a further direct and legal result of the acts and conduct of Defendants, and each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer emotional and mental distress. The exact nature and extent of said injuries is presently unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of said injuries, but is informed and believes, and thereon alleges, that some, if not at all, of the injuries are reasonably certain to be permanent in character.

145. Plaintiff is informed and believes, and thereon alleges, that the Defendants, and each of them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts, engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with willful and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the award of punitive and exemplary damages in an amount to be determined at trial.

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1 **XIII.**

2 **THIRTEENTH CAUSE OF ACTION**

3 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

4 **(Against Defendants REALOGY, COLDWELL, and DOES 1-25)**

5 146. Plaintiff realleges and incorporates by reference paragraphs 1 through 44 and
6 46 through 52 and 54 through 61 and 63 through 68 and 70 through 75 and 77 through 83
7 and 85 through 90 and 92 through 100 and 102 through 111 and 113 through 124 and 126
8 through 132 and 134 through 141 and 143 through 145, as though set forth in full.

9 147. As set forth herein, Defendants, and each of them, wrongfully terminated
10 Plaintiff's employment in violation of various fundamental public policies of the United
11 States and the State of California. These fundamental public policies are embodied in, inter
12 alia, the following California and Federal statutes and codes: Sections 12940, et seq., 12945,
13 and 12945.2 of the California *Government Code*; California *Code of Regulations* tit. 2, §§
14 11043 and 11089; Section 1102.5 of the California *Labor Code*; Families First Coronavirus
15 Response Act; Article I, Sections 1, 2, and 8 of the California Constitution, and various other
16 California and federal statutes, regulations and codes, including, but not limited to, California
17 *Unemployment Insurance Code*.

18 148. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff
19 has been directly and legally caused to suffer actual damages including, but not limited to,
20 loss of earnings and future earning capacity, and other pecuniary loss not presently
21 ascertained.

22 149. As a further direct and legal result of the acts and conduct of Defendants, and
23 each of them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer
24 emotional and mental distress, anguish, humiliation, embarrassment, shock, discomfort,
25 anxiety, and related symptoms. Plaintiff does not know at this time the exact duration or
26 permanence of said injuries, but is informed and believes, and thereon alleges, that some, if
27 not all the injuries, are reasonably certain to be permanent in character.

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DEMAND FOR TRIAL BY JURY

Plaintiff, DOMINIQUE HARKNESS, hereby demands trial by jury as to all causes of
action.

DATED: September 28, 2021

IRMAS LAW APC

By: 
JARED M. IRMAS, ESQ.
Attorney for Plaintiff
DOMINIQUE HARKNESS

EXHIBIT A



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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

September 28, 2021

Jared Irmas
21031 Ventura Boulevard Suite 1000
Los Angeles, California 91364

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202109-14892128
Right to Sue: Harkness / REALOGY BROKERAGE GROUP, LLC et al.

Dear Jared Irmas:

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

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

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

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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

September 28, 2021

RE: **Notice of Filing of Discrimination Complaint**

DFEH Matter Number: 202109-14892128

Right to Sue: Harkness / REALOGY BROKERAGE GROUP, LLC et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be made within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

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

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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

September 28, 2021

Dominique Harkness

,

RE: Notice of Case Closure and Right to Sue

DFEH Matter Number: 202109-14892128

Right to Sue: Harkness / REALOGY BROKERAGE GROUP, LLC et al.

Dear Dominique Harkness:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective September 28, 2021 because an immediate Right to Sue notice was requested.

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

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be submitted to the DFEH within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email DRDOnlinerequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

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

Sincerely,



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

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

Department of Fair Employment and Housing

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

5 **In the Matter of the Complaint of**

6 Dominique Harkness

DFEH No. 202109-14892128

7 Complainant,

8 vs.

9 REALOGY BROKERAGE GROUP, LLC

10 ,

11 COLDWELL BANKER RESIDENTIAL BROKERAGE
12 COMPANY

13 ,

14 PAMELA TOPA UPCHURCH

15 ,

16 ASHLEY BURKE

17 ,

18 Respondents

19 **1.** Respondent **REALOGY BROKERAGE GROUP, LLC** is an **employer** subject to suit under
20 the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

21 **2.** Complainant is naming **COLDWELL BANKER RESIDENTIAL BROKERAGE COMPANY**
22 business as Co-Respondent(s).

23 Complainant is naming **PAMELA TOPA UPCHURCH** individual as Co-Respondent(s).

24 Complainant is naming **ASHLEY BURKE** individual as Co-Respondent(s).

25 **3.** Complainant **Dominique Harkness**, resides in the City of , State of .

26 **4.** Complainant alleges that on or about **March 29, 2021**, respondent took the
27 following adverse actions:
28

1 **Complainant was harassed** because of complainant's sex/gender, disability (physical or
2 mental), marital status, other, family care or medical leave (cfra), pregnancy, childbirth,
3 breast feeding, and/or related medical conditions.

3 **Complainant was discriminated against** because of complainant's sex/gender, disability
4 (physical or mental), marital status, other, pregnancy, childbirth, breast feeding, and/or
5 related medical conditions, family care or medical leave (cfra) and as a result of the
6 discrimination was terminated, laid off, forced to quit, denied hire or promotion, reprimanded,
7 suspended, demoted, asked impermissible non-job-related questions, denied any
8 employment benefit or privilege, denied reasonable accommodation for a disability, denied
9 accommodation for pregnancy, other, denied work opportunities or assignments, denied or
10 forced to transfer, denied family care or medical leave (cfra).

8 **Complainant experienced retaliation** because complainant reported or resisted any form
9 of discrimination or harassment, requested or used a pregnancy-disability-related
10 accommodation, requested or used a disability-related accommodation, requested or used
11 family care or medical leave (cfra) and as a result was terminated, laid off, forced to quit,
12 denied hire or promotion, reprimanded, suspended, demoted, asked impermissible non-job-
13 related questions, denied reasonable accommodation for a disability, denied
14 accommodation for pregnancy, other, denied work opportunities or assignments, denied or
15 forced to transfer, denied family care or medical leave (cfra).

13 **Additional Complaint Details:**

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1 VERIFICATION

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

5 On September 28, 2021, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

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Encino, CA