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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**
13 **STANLEY MOSK COURTHOUSE – CENTRAL DIVISION**

14 **SARAH AHARON, LOUIS BADIAL,**
15 **MICHAEL BRAVERMAN, JON**
16 **ENRIQUEZ, JARROD ROBERTS AND**
17 **TERRENCE WHITE,**

18 **PLAINTIFFS**

19 **VS.**

20 **NEWS CORPORATION, MOVE, INC.,**
21 **NATIONAL ASSOCIATION OF**
22 **REALTORS, LEO JAY, WILLIAM**
23 **SPERRY AND DOES 1-20**

24 **Defendants.**

25 **Case No. 22STCV08436**
26 **COMPLAINT FOR DAMAGES**

- 27 **1) Negligence (FEHA)**
- 28 **2) Negligence (Accounting)**
- 3) Breach of Contract**
- 4) Theft/Conversion**
- 5) Accounting**
- 6) Unfair Competition**
- 7) Tortious Interference**
- 8) Violation of Labor Code Section 221 et seq**
- 9) Fraud and Deceit**
- 10) Employment Discrimination (Age)**
- 11) Employment Discrimination (Gender)**
- 12) Employment Discrimination (Race)**
- 13) Employment Discrimination (Religion)**
- 14) Employment Discrimination (Disability)**
- 15) Failure to Engage in a Good Faith**
Interactive Process
- 16) Intentional Infliction of Emotional**
Distress
- 17) Whistleblower Retaliation**
- 18) Employment Discrimination (Retaliation)**
- 19) Unlawful Harassment under FEHA**
- 20) Wrongful and Tortious Discharge**

1 COME NOW, SARAH AHARON, LOUIS BADIAL, MICHAEL BRAVERMAN, JON
2 ENRIQUEZ, JARROD ROBERTS AND TERRENCE WHITE (each individual and all
3 collectively “Plaintiff”) alleging upon information and belief as follows:
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5 **PARTIES, JURISDICTION AND VENUE**

6 1. At all relevant times mentioned herein, the Plaintiffs consist of each person listed
7 below each of whom is a member of one (1) or more “protected classes” of persons under
8 California’s Fair Employment and Housing Act (“FEHA”) and the Federal Civil Rights Act:

9 (a) SARAH AHARON is a Jewish-American woman over the age of forty (40)
10 who was employed and supervised by the Defendants;

11 (b) LOUIS BADIAL is a man over the age of forty (40) who was employed and
12 supervised by the Defendants;

13 (c) MICHAEL BRAVERMAN is a man over the age of forty (40) who was
14 employed and supervised by the Defendants;

15 (d) JON ENRIQUEZ is a Hispanic man over the age of forty (40) who was
16 employed and supervised by the Defendants;

17 (e) JARROD ROBERTS is a man over the age of forty (40) who was employed
18 and supervised by the Defendants;

19 (f) TERRENCE WHITE is an African-American man over the age of forty (40)
20 who was employed and supervised by the Defendants;

21 2. At all relevant times mentioned herein, Defendants consist of:

22 (a) NEWS CORPORATION (“NewsCorp”) which is a corporation organized and
23 existing under the laws of the State of Delaware with a principal office in the County of Los
24 Angeles, State of California;

25 (b) MOVE, INC. which is a corporation organized and existing under the laws of
26 the State of Delaware with a principal office in the County of Los Angeles, State of California;

1 i) Move, Inc. and its subsidiaries Move Sales, Inc. (Doe Defendant #1),
2 Op City, Inc. (Doe Defendant #2), Move.com, Inc. (Doe Defendant #3)] are collectively referred
3 to herein as “Move”.

4 ii) Move operates jointly with co-Defendants NewsCorp and “NAR”
5 (below).

6 (c) NATIONAL ASSOCIATION OF REALTORS (“NAR”) is an American
7 Trade Association which acts in unity with co-Defendants Move and NewsCorp.

8 (d) Leo Jay (“Jay”) who is a former executive employee of Defendants NewsCorp
9 and Move who resides in the County of Los Angeles, State of California and a “supervisor”
10 under FEHA who was authorized as the person who had full authority to manage, oversee,
11 supervise, make decisions and bind each of the Defendants as it relates to the matters alleged
12 herein and was given supervisory authority by Employer over each Plaintiff;

13 (e) William Sperry also known as Bill Sperry (“Sperry”) who is a former
14 executive employee of Defendants NewsCorp and Move who resides in the County of Los
15 Angeles, State of California, who is a “supervisor” under FEHA and a “supervisor” under FEHA
16 who was authorized as the person who had full authority to manage, oversee, supervise, make
17 decisions and bind each of the Defendants as it relates to the matters alleged herein and was
18 given supervisory authority by Employer over each Plaintiff;

19 3. Defendants NewsCorp, Move and NAR are sometimes collectively referred to herein
20 as “Employer” in that through their joint actions, each employed each Plaintiff and was
21 responsible for the working conditions, workplace, hostile environment and the unlawful conduct
22 alleged by each Plaintiff herein. In this regard, each Employer is:

23 a) liable on the basis of *respondent superior* for the actions of its
24 employees who engaged in the alleged conduct herein during and within the scope of their
25 employment and

26 b) strictly liable for the alleged unlawful conduct of Jay and/or Sperry in that
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1 each was a “Supervisor” (as the term is defined by FEHA) and each of whom discriminated
2 against and harassed each Plaintiff as more fully alleged herein. Employer employed each of the
3 Supervisors. Each such Supervisor is an agent and officer of each Employer and at all relevant
4 times acted on behalf of each Employer in creating, condoning, ratifying discrimination,
5 harassment and retaliation against each Plaintiff and conducting the unlawful conduct as alleged
6 herein.

7 4. Venue lies in the Los Angeles County Superior Court in that Defendants operate their
8 businesses in the County of Los Angeles, State of California and takes advantages of resources,
9 laws and benefits offered to companies who operate, conduct business and employ persons in the
10 County of Los Angeles, State of California. Defendants’ culture of discrimination and its
11 systemic discrimination emanated from its offices in the County of Los Angeles, California.
12 Defendants committed many of their unlawful practices in the County of Los Angeles, State of
13 California and within this judicial district. Defendants maintained and continue to maintain
14 records relevant to such practices alleged herein in the County of Los Angeles, State of
15 California and within this judicial district. Defendants administered and continue to administer
16 records and practices relevant to the discriminatory practices alleged herein in the County of Los
17 Angeles, State of California. But for Defendants’ discriminatory practices each Plaintiff would
18 have had promotion opportunities and access to projects, information and other benefits which
19 were based in the County of Los Angeles, California office and within this judicial district.
20 Likewise, some of the executives who are in charge of Plaintiff’s work, duties, assignments and
21 the websites for which Plaintiff worked are located in this judicial district and maintain their
22 offices and files in those locations. As alleged hereinbelow, the discrimination suffered by
23 Plaintiff is systemic and arises out of the conduct (and lack thereof), corporate culture,
24 decisions, staffing, human resources approach and executive level decisions which are all made
25 in the County of Los Angeles.

1 5. Each Plaintiff filed a discrimination complaint against the Defendants with the
2 California Department of Fair Employment and Housing (“DFEH”). In connection with each
3 claim contained herein which is subject to the California Fair Employment and Housing Act
4 (“FEHA”) each Plaintiff received a notice signifying that Plaintiff has exhausted Plaintiff’s
5 administrative remedies under FEHA. In addition, by filing such claims and by notifying the
6 Defendants through their attorneys and internal processes (in addition to filing such
7 administrative complaints); Plaintiff has fully complied with any notice requirements under
8 California Law.

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10 **ALLEGATIONS RE: THEORIES OF EMPLOYER / STRICT LIABILITY**

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12 6. Employers are each an “employer” under California law (including the Fair
13 Employment and Housing Act) and each employs several hundred persons (and did so at all
14 relevant times hereunder). Employers (through individual defendants, Leo Jay, William Sperry
15 and others) maintained control and supervision of the workplace of each Plaintiff at all relevant
16 times and hired other persons (including the Supervisors) to manage the workplace. In this
17 regard, each Defendant exercised control over each Plaintiff’s wages, commissions, leads, sales,
18 opportunities, hours, working conditions, work environment, etc. In this regard, each Defendant
19 suffered, permitted and required each Plaintiff to work in the hostile, toxic, unfair, unreasonable
20 and unlawful environment described herein. Plaintiffs and Defendants documented and
21 confirmed an employment relationship between them on several occasions.

22 7. Each defendant both directly or indirectly, and through their respective agent(s) and
23 employees did exercise control of the wages, commissions, leads, sales, opportunities, hours,
24 working conditions, work environment, etc. of each Plaintiff.

1 8. In connection with the acts and omissions alleged herein and throughout, each and all
2 of the Defendants named herein, together with those unknown to Plaintiff (and to be named as
3 so-called "Doe Defendants"), entered into a partnership, employment, joint venture, and/or
4 principal-agent relationship to carry out all of the acts and omissions herein alleged. At all times
5 herein mentioned, each such Defendant has been and continues to be the employees, agents,
6 partners, employers, principals, and/or joint venturers of each of their Co-Defendants, and in
7 acting and omitting to act as alleged herein, acted and/or failed to dutifully act: (i) both on their
8 own behalf and on behalf of their employees, agents, partners, employers, principals, and/or joint
9 venturers; (ii) within the course and scope of and pursuant to their employment, agency, joint
10 venture and/or partnership; and (iii) with the authorization, direction, ratification, and adoption
11 of their employers, principals, joint venturers, partners, employees, and/or agents. Accordingly,
12 each of them are jointly and severally liable and vicariously liable for the conduct of each of the
13 others alleged herein. Plaintiff may seek leave of court to allege the exact nature of such
14 interrelationships when the same are fully ascertained.

15 9. Defendants, and each of them, engaged in a civil conspiracy to deprive each
16 Plaintiff of Plaintiff's rights and to cause Plaintiff injury, harm and damages. Each Defendant
17 aided and abetted the other in furtherance of the civil conspiracy with actual, inquiry and
18 constructive knowledge of the commission of each of the unlawful acts alleged herein. At the
19 center of the conspiracy is a central team of decision-makers, officers, managers, members and
20 senior executives of each whom acted in concert with each of the Defendants and each other in
21 furtherance of the unlawful activity alleged herein. Those Defendants who purport to have
22 limited liability due to their status as a partnership, corporation and/or limited liability company
23 have lost such protection and should have their so-called "corporate veil" pierced due to the fact
24 that they did not comply with the formal requirements necessary to maintain such veil of limited
25 liability and acted as individuals and with a unity of interest and ownership between the
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1 purported entity and its owner(s) such that it would be unfair if the acts in question are treated as
2 those of the purported entity alone.

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4 **ALLEGATIONS RE: SYSTEMIC DISCRIMINATION IN THE WORKPLACE**
5 **(REFERENCED HEREIN AS THE “SYSTEMIC DISCRIMINATION”)**

6 10. During all relevant times referenced herein and for purposes of each cause of action
7 alleged herein, each Employer is and was:

8 a) An “employer” pursuant to FEHA regularly employing five (5) or more
9 persons (including Plaintiff), bringing them within the provisions of Section 12900 et seq. of the
10 Government Code prohibiting employers and/or their agents from harassing and discriminating
11 against employees on the basis of race, gender, disability, etc.;

12 b) Subject to California Government Code Section 12940 and the balance of
13 FEHA which, among other things, provides:

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15 *It is an unlawful employment practice, unless based upon a*
16 *bona fide occupational qualification, or, except where based*
17 *upon applicable security regulations established by the United*
18 *States or the State of California:*

19 *(a) For an employer, because of the race, religious creed,*
20 *color, national origin, ancestry, physical disability, mental*
21 *disability, medical condition, genetic information, marital*
22 *status, sex, gender, gender identity, gender expression, age,*
23 *sexual orientation, or military and veteran status of any person,*
24 *to refuse to hire or employ the person or to refuse to select the*
25 *person for a training program leading to employment, or to bar*
26 *or to discharge the person from employment or from a training*
27 *program leading to employment, or to discriminate against the*
28 *person in compensation or in terms, conditions, or privileges of*
employment.

...

(h) For any employer, labor organization, employment
agency, or person to discharge, expel, or otherwise
discriminate against any person because the person has

1 *opposed any practices forbidden under this part or because the*
2 *person has filed a complaint, testified, or assisted in any*
3 *proceeding under this part.*

4 *(i) For any person to aid, abet, incite, compel, or coerce*
5 *the doing of any of the acts forbidden under this part, or to*
6 *attempt to do so.*

7 *(j) (1) For an employer... or any other person, because of*
8 *race, ... age, [etc.] to harass an employee... or a person*
9 *providing services pursuant to a contract. Harassment of an*
10 *employee ..., or a person providing services pursuant to a*
11 *contract by an employee, other than an agent or supervisor,*
12 *shall be unlawful if the entity, or its agents or supervisors,*
13 *knows or should have known of this conduct and fails to take*
14 *immediate and appropriate corrective action. ... An entity shall*
15 *take all reasonable steps to prevent harassment from occurring*

16 *(k) For an employer... to fail to take all reasonable steps*
17 *necessary to prevent discrimination and harassment from*
18 *occurring.*

19 c) Required under FEHA to provide training which discusses the steps necessary
20 to remedy harassing behavior (including investigation of complaints), Supervisors' obligations to
21 report harassment, discrimination and retaliation of which they become aware and the negative
22 effects of "abusive conduct" on victim and employer by reducing productivity and morale. In
23 addition, Defendants are required to comply with documentation and record- keeping
24 requirements (including maintaining sign-in sheets, certificates of attendance or completion, and
25 a copy of training materials).

26 d) Strictly liable to Plaintiff pursuant to California Gov't Code §12940(j)(1) for
27 the conduct of those persons who were "supervisors" under FEHA (the "Supervisors"). The
28 Supervisors are subject to California Government Code Section 12940(i) and prohibited thereby
from aiding, abetting, inciting, compelling and/or coercing the doing of any of the acts forbidden
under FEHA and/or attempting to do so. They are also each subject to the California
Government Code Section 12940(j)(1) and can be held personally liable for "harassing"

1 employees (including each Plaintiff) due to each Plaintiff's protected status, as applicable,
2 pursuant to California Government Code Section 12940(j)(3). The following Defendants were
3 "Supervisors" employed by the Employers who had full authority to manage, oversee, supervise,
4 make decisions and bind each Employer as it relates to the matters alleged herein and, in that
5 capacity, was given supervisory authority by each Employer over each Plaintiff:

6 (A) Leo Jay

7 (B) William "Bill" Sperry

8 11. Defendants (and each of them) have a long history of operating their businesses and
9 workplace in a discriminatory and harassing manner as it relates to individuals protected by
10 FEHA [more specifically, California Government Code Sections 12940(a) and 12940(h)-(k)] and
11 similar laws. Such practices include harassment, disparate treatment, hostility, unfairness and
12 other methods of discriminatory treatment of their employees who are protected by FEHA.
13 Moreover, the Defendants (and each of them) knowingly and intentionally maintained a hostile
14 work environment for Plaintiffs and protected classes of employees, as alleged herein. This
15 history, intent and refusal to address such issues has produced a culture of racism, sexism,
16 discrimination, harassment and retaliation which is so pervasive that it materially and adversely
17 affected the entire workplace where the Plaintiffs were employed and supervised by the
18 Supervisors. Each Plaintiff suffered directly from such conduct based upon each Plaintiff's
19 protected status alleged herein.

20 12. During the employment of each Plaintiff and continuing thereafter, each Defendant
21 also failed and refused to properly train, screen, conduct background checks, supervise,
22 reprimand, direct and instruct the Supervisors, senior management and other employees
23 personnel in a manner at or above the standard of care and in accordance with Defendants' stated
24 policies and the laws of the State of California as all of same relate to maintaining and promoting
25 a work environment which is free of discrimination and harassment based upon gender,
26 pregnancy, race, ethnicity, marital status, age and other protected classes. Defendants failed and
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1 refused to properly address complaints of discrimination and/or to undertake any effective
2 measures to address, minimize and/or eliminate discriminatory practices in the workplace.
3 Moreover, Defendants had actual, constructive and inquiry knowledge that the workplace was
4 discriminatory and that a hostile environment for these protected classes of persons existed.
5 Notwithstanding such knowledge, Defendants (and their managing agents, officers, directors,
6 senior executives, etc.) took no action; and, in fact, participated in, supported and condoned such
7 discrimination.

8 13. During Plaintiff's entire employment; Defendants along with the Supervisors created,
9 encouraged, condoned, permitted, allowed and refused to take any reasonable steps to correct the
10 hostile and discriminatory work environment. African-American, women and disabled
11 employees, including Plaintiff, (sometimes referred to as the "Protected Employees") were
12 treated in an inequitable, unfair, discriminatory and disparate manner due to their protected
13 status; while other, non-protected classes of employees were not subjected to such conduct.
14 These Protected Employees, including Plaintiff, were subject to considerably less favorable
15 working conditions and severe and blatant disparate treatment from their non-protected
16 counterparts. The workplace was permeated by disparate treatment and harassment of these
17 Protected Employees and more favorable treatment of employees who are not members of any
18 protected class.

19 14. During each Plaintiff's entire employment; Defendants along with the Supervisors
20 created, encouraged, condoned, permitted, allowed and refused to take any reasonable steps to
21 correct the hostile and discriminatory work environment. African American employees, female
22 employees, employees over the age of forty (40) and employees who had or developed
23 disabilities (collectively the "Protected Employees") were treated in an inequitable, unfair,
24 discriminatory and disparate manner due to their protected status; while other, non-protected
25 classes of employees were not subjected to such conduct. These Protected Employees, including
26 each Plaintiff, were subject to considerably less favorable working conditions and severe and
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1 blatant disparate treatment from their non-protected counterparts. The workplace was permeated
2 by disparate treatment and harassment of these Protected Employees and more favorable
3 treatment of employees who are not members of any protected class. In this regard, Defendants
4 engaged in the following conduct (the “Hostile Conduct”) directed toward against Plaintiff and
5 other Protected Employees because of their race, gender, age and/or disability:

6 a) Protected Employees (including, without limitation each Plaintiff) were
7 provided with lesser resources, lesser support and lesser quality assignments than their non-
8 protected counterparts;

9 b) Protected Employees (including, without limitation each Plaintiff) were not
10 given credit for their accomplishments and achievements as freely as their non-protected
11 counterparts);

12 c) Protected Employees (including, without limitation each Plaintiff) were
13 compensated less favorably than their non-protected counterparts and received lesser job benefits
14 and “perks” than those non-protected counterparts;

15 d) Protected Employees (including, without limitation each Plaintiff) were more
16 harshly criticized, disciplined and received inaccurate and unfair performance reviews as
17 compared to their non-protected counterparts;

18 e) Protected Employees (including, without limitation each Plaintiff) were not
19 promoted as frequently as their non-protected counterparts who typically had the same and/or
20 lesser experience, background and performance;

21 f) Protected Employees (including, without limitation each Plaintiff) were
22 overlooked and their professional opinions ignored and flippantly dismissed as opposed to those
23 of their non-protected counterparts;

24 g) Protected Employees (including, without limitation each Plaintiff) were
25 generally treated in a discriminatory, unfair and inferior manner which severely disrupted the
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1 workplace and severely interfered with the ability of Plaintiff and other Protected Employees to
2 perform their job duties;

3 h) Protected Employees (including, without limitation each Plaintiff) were
4 unfairly and disparately denied access to meetings, information, sales leads, resources, pricing
5 incentives, correct information and other assistance that was available to their non-protected
6 counterparts;

7 i) Defendants obviated and refused to follow their practices and policies to the
8 detriment of Protected Employees (including, without limitation each Plaintiff);

9 15. Each Plaintiff further alleges that:

10 a) Each Plaintiff was (and other protected employees were) subject to the
11 foregoing Hostile Conduct and Systemic Discrimination along with numerous other instances of
12 discrimination, harassment, retaliation and other unlawful conduct prohibited by FEHA
13 (collectively the “Unlawful Discrimination”) by Defendants, the Supervisors and each of them as
14 a result of each Plaintiff’s protected status (more fully set forth in the individual causes of action
15 related thereto);

16 b) Each of the Defendants did intentionally and recklessly create, maintain,
17 condone and knowingly permit a hostile and toxic work environment to exist for protected
18 employees, as alleged herein, in violation of FEHA, other laws and in a manner contrary to the
19 public policy of the State of California. In this environment, each Plaintiff and other similarly-
20 situated, protected employees were treated in a disparate, unfair and hostile manner as more fully
21 described hereinbelow. Such employees were also harassed and retaliated against for making
22 lawful, legitimate complaints of such conduct and/or seeking protections offered to them
23 pursuant to FEHA and California law.

24 c) Each Employer’s managers and supervisors (including the “Supervisors”)
25 directly engaged in unlawful harassment under FEHA and is individually and personally liable to
26 each Plaintiff therefor pursuant to Government Code Section 12940(j)(3) and otherwise pursuant
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1 to FEHA. Each such Supervisor also separately caused each Employer to be vicariously and/or
2 strictly liable for the other discriminatory and retaliatory conduct alleged herein.

3 d) Each Supervisor not only engaged in the harassing, discriminatory and
4 retaliatory conduct described herein; but was also personally aware of the foregoing (and the
5 conduct described herein) taking place. Each such Supervisor had a duty under FEHA and
6 pursuant to the Corporate Defendant's stated policies on discrimination to stop (and take
7 reasonable measures to stop), yet failed to stop (and/or take reasonable steps to stop), the
8 harassing, discriminatory and retaliatory conduct described herein. In fact, as part of the
9 discriminatory, harassing and retaliatory culture of the Defendants, each such Supervisor was not
10 only encouraged and required to do so by Defendants; but they each aided and abetted each of
11 the Defendants in continuing such unlawful harassment, discrimination and retaliation.

12 f) Each Supervisor created, maintained, condoned and knowingly permitted
13 retaliation to occur against each Plaintiff (and others) for complaining about the discrimination
14 harassment and retaliation in the workplace. In this regard, each Plaintiff (and others) were
15 treated more harshly *after* such legitimate complaints were made and rather than properly
16 investigate the complaints and take reasonable measures to eliminate discrimination, harassment
17 and retaliation in the workplace, Defendants took even more aggressive actions designed to force
18 each Plaintiff (and others) to voluntarily resign (i.e., constructive termination) or otherwise
19 cease, drop and/or refrain from making legitimate complaints of discrimination, harassment and
20 retaliation against Defendants.

21 g) Furthermore, those complaining employees (including each Plaintiff) were
22 falsely and summarily informed by Defendants that their complaints had no merit. Defendants
23 (through their designated Human Resources representatives) implied and stated that each
24 Plaintiff (along with other complaining employees) should not proceed with their respective
25 complaints and that doing so would adversely impact their employment and compensation.
26 Such discouragements and threats were made without any reasonable investigation into such

1 claims. More specifically, when each Plaintiff complained about the conduct alleged herein;
2 they were threatened, unfairly criticized, falsely accused of poor performance and other conduct
3 designed to have a chilling effect on the complaint process. Again, each Plaintiff further alleges
4 that the Defendants have further ratified and condoned the retaliatory treatment alleged herein by
5 failing and refusing to take reasonable steps to minimize retaliation for complainants of unlawful
6 discrimination (including each Plaintiff) in the workplace, violating the prohibition of retaliation
7 by FEHA and the Corporate Defendant's stated policies against discrimination and retaliation.

8 h) Each Supervisor also instructed other employees of the Corporate Defendant to
9 further harass, intimidate, mistreat, retaliate against and disrupt Plaintiff's work environment in
10 an effort to discourage and institute fear, worry and emotional distress for Plaintiff due to their
11 complaining about the discrimination alleged herein. Such conduct and harassment was
12 specifically designed to force Plaintiff to abandon their complaints and to quit their jobs. Each
13 Defendant was aware of such conduct and took no efforts to avoid it. In fact, each Defendant
14 approved, condoned, consented to and supported the conduct and engaged in a consistent and
15 ever-escalating pattern of retaliation (including intensifying the Retaliatory Conduct alleged
16 herein) against each Plaintiff.

17 i) Each Plaintiff asserts and alleges that the discriminatory conduct alleged herein
18 is systemic and applied by Defendants on a regular and ongoing basis as it relates to the
19 protected groups referenced herein. Specifically, that the Defendants systemically discriminate
20 each Plaintiff and other protected employees and then retaliated against those employees who
21 resist, disclose and/or complain regarding such treatment. This conduct is particularly prevalent
22 and the Supervisors engage(d) in such conduct as a matter of course and policy as it relates to all
23 such employees.

24 j) Employers' senior executives and management (including officers, directors
25 and managing agents) ratified and condoned the unfair and discriminatory treatment alleged
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1 herein by imposing, promulgating, endorsing and intentionally turning a blind-eye toward such
2 conduct and a culture of discrimination which runs rampant throughout Employers' workplace.

3 k) Defendants and the Supervisors (as defined herein) have consistently and
4 intentionally failed and refused to encourage, take reasonable steps toward and/or require other
5 managers and supervisors to comply with the applicable provisions of FEHA. Similarly, such
6 conduct violates other laws, the public policy of the State of California and the Employers'
7 feigned, written policies against unlawful discrimination, harassment and retaliation in the
8 workplace.

9 16. The Unlawful Discrimination occurred on a daily basis in the work environment in
10 such a regular, ongoing, open and notorious manner so as to create a culture of hostility, unfair
11 treatment, devaluing, disdain and contempt toward each Plaintiff and other protected employees.
12 The totality of the foregoing circumstances creating an environment which was objectively and
13 subjectively offensive to any reasonable Protected employee and/or to any reasonable person
14 who was not prejudiced against Protected Employees. As a result of the conduct described above
15 (and below) the workplace was permeated with discriminatory intimidation, ridicule, and insult,
16 that was sufficiently severe and pervasive so as to alter the conditions of each Plaintiff's
17 employment and create an abusive working environment. In this regard, each Plaintiff was
18 forced to continue working under such conditions and to adjust their schedule, walking path,
19 duties and efforts to avoid racist and discriminatory interactions with the identified managers and
20 Supervisors who perpetrated such conduct. Each Plaintiff had to work longer hours (for which
21 they were not paid), expend more energy and effort (physical and emotional) and work with less
22 support (resources, interaction with supervisors and management), etc. to attempt to minimize
23 the pervasiveness of the hostile and discriminatory environment.

24 17. At all times mentioned in this Complaint, each Employer employed persons
25 (including the Supervisors and Human Resources officers) whom were given supervisory and
26 other authority over each Plaintiff in connection with each Plaintiff's internal complaints against
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1 the Defendants. These persons were designated by their employer and acted as the voice of the
2 Defendants (and their senior executives, officers, directors and managing partners) in addressing
3 those complaints and ultimately disrupting, terminating, disposing of and causing the imposition
4 of retaliatory punishment toward each Plaintiff for making such complaints. Defendants (and
5 each of them) knew about the complaints of discrimination and harassment by each Plaintiff and
6 authorized/instructed the Supervisors and Human Resources officers to take the alleged actions
7 designed to thwart the reporting of unlawful conduct and/or discourage each complainant
8 (including each Plaintiff) from pursuing such claims and complaints. Defendants and their
9 officers and directors expressly and impliedly directed the Supervisors to comply with
10 Employer's culture of discrimination and retaliation and refrain from taking corrective action to
11 take the allegations seriously, investigate the allegations, use reasonable steps to minimize the
12 risk of discrimination, harassment and retaliation, etc. as required by FEHA. Instead, the
13 Defendants engaged in, instructed the Supervisors and managers to engage in and implement a
14 retaliatory strategy which was designed to dissuade Plaintiff from pursuing their claims. In fact,
15 Defendants each disrupted and terminated the complaint process for Plaintiff in furtherance of
16 the Defendants' joint objectives to avoid responsibility and liability for correcting the hostile,
17 discriminatory, retaliatory and harassing environment described herein and to discourage
18 employees (including each of the Plaintiff) from making such complaints.

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20 **CAUSES OF ACTION BY PLAINTIFFS**

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22 **I. FIRST CAUSE OF ACTION BY EACH PLAINTIFF**
23 **AGAINST EACH DEFENDANT**
24 **FOR NEGLIGENCE (RE: FEHA)**
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1 18. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-17
2 above as if they were fully set forth here.

3 19. At all times, Defendants and each of them had a legal and statutory duty under FEHA
4 to take all reasonable steps to minimize the likelihood of the Unlawful Discrimination in the
5 workplace. Each Defendant was aware of the foregoing duty and represented to each Plaintiff
6 that each Defendant would comply with the terms of FEHA and undertake all reasonable
7 measures to minimize the likelihood of the Unlawful Discrimination in the workplace.

8 20. Each Defendant breached the foregoing duties by:

9 a) Failing and refusing to take reasonable steps to minimize the likelihood of the
10 Unlawful Discrimination in the workplace;

11 b) Failing and refusing to implement policies feigned by the Employers which
12 were written as if to attempt to minimize the likelihood of the Unlawful Discrimination in the
13 workplace;

14 c) Hiring, training, screening and supervising employees who were charged with
15 taking reasonable measures to minimize the likelihood of the Unlawful Discrimination in the
16 workplace;

17 d) Implementing, engaging in, condoning and ratifying the Unlawful
18 Discrimination despite the unlawfulness thereof;

19 e) Failing and refusing to properly investigate, respond to and/or document
20 complaints by Plaintiffs and others of the Unlawful Discrimination;

21 f) Taking affirmative steps to discourage, deter, threaten and eliminate employees
22 who made complaints (or who were likely to make such complaints) from complaining about the
23 Unlawful Discrimination;

24 g) Ignoring the adverse impact of the Unlawful Discrimination on the workplace
25 and allowing the workplace to become so permeated with discriminatory conduct (including the
26 Unlawful Discrimination) that the workplace was unsafe, dangerous and toxic and

1 h) After complaints, threatened litigation, lawsuits and knowledge (inquiry and
2 actual) of the Unlawful Discrimination and other unlawful conduct alleged herein as well as the
3 horrific adverse impact thereof (which created a toxic work environment), failing and refusing to
4 take remedial measures design to lessen or eliminate the Unlawful Discrimination.

5 21. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
6 discriminatory acts, the Unlawful Discrimination and the other conduct alleged in this cause of
7 action, each Plaintiff suffered a number of adverse employment actions; including, without
8 limitation, loss of pay, demotions, loss of opportunities for advancement and promotion, loss of
9 opportunities for other assignments, disciplinary action, etc. Each Plaintiff has suffered and
10 continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and has
11 suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe mental
12 and emotional distress, damage to Plaintiff's reputation, discomfort and other damages, the
13 precise amount of which will be proven at trial. In each instance, Defendants failed and refused
14 to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place by
15 Defendants to purportedly address allegations of discrimination, harassment and retaliation and
16 (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
17 theoretically would have prevented some of the harassment, discrimination, retaliation and
18 (potentially) minimized Plaintiff's damages. Instead, Defendants engaged in retaliatory conduct
19 alleged herein and disrupted and terminated the policies and processes stated by Defendants
20 which may have otherwise minimized same.

21 22. Defendants, their senior executives, managing agents, managers, directors and
22 officers committed the acts described in this cause of action intentionally, wilfully, oppressively,
23 fraudulently and maliciously for the purpose of injuring each Plaintiff and depriving each
24 Plaintiff of that Plaintiff's rights. The Unlawful Discrimination and other acts of discrimination
25 and disparate treatment by the Defendants was extremely reckless and capricious and subjected
26 each Plaintiff to cruel and unjust hardships. The recklessness was despicable and done in

1 conscious disregard of each Plaintiff's fundamental rights. Furthermore, such conduct on the part
2 of Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
3 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
4 those persons intended to cause injury to each Plaintiff and engaged in conduct with a willful and
5 conscious disregard of that Plaintiff's fundamental rights. Defendants and these persons used
6 their superior power and authority over the Plaintiff along with threats and intimidation to
7 subject each Plaintiff to cruel and unjust hardships in conscious disregard of Plaintiff's rights.
8 All of the foregoing conduct was undertaken by the Defendants and their owners, managing
9 agents, senior executives, supervisors, directors and officers. Accordingly, each Plaintiff also
10 seeks any allowable and/or appropriate punitive or exemplary damages which may be or become
11 available against Defendants in an amount appropriate to punish and make an example of them
12 in addition to the other damages sought herein, subject to applicable law.

13
14 **II. SECOND CAUSE OF ACTION**

15 **BY EACH PLAINTIFF AGAINST THE EMPLOYERS (ONLY) FOR**
16 **NEGLIGENCE (ACCOUNTING AND FINANCE)**

17 23. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-22
18 above as if they were fully set forth here.

19 24. Each Plaintiff was assigned to generate sales of the Employers' products and services
20 to real estate agents and real estate brokers in the State of California. In connection with
21 successful sales, each Plaintiff was entitled to a sales commission based upon the value of the
22 sale.

23 25. The foregoing compensation structure created a series of duties on the Employers to:
24 a) Create and maintain an accounting system which accurately tracks, monitors,
25 confirms and calculates proper compensation and commissions to each Plaintiff based upon the
26 sales of such Plaintiff;

1 b) Accurately assign completed sales (and the commissions generated thereby) to
2 the proper salesperson (including each Plaintiff);

3 c) Refrain from engaging in the Unlawful Discrimination in determining and
4 calculating sales commissions paid to each Plaintiff;

5 d) Correct errors made in determining and calculating sales commissions paid to
6 each Plaintiff; and

7 e) Properly applying applicable commissions to the applicable sales and properly
8 paying each Plaintiff in connection therewith.

9 26. Each Employer breached each of the foregoing duties by:

10 a) Failing and refusing to properly implement an accounting system (and/or other
11 measures) which accurately tracks, computes and causes the payment of earned, sales
12 commissions by each Plaintiff;

13 b) Duplicating sales' leads so that multiple salespersons were pursuing the same
14 leads;

15 c) Failing and refusing to investigate claims by each Plaintiff that proper
16 commissions were not paid to each such Plaintiff;

17 d) Failing and refusing to monitor, audit and/or reconcile Employers' internal
18 financial systems to ensure that commissions were properly computed and paid; and

19 e) Failing and refusing to calculate and pay proper sales commissions to each
20 Plaintiff.

21 27. As a direct, foreseeable, legal, actual and proximate result of the Employers' conduct
22 alleged in this cause of action, each Plaintiff suffered a number of adverse employment actions;
23 including, without limitation, loss of pay, demotions, loss of opportunities for advancement and
24 promotion, loss of opportunities for other assignments, disciplinary action, etc. Each Plaintiff has
25 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
26 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,

1 embarrassment, severe mental and emotional distress, damage to Plaintiff's reputation,
2 discomfort and other damages, the precise amount of which will be proven at trial.

3 28. Defendants, their senior executives, managing agents, managers, directors and
4 officers knew about the foregoing conducted and that the impact was causing financial harm to
5 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
6 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
7 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
8 conduct to continue and refrain from remedying same. These decisions were despicable and done
9 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
10 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
11 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
12 these persons used their superior power and authority over the Plaintiff along with threats and
13 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
14 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
15 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
16 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
17 may be or become available against Defendants in an amount appropriate to punish and make an
18 example of them in addition to the other damages sought herein, subject to applicable law.

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20 **III. THIRD CAUSE OF ACTION**

21 **BY EACH PLAINTIFF AGAINST EACH OF THE EMPLOYERS**

22 **FOR BREACH OF CONTRACT (WRITTEN AND ORAL)**

23 29. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-28
24 above as if they were fully set forth here.

25 30. Plaintiffs and the Employers entered into a series of written and verbal agreements
26 regarding terms of employment and the commissions to be paid to each Plaintiff. Plaintiffs are in
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1 the process of locating the written agreements and will amend this complaint with Exhibits
2 containing same upon receipt. The Defendants remain in possession of each such agreement and
3 copies of same will be requested in discovery.

4 31. The written agreements were modified and affirmed at various times by the verbal
5 and written communications of the parties. Those written communications are in the possession
6 of the Defendants and will also be requested in discovery.

7 32. Each of the foregoing agreements (the "Extrinsic Agreements") provided, in part,
8 that each Plaintiff would receive commissions and overrides for sales which were consummated
9 based upon such Plaintiff's sales activities as well as override commissions on sales of other
10 employees. The amount of the commission was to be based upon the revenue generated by the
11 applicable sale(s).

12 33. Every contract imposes upon each party a duty of good faith and fair dealing in its
13 performance and its enforcement which emphasizes faithfulness to an agreed common purpose
14 and consistency with the reasonably justified expectations of the other party. *Major v. Western*
15 *Home Ins. Co.* (2009) 169 Cal.App.4th 1197.) The implied covenant of good faith and fair
16 dealing was contained in each of the Extrinsic Agreements and required that neither party would
17 do anything which will injure the right of the other to receive the benefits of the agreement.

18 34. The Employers repeatedly breach the Extrinsic Agreements and the implied covenant
19 of good faith and fair dealing therein by failing and refusing to attribute sales (and overrides)
20 correctly to each Plaintiff (in furtherance of the Unlawful Discrimination and otherwise) and
21 failed and refused to pay the full amount of commissions due to each Plaintiff. The Employers
22 sought to change the terms of the Extrinsic Agreement(s) after the applicable sales-cycle had
23 commence and even after the applicable sale(s) had been completed in an effort to unlawfully
24 reduce each Plaintiff's earnings. Furthermore, the Employers would unlawfully and improperly
25 reduce commissions arbitrarily and make unlawful deductions from each Plaintiff's future
26 earnings as "charge-backs" for completed sales.

1 distributed in a manner which conferred no benefit on the applicable Plaintiff who was entitled to
2 the monies. Such conduct was without justification and/or permission by the applicable Plaintiff.

3 40. As a direct, foreseeable, legal, actual and proximate result of the Employers' conduct
4 alleged in this cause of action, each Plaintiff suffered a number of adverse employment actions;
5 including, without limitation, loss of pay, demotions, loss of opportunities for advancement and
6 promotion, loss of opportunities for other assignments, disciplinary action, etc. Each Plaintiff has
7 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
8 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
9 embarrassment, severe mental and emotional distress, damage to Plaintiff's reputation,
10 discomfort and other damages, the precise amount of which will be proven at trial.

11 41. Defendants, their senior executives, managing agents, managers, directors and
12 officers knew about the foregoing conduct and that the impact was causing financial harm to
13 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
14 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
15 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
16 conduct to continue and refrain from remedying same. These decisions were despicable and done
17 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
18 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
19 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
20 these persons used their superior power and authority over the Plaintiff along with threats and
21 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
22 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
23 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
24 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
25 may be or become available against Defendants in an amount appropriate to punish and make an
26 example of them in addition to the other damages sought herein, subject to applicable law.

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V. FIFTH CAUSE OF ACTION
BY EACH PLAINTIFF AGAINST EACH DEFENDANT
FOR AN ACCOUNTING (IN CONNECTION WITH THE THIRD AND FOURTH
CAUSES OF ACTION)

42. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-41 above as if they were fully set forth here.

43. The conduct alleged in the Third Cause of Action and the Fourth Cause of Action caused financial damages to each Plaintiff which are capable of being mathematically computed based upon the applicable Extrinsic Agreement(s) and the sales records and financial records of each of the Defendants. Such documents are within the sole possession and control of the Defendants. Each Plaintiffs' requests for the documents necessary to properly compute and verify the commissions were rejected by Defendants.

44. A fiduciary relationship existed between each Plaintiff and each Defendant which created an obligation by each Defendant to properly account to and pay each Plaintiff the proper commission(s) on the proper sale(s). Plaintiff was forced to rely upon Defendants (and Defendants assured each Plaintiff that such reliance was justified and could be trusted) to properly document each sale and apply the correct commission structure to such sale.

45. The accounts maintained by the Defendants (and each of them) in connection with the applicable sales and sales commissions are complicated, complex and were intentionally created and maintained by the Defendants in a confusing and unintelligible manner. Furthermore, as alleged hereinbelow, the Defendants and each of them manipulated, diverted, misappropriated, transferred, concealed and converted monies which were payable to each Plaintiff.

FOR UNFAIR COMPETITION

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3 50. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-49
4 above as if they were fully set forth here.

5 51. California's Business and Professions Code, Section 17200 et seq. prohibits illegal
6 business practices and other conduct. The law describes "unfair competition" as any unlawful,
7 unfair, or fraudulent business act or practice, or false, deceptive, or misleading advertising.
8 Section 17200 includes five definitions of unfair competition: (1) an unlawful business act or
9 practice; (2) an unfair business act or practice; (3) a fraudulent business act or practice; (4)
10 unfair, deceptive, untrue, or misleading advertising; or (5) any act prohibited by Sections 17500-
11 17577.5. Section 17203 allows the court to order injunctions and other equitable defenses to
12 prevent the unfair competition.

13 52. Defendants and each of them engaged in conduct violative of the provisions of
14 Business and Profession Code, Section 17200 et seq. by engaging in the following unlawful
15 conduct (the "Unfair Competition"):

16 a) Failure to properly determine, calculate, apply and pay commissions to each
17 Plaintiff as alleged in the Third and Fourth Causes of Action;

18 b) Denying each Plaintiff access to sales' leads in furtherance of the Unlawful
19 Discrimination (hereinabove and hereinbelow) and the Retaliatory Conduct (defined
20 hereinbelow);

21 c) Unfairly withholding and/or re-allocating leads, renewal opportunities, sales.,
22 sales information and other tools which each Plaintiff relied upon in connection with sales and
23 earning sales' commissions in a discriminatory, retaliatory and punitive manner;

24 d) Designating products and services as being "exclusive" which were, in fact, not
25 exclusive;

1 e) Changing sales' commissions rates, structures, rules and policies on a monthly
2 or bi-monthly basis and in a manner which intentionally disrupted the sales' cycle and changed
3 commissions on sales already underway;

4 f) The conduct alleged in the Third Cause of Action;

5 g) The conduct alleged in the Fourth Cause of Action;

6 h) Violations of Labor Code Section 221 et seq as set forth in the Seventh Cause
7 of Action hereinbelow¹;

8 i) Providing each Plaintiff (and others) with false and fraudulent information
9 about Employers' products and services with the intent that each Plaintiff would repeat such
10 fraudulent information to clients and induce sales thereupon; only to have each Plaintiff's
11 earnings reduced or charged-back when realtors and brokers discovered the false and fraudulent
12 information;

13 j) Other similar conduct specifically designed to unlawfully and fraudulently
14 reduce each Plaintiff's earnings and commissions.

15 53. Each Plaintiff suffered financial losses directly due to each unfair business practice
16 stated hereinabove and is entitled to restitution of such losses and other statutory damages.

17 54. The schemes of the Employers in engaging in the foregoing business practices was
18 complex and continues to be unfolded by each Plaintiff. Such schemes were designed to defraud
19 customers and fraudulently induce sales. When such schemes were discovered by realtors and
20 brokers, the Employers blamed, punished and took earnings and opportunities (past, present and
21 future) away from each Plaintiff.

22 55. As a direct, foreseeable, legal, actual and proximate result of the Employers' conduct
23 alleged in this cause of action, each Plaintiff suffered a number of adverse employment actions;
24 including, without limitation, loss of pay, demotions, loss of opportunities for advancement and

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26 ¹ An employer's policy or practice that violates the Labor Code may also be held an "unlawful business practice"
27 under Business and Professions Code section 17200 et seq. (see *Hudgins v. Neiman Marcus Group, Inc.* (1995) 34
28 Cal.App.4th 1109 [41 Cal. Rptr. 2d 46] (Hudgins).

1 promotion, loss of opportunities for other assignments, disciplinary action, etc. Each Plaintiff has
2 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
3 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
4 embarrassment, severe mental and emotional distress, damage to Plaintiff's reputation,
5 discomfort and other damages, the precise amount of which will be proven at trial.

6 56. Defendants, their senior executives, managing agents, managers, directors and
7 officers knew about the foregoing conduct and that the impact was causing financial harm to
8 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
9 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
10 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
11 conduct to continue and refrain from remedying same. These decisions were despicable and done
12 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
13 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
14 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
15 these persons used their superior power and authority over the Plaintiff along with threats and
16 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
17 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
18 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
19 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
20 may be or become available against Defendants in an amount appropriate to punish and make an
21 example of them in addition to the other damages sought herein, subject to applicable law.

22
23 **VII. SEVENTH CAUSE OF ACTION**
24 **BY EACH PLAINTIFF AGAINST EACH DEFENDANT**
25 **FOR TORTIOUS INTEREFERENCE WITH PROSPECTIVE ECONOMIC**
26 **ADVANTAGE**

1
2 57. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-56
3 above as if they were fully set forth here.

4 58. Each Plaintiff entered into a business relationship (based upon incoming leads
5 provided by each Defendant) with hundreds of real estate professionals (agents, brokers, etc.).
6 The purpose of each such relationship was to foster the sale of Employer's products and services.
7 Based upon success of these sales, each Plaintiff would earn a sales' commission (and/or an
8 override on the sales' commissions of others).

9 59. Each Defendant was aware of each and every relationship between each Plaintiff and
10 the customers/clients of each Plaintiff upon which each Plaintiff's sales' commissions relied.
11 Defendants unlawfully and wrongfully interfered in the relationship between each Plaintiff and
12 numerous clients on commission-generating opportunities and deals by engaging in the Unfair
13 Competition and otherwise disrupting the sales process. Defendants' motives in doing so was not
14 to thwart the sale; but to divert the sales/commissions away from each Plaintiff and distribute
15 same among the Defendants.

16 60. Each Defendant engaged in the Unfair Competition and other unlawful conduct
17 alleged herein for the specific purpose of depriving each Plaintiff of prospective earnings and
18 career advancements while benefitting from each Plaintiff's sales success and goodwill. Such
19 conduct was independently unlawful in each instance. In each instance, Defendants (and each of
20 them) knew that disruption of the relationship was certain or substantially certain to occur and
21 would not only cause each Plaintiff to lose sales' commissions and overrides; but would then
22 allow the Defendants to redistribute such lost amounts among themselves.

23 61. Defendants were successful in disrupting such relationships as Defendants' conduct
24 was a substantial factor in causing such losses. Such conduct by each of the Defendants was
25 wrongful, unlawful and intentional as alleged hereinabove beyond the interference itself. The
26 conduct of the Defendants was not privileged or incidental to any lawful motive.

BY EACH PLAINTIFF AGAINST EACH DEFENDANT
FOR VIOLATIONS OF LABOR CODE SECTION 221 ET SEQ.

64. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-63 above as if they were fully set forth here.

65. California Labor Code Section 221 provides that it shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” Section 200, subdivision (a) defines “wages” to include “all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.” Section 200, subdivision (b) defines “labor” to include “labor, work, or service whether rendered or performed under contract, subcontract, partnership, station plan, or other agreement if the labor to be paid for is performed personally by the person demanding payment.” Under these definitions, sales commissions are “wages”.

66. Each Plaintiff completed the requirements to earn sales’ commissions based upon sales of Employer’s products and services during each Plaintiff’s employment.

67. On numerous occasions, in furtherance of the previously-alleged conduct hereinabove; the Defendants wrongfully, fraudulently and unlawfully “charged-back” or “clawed-back”) amounts against each Plaintiff’s earned sales’ commissions. Defendants did so as part of their scheme to divert commissions lawfully and contractually owing to Plaintiffs and to redistribute such amounts for Defendants’ own benefit.

68. Labor Code Section 221 prohibits an employer from collecting or receiving any part of “wages theretofore” paid an employee. Section 223 further provides that where any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.

1 Thus, it is unlawful for an employer to pay less than any contract or statute requires while
2 purporting to pay the required wage.

3 69. Despite the foregoing, Defendants regularly charged unlawful charge-backs and claw
4 backs to each Plaintiff and otherwise reduced, lowered and unlawfully deducted amounts from
5 each Plaintiff's earnings in an arbitrary, improper, unlawful, discriminatory and punitive manner
6 in furtherance of the aforementioned scheme. The accounting requested herein shall reveal the
7 precise instances and amounts of such wages. Such wages had been earned by Plaintiffs and no
8 lawful or even moral reason existed for not paying each Plaintiff the full amount of wages due.

9 70. Each Plaintiff also had sales' commissions charged-back or clawed-back and
10 deducted from wages based upon customers canceling or rescinding sales after having learned
11 that Defendants were making fraudulent representations about the quantity and quality of such
12 products and services. In such events of cancellation or rescission, Defendants would deduct
13 such amounts from each Plaintiff's wages. By engaging in such conduct, Employers forced each
14 Plaintiff to become an insurer of the employer's business by making deductions for cash,
15 merchandise and other business shortages from each Plaintiff's wages and deducting unidentified
16 sales returns from each Plaintiff's earnings.

17 71. As a direct, foreseeable, legal, actual and proximate result of the Employers' conduct
18 alleged in this cause of action, each Plaintiff suffered a number of adverse employment actions;
19 including, without limitation, loss of pay, demotions, loss of opportunities for advancement and
20 promotion, loss of opportunities for other assignments, disciplinary action, etc. Each Plaintiff has
21 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
22 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
23 embarrassment, severe mental and emotional distress, damage to Plaintiff's reputation,
24 discomfort and other damages, the precise amount of which will be proven at trial.

25 72. Defendants, their senior executives, managing agents, managers, directors and
26 officers knew about the foregoing conduct and that the impact was causing financial harm to
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1 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
2 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
3 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
4 conduct to continue and refrain from remedying same. These decisions were despicable and done
5 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
6 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
7 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
8 these persons used their superior power and authority over the Plaintiff along with threats and
9 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
10 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
11 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
12 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
13 may be or become available against Defendants in an amount appropriate to punish and make an
14 example of them in addition to the other damages sought herein, subject to applicable law.

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16 **IX. NINTH CAUSE OF ACTION**

17 **BY EACH PLAINTIFF AGAINST EACH DEFENDANT**

18 **FOR FRAUD AND DECEIT**

19
20 73. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-72
21 above as if they were fully set forth here.

22 74. Defendants made specific representations to each Plaintiff regarding the quality and
23 quantity of the products and services being sold by each Plaintiff and upon which the substantial
24 portion of each Plaintiff's income was based. Such representations included the "exclusive"
25 nature of the products and services and the accuracy of such information provided therein.
26 Additional representations included the competitive pricing of the products and services and
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1 related information such as the inclusion of discounts, preferred pricing and other incentives
2 which Defendants instructed each Plaintiff to offer to customers for purposes of consummating
3 sales.

4 75. Such representations made by the Defendants to Plaintiffs were frequently false and
5 designed to fraudulently induce each Plaintiff to sale certain products and services at certain
6 prices and to offer such products and services (on such terms) to customers. Plaintiffs were
7 unaware of the fraudulent nature of the sales information being provided to Plaintiffs by the
8 Defendants and therefore innocently communicated such information to customers and clients.

9 76. Despite the foregoing, Defendants (and each of them) had an affirmative duty to
10 provide each Plaintiff with truthful and accurate information about the products and services
11 which each Plaintiff was selling. Defendants knew that the information was false and incorrect
12 and never had any intent to honor such pricing, incentives and discounts. Moreover, when
13 customers and clients discovered the fraudulent and false information, Defendants would blame
14 each Plaintiff (and other salespersons) to the customer, punish each Plaintiff and remove the
15 potential sale from each Plaintiff's sales' opportunities. When such sales were then
16 consummated, the Defendants would retain or redistribute the commission that would have
17 otherwise been payable to each Plaintiff.

18 77. In each instance, each Plaintiff reasonably and justifiably relied upon the
19 representations made by the Defendants and believed same to be true and correct. Defendants'
20 intention was to create such reasonably and justifiable reliance. In fact, Defendants intentionally
21 concealed information, made overt misrepresentations to each Plaintiff and took other conduct
22 designed to conceal, withhold and maintain the secrecy of their scheme to defraud
23 customers/clients through each Plaintiff and then charge-back or claw-back commissions which
24 would otherwise be payable to each Plaintiff.

25 78. As a direct, foreseeable, legal, actual and proximate result of the Employers' conduct
26 alleged in this cause of action, each Plaintiff suffered a number of adverse employment actions;

1 including, without limitation, loss of pay, demotions, loss of opportunities for advancement and
2 promotion, loss of opportunities for other assignments, disciplinary action, etc. Each Plaintiff has
3 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
4 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
5 embarrassment, severe mental and emotional distress, damage to Plaintiff's reputation,
6 discomfort and other damages, the precise amount of which will be proven at trial.

7 79. Defendants, their senior executives, managing agents, managers, directors and
8 officers knew about the foregoing conduct and that the impact was causing financial harm to
9 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
10 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
11 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
12 conduct to continue and refrain from remedying same. These decisions were despicable and done
13 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
14 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
15 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
16 these persons used their superior power and authority over the Plaintiff along with threats and
17 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
18 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
19 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
20 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
21 may be or become available against Defendants in an amount appropriate to punish and make an
22 example of them in addition to the other damages sought herein, subject to applicable law.

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24 **X. TENTH CAUSE OF ACTION**

25 **BY EACH PLAINTIFF AGAINST THE EMPLOYERS (ONLY)**

26 **FOR AGE DISCRIMINATION**

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2 80. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-79
3 above as if they were fully set forth here.

4 81. This action is brought pursuant to the California Fair Employment and Practices Act
5 and California Government Code Sections 12900 et seq. [including 12940(a) and 12940(h)-(k)]
6 which prohibits discrimination, such as: discrimination against a person in the terms, conditions,
7 or privileges of employment on the basis of the person's age.

8 82. At all times mentioned in this Complaint, the Defendants regularly employed five (5)
9 or more persons, bringing them within the provisions of Section 12900 et seq. of the Government
10 Code prohibiting employers and/or their agents from discriminating against employees on the
11 basis of age, race, gender, disability and other similar reasons. At all times mentioned in this
12 Complaint, Defendants were otherwise obligated to comply with the provisions of FEHA.

13 83. Each Plaintiff is and was (at all relevant times) over the age of forty (40) years and
14 was employed by the Employers. Each Plaintiff filed the proper administrative and governmental
15 complaints against Defendants with regard to all applicable claims hereunder and exhausted any
16 and all required administrative remedies, as applicable, in connection therewith.

17 84. At all times each Plaintiff fully and faithfully performed Plaintiff's job duties in a
18 manner which was above the company's standard and above the level of performance exhibited
19 by their non-protected counterparts. Each Plaintiff performed each of Plaintiff's duties in a
20 manner which was consistently competent, timely and efficient to a greater extent than their non-
21 protected co-workers. As part of Defendants' disciplinary system, policies and practices of
22 adverse employment actions and merit system each Plaintiff was treated in an unfair, inequitable,
23 disparate and less-favorable manner than their younger counterparts under the age of forty (40)
24 by the Defendants on nearly a daily basis during each Plaintiff's employment. Such conduct
25 specifically is prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the
26 California Government Code].

1 85. Each Plaintiff was subject to disparate treatment and a hostile working environment
2 by the Defendants as a result of Plaintiff's age (over 40). More specifically, as a result of
3 Plaintiff's age, each Plaintiff was subjected to the Unlawful Discrimination (as previously
4 defined herein) along with other hostile conduct, retaliatory conduct and disparate treatment by
5 each of the Defendants. Such conduct by the Defendants caused each Plaintiff to be mistreated,
6 discriminated against, harassed and treated in a harmful, unfair, inequitable, less-favorable, and
7 disparate manner than Plaintiff's counterparts under the age of forty (40).

8 86. Defendants determined that employees under the age of forty (40) would accept lower
9 pay and commissions than those over the age of forty (40). As a result, in addition to the other
10 conduct alleged in this cause of action, Defendants began to divert sales leads and opportunities
11 from each Plaintiff (and other employees over the age of 40) and redirect such substantial
12 amounts of business to younger employees. Defendants reasoned that by doing so, they would
13 force each Plaintiff (and other employees over the age of 40) to quit their jobs. Defendants also
14 determined that employees under the age of 40 were more likely to accept the hostile and toxic
15 nature of the work environment which was replete with the unlawful, inequitable and
16 reprehensible conduct alleged herein and throughout. Accordingly, the Defendants intensified the
17 frequency and severity of the unlawful conduct alleged throughout this complaint toward each
18 Plaintiff and other employees over the age of forty (40) in an effort to force them to quit their
19 jobs.

20 87. Defendants permitted co-Defendant Leo Jay to act in a hostile, unprofessional,
21 unlawful and tyrannical manner in interactions with each Plaintiff and others over the age of
22 forty (40). Defendants more harshly applied their "claw-back" policy (without justification) to
23 each Plaintiff and others over the age of 40. The alleged conduct in this claim was caused by a
24 variety of factors; including, without limitation, systemic discrimination, a long-standing history
25 and tolerance of discrimination and the failure and refusal of Defendants and their human
26 resources department to take accountability for and/or to enforce the applicable laws prohibiting
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1 such conduct. The conduct alleged in this cause of action was unreasonable, unlawful and was a
2 substantial factor in causing Plaintiff to suffer economic and non-economic damages. Defendants
3 could have (and should have) ceased in engaging such conduct and could have (and should have)
4 taken remedial action to eliminate such unlawful conduct and protect each Plaintiff. However,
5 Defendants placed their traditions and systemic tolerance for such conduct above their legal
6 obligations as alleged hereinabove.

7 88. The foregoing conduct was targeted and uniquely applied to each Plaintiff and other
8 employees over the age of 40. Such treatment was engaged in intentionally and with specific
9 intent to be demeaning, derogatory and harmful to each Plaintiff because of each Plaintiff's age.
10 Employees under the age of forty (40) were not subject to such conduct and disparate treatment
11 alleged in this cause of action.

12 89. Each Plaintiff's protected status was a substantial and determining factor in
13 Defendants' decision to engage in the Unlawful Conduct which permeated the workplace in such
14 a manner that it substantially affected Plaintiff's ability to perform Plaintiff's job functions and
15 caused injuries and damages to Plaintiff as alleged herein. Such conduct specifically is
16 prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the California
17 Government Code].

18 90. Each Plaintiff notified Defendants of the foregoing unlawful and discriminatory
19 conduct on multiple occasions during each Plaintiff's employment. Such notifications imposed
20 an obligation on Defendants to conduct a fair and reasonable investigation into those complaints,
21 to notify the applicable Plaintiff of the outcome of such investigation and to take appropriate
22 remedial measures based thereupon. Defendants failed and refused to do so and instead elected
23 to ratify, condone and deny the unlawful conduct when Defendants knew the complaints of each
24 Plaintiff to be true. Furthermore, Defendants then engaged in retaliatory conduct (as alleged
25 more specifically hereinbelow) against Plaintiff and began making attempts to force each
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1 Plaintiff to resign by continuing in (and intensifying) the unlawful conduct and taking
2 affirmative steps to reduce sales opportunities and commissions payable to each Plaintiff.

3 91. Each Plaintiff's multiple requests for further investigation and protection from the
4 retaliatory conduct, was not only ignored and refused, but such retaliatory conduct was
5 intensified. Each Plaintiff was denied access to and the application of the Defendant's stated
6 policy(ies) of discipline, tolerance of the unlawful discrimination and retaliation.

7 92. In addition to the manifest discriminatory intentions of Defendants and their officers,
8 directors, executives, managing agents, etc.; Defendants' failures and refusals to engage in
9 proper training, supervision, hiring, background checking and other proper human resources
10 functions contributed to the hostile and discriminatory work environment that each Plaintiff was
11 subjected to during each Plaintiff's employ as well as the conduct alleged herein. The
12 Defendants knew, were informed and apprised and recklessly disregarded the fact that the
13 conduct described herein and other incidents of discrimination were occurring and had occurred
14 and failed to take reasonable steps to prevent and/or discontinue the discrimination and
15 harassment from occurring. In fact, Defendants allowed such conditions to persist and actually
16 condoned, accepted, encouraged, facilitated and furthered such conduct. The Defendants'
17 conduct as alleged in this complaint constitutes an unlawful employment practice in violation of
18 the Fair Employment and Housing Act and California Constitution Article I, Section 8. Such
19 conduct was undertaken, condoned, approved and directed by the Defendants and their
20 individual employees who were Plaintiffs' supervisors. Accordingly, each Plaintiff alleges that
21 all Defendants are strictly liable for the conduct of these individuals.

22 93. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
23 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiff has suffered
24 and continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and
25 has suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe
26 mental and emotional distress, damage to Plaintiff's reputation, discomfort and other damages,

1 the precise amount of which will be proven at trial. In each instance, Defendants failed and
2 refused to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place
3 by Defendants to purportedly address allegations of discrimination, harassment and retaliation
4 and (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
5 theoretically would have prevented some of the harassment, discrimination, retaliation and
6 (potentially) minimized Plaintiff's damages. Instead Defendants engaged in the Retaliatory
7 Conduct alleged herein and disrupted and terminated the policies and processes stated by
8 Defendants which may have otherwise minimized same.

9 94. Defendants, their senior executives, managing agents, managers, directors and
10 officers knew about the foregoing conduct and that the impact was causing financial harm to
11 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
12 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
13 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
14 conduct to continue and refrain from remedying same. These decisions were despicable and done
15 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
16 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
17 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
18 these persons used their superior power and authority over the Plaintiff along with threats and
19 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
20 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
21 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
22 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
23 may be or become available against Defendants in an amount appropriate to punish and make an
24 example of them in addition to the other damages sought herein, subject to applicable law.

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26 **XI. ELEVENTH CAUSE OF ACTION**
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BY PLAINTIFF SARAH AHARON IRVINE (ONLY)
AGAINST THE EMPLOYERS (ONLY)
FOR GENDER DISCRIMINATION

95. Plaintiff Sarah Aharon re-alleges and incorporates herein by this reference Paragraphs 1-94 above as if they were fully set forth here.

96. This action is brought pursuant to the California Fair Employment and Practices Act and California Government Code Sections 12900 et seq. [including 12940(a) and 12940(h)-(k)] which prohibits discrimination, such as: discrimination against a person in the terms, conditions, or privileges of employment on the basis of the person's gender.

97. At all times mentioned in this Complaint, the Defendants regularly employed five (5) or more persons, bringing them within the provisions of Section 12900 et seq. of the Government Code prohibiting employers and/or their agents from discriminating against employees on the basis of age, race, gender, disability and other similar reasons. At all times mentioned in this Complaint, Defendants were otherwise obligated to comply with the provisions of FEHA.

98. Plaintiff Sarah Aharaon is and was (at all relevant times) a woman employed by the Employers. Plaintiff Sarah Aharon filed the proper administrative and governmental complaints against Defendants with regard to all applicable claims hereunder and exhausted any and all required administrative remedies, as applicable, in connection therewith.

99. At all times each Plaintiff Sarah Aharon fully and faithfully performed Plaintiff Sarah Aharon's job duties in a manner which was above the company's standard and above the level of performance exhibited by their non-protected counterparts. Plaintiff Sarah Aharon performed each of Plaintiff Sarah Aharon's duties in a manner which was consistently competent, timely and efficient to a greater extent than their non-protected co-workers. As part of Defendants' disciplinary system, policies and practices of adverse employment actions and merit system each Plaintiff was treated in an unfair, inequitable, disparate and less-favorable

1 manner than Plaintiff Sarah Aharon's male counterparts by the Defendants on nearly a daily
2 basis during each Plaintiff's employment. Such conduct specifically is prohibited by FEHA
3 [including sections 12940(a) and 12940(h)-(k) of the California Government Code].

4 100. Plaintiff Sarah Aharon was subject to disparate treatment and a hostile working
5 environment by the Defendants as a result of Plaintiff Sarah Aharon's gender. More specifically,
6 as a result of Plaintiff Sarah Aharon's gender, Plaintiff Sarah Aharon was subjected to the
7 Unlawful Discrimination (as previously defined herein) along with other hostile conduct,
8 retaliatory conduct and disparate treatment by each of the Defendants. Such conduct by the
9 Defendants caused Plaintiff Sarah Aharon to be mistreated, discriminated against, harassed and
10 treated in a harmful, unfair, inequitable, less-favorable, and disparate manner than Plaintiff's
11 counterparts who were males.

12 101. Defendants determined that women employees would accept lower pay and
13 commissions than male employees. As a result, in addition to the other conduct alleged in this
14 cause of action, Defendants began to divert sales leads and opportunities from Plaintiff Sarah
15 Aharon and redirect such substantial amounts of business to male employees. Defendants also
16 determined that women employees were more likely to accept the hostile and toxic nature of the
17 work environment which was replete with the unlawful, inequitable and reprehensible conduct
18 alleged herein and throughout. Accordingly, the Defendants intensified the frequency and
19 severity of the unlawful conduct alleged throughout this complaint toward Plaintiff Sarah Aharon
20 and other women employees in an effort to force them to quit their jobs.

21 102. Defendants permitted co-Defendant Leo Jay to act in a hostile, unprofessional,
22 unlawful and tyrannical manner in interactions with Plaintiff Sarah Aharon and others women in
23 the workplace. The alleged conduct in this claim was caused by a variety of factors; including,
24 without limitation, systemic discrimination, a long-standing history and tolerance of
25 discrimination and the failure and refusal of Defendants and their human resources department to
26 take accountability for and/or to enforce the applicable laws prohibiting such conduct. The
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1 conduct alleged in this cause of action was unreasonable, unlawful and was a substantial factor in
2 causing Plaintiff to suffer economic and non-economic damages. Defendants could have (and
3 should have) ceased in engaging such conduct and could have (and should have) taken remedial
4 action to eliminate such unlawful conduct and protect each Plaintiff. However, Defendants
5 placed their traditions and systemic tolerance for such conduct above their legal obligations as
6 alleged hereinabove.

7 103. The foregoing conduct was targeted and uniquely applied to Plaintiff Sarah Aharon
8 and other women employees. Such treatment was engaged in intentionally and with specific
9 intent to be demeaning, derogatory and harmful to Plaintiff Sarah Aharon because of Plaintiff
10 Sarah Aharon's gender. Male employees were not subject to such conduct and disparate
11 treatment alleged in this cause of action on the basis of gender.

12 104. Plaintiff Sarah Aharon protected status was a substantial and determining factor in
13 Defendants' decision to engage in the Unlawful Conduct which permeated the workplace in such
14 a manner that it substantially affected Plaintiff Sarah Aharon's ability to perform Plaintiff Sarah
15 Aharon's job functions and caused injuries and damages to Plaintiff Sarah Aharon as alleged
16 herein. Such conduct specifically is prohibited by FEHA [including sections 12940(a) and
17 12940(h)-(k) of the California Government Code].

18 105. Plaintiff Sarah Aharon notified Defendants of the foregoing unlawful and
19 discriminatory conduct on multiple occasions during Plaintiff Sarah Aharon employment. Such
20 notifications imposed an obligation on Defendants to conduct a fair and reasonable investigation
21 into those complaints, to notify Plaintiff Sarah Aharon of the outcome of such investigation and
22 to take appropriate remedial measures based thereupon. Defendants failed and refused to do so
23 and instead elected to ratify, condone and deny the unlawful conduct when Defendants knew the
24 complaints of Plaintiff Sarah Aharon to be true. Furthermore, Defendants then engaged in
25 retaliatory conduct (as alleged more specifically hereinbelow) against Plaintiff Sarah Aharon and
26 began making attempts to force Plaintiff to resign by continuing in (and intensifying) the
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1 unlawful conduct and taking affirmative steps to reduce sales opportunities and commissions
2 payable to each Plaintiff.

3 106. Plaintiff Sarah Aharon's multiple requests for further investigation and protection
4 from the retaliatory conduct, was not only ignored and refused, but such retaliatory conduct was
5 intensified. Plaintiff Sarah Aharon was denied access to and the application of the Defendant's
6 stated policy(ies) of discipline, tolerance of the unlawful discrimination and retaliation.

7 107. In addition to the manifest discriminatory intentions of Defendants and their
8 officers, directors, executives, managing agents, etc.; Defendants' failures and refusals to engage
9 in proper training, supervision, hiring, background checking and other proper human resources
10 functions contributed to the hostile and discriminatory work environment that Plaintiff Sarah
11 Aharon was subjected to during Plaintiff Sarah Aharon's employ as well as the conduct alleged
12 herein. The Defendants knew, were informed and apprised and recklessly disregarded the fact
13 that the conduct described herein and other incidents of discrimination were occurring and had
14 occurred and failed to take reasonable steps to prevent and/or discontinue the discrimination and
15 harassment from occurring. In fact, Defendants allowed such conditions to persist and actually
16 condoned, accepted, encouraged, facilitated and furthered such conduct. The Defendants'
17 conduct as alleged in this complaint constitutes an unlawful employment practice in violation of
18 the Fair Employment and Housing Act and California Constitution Article I, Section 8. Such
19 conduct was undertaken, condoned, approved and directed by the Defendants and their
20 individual employees who were Plaintiff Sarah Aharon's supervisors. Accordingly, each Plaintiff
21 alleges that all Defendants are strictly liable for the conduct of these individuals.

22 108. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
23 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiff Sarah Aharon
24 has suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
25 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
26 embarrassment, severe mental and emotional distress, damage to Plaintiff Sarah Aharon's

1 reputation, discomfort and other damages, the precise amount of which will be proven at trial. In
2 each instance, Defendants failed and refused to: (a) take reasonable steps to prevent harassment,
3 (b) utilize the procedures put in place by Defendants to purportedly address allegations of
4 discrimination, harassment and retaliation and (3) allow Plaintiff Sarah Aharon to engage in the
5 stated procedure(s) and policy(ies) of Defendants which theoretically would have prevented
6 some of the harassment, discrimination, retaliation and (potentially) minimized Plaintiff Sarah
7 Aharon's damages. Instead Defendants engaged in the retaliatory conduct alleged herein and
8 disrupted and terminated the policies and processes stated by Defendants which may have
9 otherwise minimized same.

10 109. Defendants, their senior executives, managing agents, managers, directors and
11 officers knew about the foregoing conduct and that the impact was causing financial harm to
12 Plaintiff Sarah Aharon, while increasing the Employers' "profit". Notwithstanding this
13 knowledge, such person's elected to intentionally, wilfully, oppressively, fraudulently and
14 maliciously (for the purpose of injuring Plaintiff Sarah Aharon and depriving Plaintiff Sarah
15 Aharon of that Plaintiff's rights) permit the conduct to continue and refrain from remedying
16 same. These decisions were despicable and done in conscious disregard of each Plaintiff Sarah
17 Aharon's fundamental rights. Such conduct on the part of Defendants and those persons was
18 intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive Plaintiff
19 Sarah Aharon of Plaintiff Sarah Aharon's fundamental rights. Defendants and these persons used
20 their superior power and authority over Plaintiff Sarah Aharon along with threats and
21 intimidation to subject Plaintiff Sarah Aharon to cruel and unjust hardships in conscious
22 disregard of Plaintiff Sarah Aharon's rights. All of the foregoing conduct was undertaken by the
23 Defendants and their owners, managing agents, senior executives, supervisors, directors and
24 officers. Accordingly, Plaintiff Sarah Aharon also seeks any allowable and/or appropriate
25 punitive or exemplary damages which may be or become available against Defendants in an
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1 amount appropriate to punish and make an example of them in addition to the other damages
2 sought herein, subject to applicable law.

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4 **XII. TWELFTH CAUSE OF ACTION**
5 **BY PLAINTIFF TERRENCE WHITE (ONLY)**
6 **AGAINST THE EMPLOYERS (ONLY)**
7 **FOR RACE DISCRIMINATION**

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9 110. Plaintiff Terrence White re-alleges and incorporates herein by this reference
10 Paragraphs 1-109 above as if they were fully set forth here.

11 111. This action is brought pursuant to the California Fair Employment and Practices
12 Act and California Government Code Sections 12900 et seq. [including 12940(a) and 12940(h)-
13 (k)] which prohibits discrimination, such as: discrimination against a person in the terms,
14 conditions, or privileges of employment on the basis of the person's race.

15 112. At all times mentioned in this Complaint, the Defendants regularly employed five
16 (5) or more persons, bringing them within the provisions of Section 12900 et seq. of the
17 Government Code prohibiting employers and/or their agents from discriminating against
18 employees on the basis of age, race, gender, disability and other similar reasons. At all times
19 mentioned in this Complaint, Defendants were otherwise obligated to comply with the provisions
20 of FEHA.

21 113. Plaintiff Terrence White is and was (at all relevant times) an African-American
22 employed by the Employers. Plaintiff Terrence White filed the proper administrative and
23 governmental complaints against Defendants with regard to all applicable claims hereunder and
24 exhausted any and all required administrative remedies, as applicable, in connection therewith.

25 114. At all times each Plaintiff Terrence White fully and faithfully performed Plaintiff
26 Terrence White's job duties in a manner which was above the company's standard and above the
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1 level of performance exhibited by their non-protected counterparts. Plaintiff Terrence White
2 performed each of Plaintiff Terrence White's duties in a manner which was consistently
3 competent, timely and efficient to a greater extent than Plaintiff Terrence White's non-protected
4 co-workers. As part of Defendants' disciplinary system, policies and practices of adverse
5 employment actions and merit system each Plaintiff was treated in an unfair, inequitable,
6 disparate and less-favorable manner than Plaintiff Terrence White's non-African American
7 counterparts by the Defendants on nearly a daily basis during each Plaintiff's employment. Such
8 conduct specifically is prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the
9 California Government Code].

10 115. Plaintiff Terrence White was subject to disparate treatment and a hostile working
11 environment by the Defendants as a result of Plaintiff Terrence White's race. More specifically,
12 as a result of Plaintiff Terrence White's race, Plaintiff Terrence White was subjected to the
13 Unlawful Discrimination (as previously defined herein) along with other hostile conduct,
14 retaliatory conduct and disparate treatment by each of the Defendants. Such conduct by the
15 Defendants caused Plaintiff Terrence White to be mistreated, discriminated against, harassed and
16 treated in a harmful, unfair, inequitable, less-favorable, and disparate manner than Plaintiff's
17 counterparts who were not African American.

18 116. Defendants determined that African American employees would accept lower pay
19 and commissions than male employees. As a result, in addition to the other conduct alleged in
20 this cause of action, Defendants began to divert sales leads and opportunities from Plaintiff
21 Terrence White and redirect such substantial amounts of business to non-African American
22 employees. Defendants also determined that African American employees were more likely to
23 accept the hostile and toxic nature of the work environment which was replete with the unlawful,
24 inequitable and reprehensible conduct alleged herein and throughout. Accordingly, the
25 Defendants intensified the frequency and severity of the unlawful conduct alleged throughout
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1 this complaint toward Plaintiff Terrence White and other African American employees in an
2 effort to force them to quit their jobs.

3 117. Defendants permitted co-Defendant Leo Jay to act in a hostile, unprofessional,
4 unlawful and tyrannical manner in interactions with Plaintiff Terrence White and other African
5 Americans in the workplace. The alleged conduct in this claim was caused by a variety of
6 factors; including, without limitation, systemic discrimination, a long-standing history and
7 tolerance of discrimination and the failure and refusal of Defendants and their human resources
8 department to take accountability for and/or to enforce the applicable laws prohibiting such
9 conduct. The conduct alleged in this cause of action was unreasonable, unlawful and was a
10 substantial factor in causing Plaintiff to suffer economic and non-economic damages. Defendants
11 could have (and should have) ceased in engaging such conduct and could have (and should have)
12 taken remedial action to eliminate such unlawful conduct and protect each Plaintiff. However,
13 Defendants placed their traditions and systemic tolerance for such conduct above their legal
14 obligations as alleged hereinabove.

15 118. The foregoing conduct was targeted and uniquely applied to Plaintiff Terrence
16 White and other African American employees. Such treatment was engaged in intentionally and
17 with specific intent to be demeaning, derogatory and harmful to Plaintiff Terrence White because
18 of Plaintiff Terrence White's race. Non-African American employees were not subject to such
19 conduct and disparate treatment alleged in this cause of action on the basis of race.

20 119. Plaintiff Terrence White protected status was a substantial and determining factor in
21 Defendants' decision to engage in the Unlawful Conduct which permeated the workplace in such
22 a manner that it substantially affected Plaintiff Terrence White's ability to perform Plaintiff
23 Terrence White's job functions and caused injuries and damages to Plaintiff Terrence White as
24 alleged herein. Such conduct specifically is prohibited by FEHA [including sections 12940(a)
25 and 12940(h)-(k) of the California Government Code].
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1 120. Plaintiff Terrence White notified Defendants of the foregoing unlawful and
2 discriminatory conduct on multiple occasions during Plaintiff Terrence White employment. Such
3 notifications imposed an obligation on Defendants to conduct a fair and reasonable investigation
4 into those complaints, to notify Plaintiff Terrence White of the outcome of such investigation
5 and to take appropriate remedial measures based thereupon. Defendants failed and refused to do
6 so and instead elected to ratify, condone and deny the unlawful conduct when Defendants knew
7 the complaints of Plaintiff Terrence White to be true. Furthermore, Defendants then engaged in
8 retaliatory conduct (as alleged more specifically hereinbelow) against Plaintiff Terrence White
9 and began making attempts to force Plaintiff to resign by continuing in (and intensifying) the
10 unlawful conduct and taking affirmative steps to reduce sales opportunities and commissions
11 payable to Terrence White.

12 121. Plaintiff Terrence White's multiple requests for further investigation and protection
13 from the retaliatory conduct, was not only ignored and refused, but such retaliatory conduct was
14 intensified. Plaintiff Terrence White was denied access to and the application of the Defendant's
15 stated policy(ies) of discipline, tolerance of the unlawful discrimination and retaliation.

16 122. In addition to the manifest discriminatory intentions of Defendants and their
17 officers, directors, executives, managing agents, etc.; Defendants' failures and refusals to engage
18 in proper training, supervision, hiring, background checking and other proper human resources
19 functions contributed to the hostile and discriminatory work environment that Plaintiff Terrence
20 White was subjected to during Plaintiff Terrence White's employ as well as the conduct alleged
21 herein. The Defendants knew, were informed and apprised and recklessly disregarded the fact
22 that the conduct described herein and other incidents of discrimination were occurring and had
23 occurred and failed to take reasonable steps to prevent and/or discontinue the discrimination and
24 harassment from occurring. In fact, Defendants allowed such conditions to persist and actually
25 condoned, accepted, encouraged, facilitated and furthered such conduct. The Defendants'
26 conduct as alleged in this complaint constitutes an unlawful employment practice in violation of
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1 the Fair Employment and Housing Act and California Constitution Article I, Section 8. Such
2 conduct was undertaken, condoned, approved and directed by the Defendants and their
3 individual employees who were Plaintiff Terrence White's supervisors. Accordingly, each
4 Plaintiff alleges that all Defendants are strictly liable for the conduct of these individuals.

5 123. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
6 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiff Terrence White
7 has suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
8 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
9 embarrassment, severe mental and emotional distress, damage to Plaintiff Terrence White's
10 reputation, discomfort and other damages, the precise amount of which will be proven at trial. In
11 each instance, Defendants failed and refused to: (a) take reasonable steps to prevent harassment,
12 (b) utilize the procedures put in place by Defendants to purportedly address allegations of
13 discrimination, harassment and retaliation and (3) allow Plaintiff Terrence White to engage in the
14 stated procedure(s) and policy(ies) of Defendants which theoretically would have prevented
15 some of the harassment, discrimination, retaliation and (potentially) minimized Plaintiff Terrence
16 White's damages. Instead, Defendants engaged in the retaliatory conduct alleged herein and
17 disrupted and terminated the policies and processes stated by Defendants which may have
18 otherwise minimized same.

19 124. Defendants, their senior executives, managing agents, managers, directors and
20 officers knew about the foregoing conduct and that the impact was causing financial harm to
21 Plaintiff Terrence White, while increasing the Employers' "profit". Notwithstanding this
22 knowledge, such person's elected to intentionally, wilfully, oppressively, fraudulently and
23 maliciously (for the purpose of injuring Plaintiff Terrence White and depriving Plaintiff Terrence
24 White of that Plaintiff's rights) permit the conduct to continue and refrain from remedying same.
25 These decisions were despicable and done in conscious disregard of each Plaintiff Terrence
26 White's fundamental rights. Such conduct on the part of Defendants and those persons was

1 intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive Plaintiff
2 Terrence White of Plaintiff Terrence White's fundamental rights. Defendants and these persons
3 used their superior power and authority over Plaintiff Terrence White along with threats and
4 intimidation to subject Plaintiff Terrence White to cruel and unjust hardships in conscious
5 disregard of Plaintiff Terrence White's rights. All of the foregoing conduct was undertaken by
6 the Defendants and their owners, managing agents, senior executives, supervisors, directors and
7 officers. Accordingly, Plaintiff Terrence White also seeks any allowable and/or appropriate
8 punitive or exemplary damages which may be or become available against Defendants in an
9 amount appropriate to punish and make an example of them in addition to the other damages
10 sought herein, subject to applicable law.

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12 **XIII. THIRTEENTH CAUSE OF ACTION**

13 **BY PLAINTIFFS SHARON AHARON AND MICHAEL BRAVERMAN (ONLY)**
14 **AGAINST THE EMPLOYERS (ONLY)**
15 **FOR RELIGIOUS DISCRIMINATION**
16

17 125. Plaintiffs Sharon Aharon and Michael Braverman re-allege and incorporates herein
18 by this reference Paragraphs 1-124 above as if they were fully set forth here.

19 126. This action is brought pursuant to the California Fair Employment and Practices
20 Act and California Government Code Sections 12900 et seq. [including 12940(a) and 12940(h)-
21 (k)] which prohibits discrimination, such as: discrimination against a person in the terms,
22 conditions, or privileges of employment on the basis of the person's religion.

23 127. At all times mentioned in this Complaint, the Defendants regularly employed five
24 (5) or more persons, bringing them within the provisions of Section 12900 et seq. of the
25 Government Code prohibiting employers and/or their agents from discriminating against
26 employees on the basis of age, race, gender, religion, disability and other similar reasons. At all
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1 times mentioned in this Complaint, Defendants were otherwise obligated to comply with the
2 provisions of FEHA.

3 128. Plaintiffs Sharon Aharon and Michael Braverman is and was (at all relevant times)
4 of the Jewish faith and religion employed by the Employers. Plaintiffs Sharon Aharon and
5 Michael Braverman filed the proper administrative and governmental complaints against
6 Defendants with regard to all applicable claims hereunder and exhausted any and all required
7 administrative remedies, as applicable, in connection therewith.

8 129. At all times each Plaintiffs Sharon Aharon and Michael Braverman fully and
9 faithfully performed Plaintiffs Sharon Aharon and Michael Braverman's job duties in a manner
10 which was above the company's standard and above the level of performance exhibited by their
11 non-protected counterparts. Plaintiffs Sharon Aharon and Michael Braverman performed each of
12 Plaintiffs Sharon Aharon and Michael Braverman's duties in a manner which was consistently
13 competent, timely and efficient to a greater extent than their non-protected co-workers. As part
14 of Defendants' disciplinary system, policies and practices of adverse employment actions and
15 merit system each Plaintiff was treated in an unfair, inequitable, disparate and less-favorable
16 manner than Plaintiffs Sharon Aharon and Michael Braverman's non-Jewish counterparts by the
17 Defendants on nearly a daily basis during each Plaintiff's employment. Such conduct specifically
18 is prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the California
19 Government Code].

20 130. Plaintiffs Sharon Aharon and Michael Braverman was subject to disparate treatment
21 and a hostile working environment by the Defendants as a result of Plaintiffs Sharon Aharon and
22 Michael Braverman's religion (Jewish) and observation of the sabbath on Saturday instead of
23 Sunday. More specifically, as a result of Plaintiffs Sharon Aharon and Michael Braverman's
24 religion, religious beliefs and observation of the sabbath on Saturdays, Plaintiffs Sharon Aharon
25 and Michael Braverman was subjected to the Unlawful Discrimination (as previously defined
26 herein) along with other hostile conduct, retaliatory conduct and disparate treatment by each of
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1 the Defendants. Such conduct by the Defendants caused Plaintiffs Sharon Aharon and Michael
2 Braverman to be mistreated, discriminated against, harassed and treated in a harmful, unfair,
3 inequitable, less-favorable, and disparate manner than Plaintiff's counterparts who were not of
4 the Jewish faith.

5 131. Defendants began to divert sales leads and opportunities from Plaintiffs Sharon
6 Aharon and Michael Braverman and redirect such substantial amounts of business to male
7 employees. This was accomplished by intentionally making leads available first to employees
8 who did not observe the sabbath on Saturday and forcing employees to work on Saturday or lose
9 such opportunities. Moreover, when Plaintiffs Sharon Aharon and Michael Braverman did
10 observe the sabbath on Saturday, Defendants would retaliate against them by diverting additional
11 leads and sales opportunities away from them. Defendants also determined that Jewish
12 employees were more likely to accept the hostile and toxic nature of the work environment
13 which was replete with the unlawful, inequitable and reprehensible conduct alleged herein and
14 throughout. Accordingly, the Defendants intensified the frequency and severity of the unlawful
15 conduct alleged throughout this complaint toward Plaintiffs Sharon Aharon and Michael
16 Braverman and other Jewish employees in an effort to force them to quit their jobs.

17 132. Defendants permitted co-Defendant Leo Jay to act in a hostile, unprofessional,
18 unlawful and tyrannical manner in interactions with Plaintiffs Sharon Aharon and Michael
19 Braverman and other Jewish employees in the workplace. The alleged conduct in this claim was
20 caused by a variety of factors; including, without limitation, systemic discrimination, a long-
21 standing history and tolerance of discrimination and the failure and refusal of Defendants and
22 their human resources department to take accountability for and/or to enforce the applicable laws
23 prohibiting such conduct. The conduct alleged in this cause of action was unreasonable, unlawful
24 and was a substantial factor in causing Plaintiff to suffer economic and non-economic damages.
25 Defendants could have (and should have) ceased in engaging such conduct and could have (and
26 should have) taken remedial action to eliminate such unlawful conduct and protect each Plaintiff.

1 However, Defendants placed their traditions and systemic tolerance for such conduct above their
2 legal obligations as alleged hereinabove.

3 133. The foregoing conduct was targeted and uniquely applied to Plaintiffs Sharon
4 Aharon and Michael Braverman and other Jewish employees. Such treatment was engaged in
5 intentionally and with specific intent to be demeaning, derogatory and harmful to Plaintiffs
6 Sharon Aharon and Michael Braverman because of Plaintiffs Sharon Aharon and Michael
7 Braverman's religion. Non-Jewish employees were not subject to such conduct and disparate
8 treatment alleged in this cause of action on the basis of religion.

9 134. Plaintiffs Sharon Aharon and Michael Braverman protected status was a substantial
10 and determining factor in Defendants' decision to engage in the Unlawful Conduct which
11 permeated the workplace in such a manner that it substantially affected Plaintiffs Sharon Aharon
12 and Michael Braverman's ability to perform Plaintiffs Sharon Aharon and Michael Braverman's
13 job functions and caused injuries and damages to Plaintiffs Sharon Aharon and Michael
14 Braverman as alleged herein. Such conduct specifically is prohibited by FEHA [including
15 sections 12940(a) and 12940(h)-(k) of the California Government Code].

16 135. Plaintiffs Sharon Aharon and Michael Braverman notified Defendants of the
17 foregoing unlawful and discriminatory conduct on multiple occasions during Plaintiffs Sharon
18 Aharon and Michael Braverman employment. Such notifications imposed an obligation on
19 Defendants to conduct a fair and reasonable investigation into those complaints, to notify
20 Plaintiffs Sharon Aharon and Michael Braverman of the outcome of such investigation and to
21 take appropriate remedial measures based thereupon. Defendants failed and refused to do so and
22 instead elected to ratify, condone and deny the unlawful conduct when Defendants knew the
23 complaints of Plaintiffs Sharon Aharon and Michael Braverman to be true. Furthermore,
24 Defendants then engaged in retaliatory conduct (as alleged more specifically hereinbelow)
25 against Plaintiffs Sharon Aharon and Michael Braverman and began making attempts to force
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1 Plaintiff to resign by continuing in (and intensifying) the unlawful conduct and taking
2 affirmative steps to reduce sales opportunities and commissions payable to each Plaintiff.

3 136. Plaintiffs Sharon Aharon and Michael Braverman's multiple requests for further
4 investigation and protection from the retaliatory conduct, was not only ignored and refused, but
5 such retaliatory conduct was intensified. Plaintiffs Sharon Aharon and Michael Braverman was
6 denied access to and the application of the Defendant's stated policy(ies) of discipline, tolerance
7 of the unlawful discrimination and retaliation.

8 137. In addition to the manifest discriminatory intentions of Defendants and their
9 officers, directors, executives, managing agents, etc.; Defendants' failures and refusals to engage
10 in proper training, supervision, hiring, background checking and other proper human resources
11 functions contributed to the hostile and discriminatory work environment that Plaintiffs Sharon
12 Aharon and Michael Braverman was subjected to during Plaintiffs Sharon Aharon and Michael
13 Braverman's employ as well as the conduct alleged herein. The Defendants knew, were
14 informed and apprised and recklessly disregarded the fact that the conduct described herein and
15 other incidents of discrimination were occurring and had occurred and failed to take reasonable
16 steps to prevent and/or discontinue the discrimination and harassment from occurring. In fact,
17 Defendants allowed such conditions to persist and actually condoned, accepted, encouraged,
18 facilitated and furthered such conduct. The Defendants' conduct as alleged in this complaint
19 constitutes an unlawful employment practice in violation of the Fair Employment and Housing
20 Act and California Constitution Article I, Section 8. Such conduct was undertaken, condoned,
21 approved and directed by the Defendants and their individual employees who were Plaintiffs
22 Sharon Aharon and Michael Braverman's supervisors. Accordingly, each Plaintiff alleges that all
23 Defendants are strictly liable for the conduct of these individuals.

24 138. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
25 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiffs Sharon
26 Aharon and Michael Braverman has suffered and continues to suffer substantial losses in

1 earnings, job benefits, quality of life, goodwill; and has suffered and continues to suffer
2 humiliation, ridicule, contempt, embarrassment, severe mental and emotional distress, damage to
3 Plaintiffs Sharon Aharon and Michael Braverman's reputation, discomfort and other damages,
4 the precise amount of which will be proven at trial. In each instance, Defendants failed and
5 refused to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place
6 by Defendants to purportedly address allegations of discrimination, harassment and retaliation
7 and (3) allow Plaintiffs Sharon Aharon and Michael Braverman to engage in the stated
8 procedure(s) and policy(ies) of Defendants which theoretically would have prevented some of
9 the harassment, discrimination, retaliation and (potentially) minimized Plaintiffs Sharon Aharon
10 and Michael Braverman's damages. Instead, Defendants engaged in the retaliatory conduct
11 alleged herein and disrupted and terminated the policies and processes stated by Defendants
12 which may have otherwise minimized same.

13 139. Defendants, their senior executives, managing agents, managers, directors and
14 officers knew about the foregoing conduct and that the impact was causing financial harm to
15 Plaintiffs Sharon Aharon and Michael Braverman, while increasing the Employers' "profit".
16 Notwithstanding this knowledge, such person's elected to intentionally, wilfully, oppressively,
17 fraudulently and maliciously (for the purpose of injuring Plaintiffs Sharon Aharon and Michael
18 Braverman and depriving Plaintiffs Sharon Aharon and Michael Braverman of that Plaintiff's
19 rights) permit the conduct to continue and refrain from remedying same. These decisions were
20 despicable and done in conscious disregard of each Plaintiffs Sharon Aharon and Michael
21 Braverman's fundamental rights. Such conduct on the part of Defendants and those persons was
22 intentional, oppressive, fraudulent, malicious and done in a wanton effort to deprive Plaintiffs
23 Sharon Aharon and Michael Braverman of Plaintiffs Sharon Aharon and Michael Braverman's
24 fundamental rights. Defendants and these persons used their superior power and authority over
25 Plaintiffs Sharon Aharon and Michael Braverman along with threats and intimidation to subject
26 Plaintiffs Sharon Aharon and Michael Braverman to cruel and unjust hardships in conscious

1 disregard of Plaintiffs Sharon Aharon and Michael Braverman's rights. All of the foregoing
2 conduct was undertaken by the Defendants and their owners, managing agents, senior
3 executives, supervisors, directors and officers. Accordingly, Plaintiffs Sharon Aharon and
4 Michael Braverman also seeks any allowable and/or appropriate punitive or exemplary damages
5 which may be or become available against Defendants in an amount appropriate to punish and
6 make an example of them in addition to the other damages sought herein, subject to applicable
7 law.

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9 **XIV. FOURTEENTH CAUSE OF ACTION**
10 **BY EACH PLAINTIFF AGAINST THE EMPLOYERS (ONLY)**
11 **FOR DISABILITY DISCRIMINATION**
12

13 140. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-139
14 above as if they were fully set forth here.

15 141. This action is brought pursuant to the California Fair Employment and Practices
16 Act and California Government Code Sections 12900 et seq. [including 12940(a) and 12940(h)-
17 (k)] which prohibits discrimination, such as: discrimination against a person in the terms,
18 conditions, or privileges of employment on the basis of the person's disability.

19 142. At all times mentioned in this Complaint, the Defendants regularly employed five
20 (5) or more persons, bringing them within the provisions of Section 12900 et seq. of the
21 Government Code prohibiting employers and/or their agents from discriminating against
22 employees on the basis of age, race, gender, disability and other similar reasons. At all times
23 mentioned in this Complaint, Defendants were otherwise obligated to comply with the provisions
24 of FEHA.

25 143. Each Plaintiff is and was (at all relevant times) an employee of the Employers who
26 suffered from a qualified, medical disability which adversely impacted their mental state and
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1 consisted of emotional distress, anxiety, depression and related psychological symptoms which
2 occurred as a combined result of the conduct alleged throughout this complaint. Each Plaintiff
3 filed the proper administrative and governmental complaints against Defendants with regard to
4 all applicable claims hereunder and exhausted any and all required administrative remedies, as
5 applicable, in connection therewith.

6 144. At all times each Plaintiff fully and faithfully performed Plaintiff's job duties in a
7 manner which was above the company's standard and above the level of performance exhibited
8 by their non-protected counterparts. Each Plaintiff performed each of Plaintiff's duties in a
9 manner which was consistently competent, timely and efficient to a greater extent than their non-
10 protected co-workers. As part of Defendants' disciplinary system, policies and practices of
11 adverse employment actions and merit system each Plaintiff was treated in an unfair, inequitable,
12 disparate and less-favorable manner than their non-disabled counterparts by the Defendants on
13 nearly a daily basis during each Plaintiff's employment. Such conduct specifically is prohibited
14 by FEHA [including sections 12940(a) and 12940(h)-(k) of the California Government Code].

15 145. Each Plaintiff was subject to disparate treatment and a hostile working
16 environment by the Defendants as a result of Plaintiff's disability. More specifically, as a result
17 of Plaintiff's disability each Plaintiff was subjected to the Unlawful Discrimination (as
18 previously defined herein) along with other hostile conduct, retaliatory conduct and disparate
19 treatment by each of the Defendants. Such conduct by the Defendants caused each Plaintiff to be
20 mistreated, discriminated against, harassed and treated in a harmful, unfair, inequitable, less-
21 favorable, and disparate manner than Plaintiff's counterparts who were not disabled. Defendant
22 Leo Jay threatened each of the Plaintiff's (and other employees) with termination if they were to
23 seek leaves, assistance, accommodations and/or other benefits based upon any Plaintiff's
24 disability.

25 146. Defendants determined that employees with disabilities would accept lower pay and
26 commissions than those who did not have disabilities. As a result, in addition to the other

1 conduct alleged in this cause of action, Defendants began to divert sales leads and opportunities
2 from each Plaintiff (and other employees with disabilities) and redirect such substantial amounts
3 of business to non-disabled employees. Defendants reasoned that by doing so, they would force
4 each Plaintiff (and other employees with disabilities) to quit their jobs. Defendants also
5 determined that employees with disabilities were more likely to accept the hostile and toxic
6 nature of the work environment which was replete with the unlawful, inequitable and
7 reprehensible conduct alleged herein and throughout. Accordingly, the Defendants intensified the
8 frequency and severity of the unlawful conduct alleged throughout this complaint toward each
9 Plaintiff and other employees with disabilities in an effort to force them to quit their jobs.

10 147. Defendants permitted co-Defendant Leo Jay to act in a hostile, unprofessional,
11 unlawful and tyrannical manner in interactions with each Plaintiff and other employees with
12 disabilities. Defendants more harshly applied their “claw-back” policy (without justification) to
13 each Plaintiff and others with disabilities. The alleged conduct in this claim was caused by a
14 variety of factors; including, without limitation, systemic discrimination, a long-standing history
15 and tolerance of discrimination and the failure and refusal of Defendants and their human
16 resources department to take accountability for and/or to enforce the applicable laws prohibiting
17 such conduct. The conduct alleged in this cause of action was unreasonable, unlawful and was a
18 substantial factor in causing Plaintiff to suffer economic and non-economic damages. Defendants
19 could have (and should have) ceased in engaging such conduct and could have (and should have)
20 taken remedial action to eliminate such unlawful conduct and protect each Plaintiff. However,
21 Defendants placed their traditions and systemic tolerance for such conduct above their legal
22 obligations as alleged hereinabove.

23 148. The foregoing conduct was targeted and uniquely applied to each Plaintiff and other
24 employees with disabilities. Such treatment was engaged in intentionally and with specific intent
25 to be demeaning, derogatory and harmful to each Plaintiff because of each Plaintiff’s disability.
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1 Employees without disabilities were not subject to such conduct and disparate treatment alleged
2 in this cause of action.

3 149. Each Plaintiff's protected status was a substantial and determining factor in
4 Defendants' decision to engage in the Unlawful Conduct which permeated the workplace in such
5 a manner that it substantially affected Plaintiff's ability to perform Plaintiff's job functions and
6 caused injuries and damages to Plaintiff as alleged herein. Such conduct specifically is
7 prohibited by FEHA [including sections 12940(a) and 12940(h)-(k) of the California
8 Government Code].

9 150. Each Plaintiff notified Defendants of the foregoing unlawful and discriminatory
10 conduct on multiple occasions during each Plaintiff's employment. Such notifications imposed
11 an obligation on Defendants to conduct a fair and reasonable investigation into those complaints,
12 to notify the applicable Plaintiff of the outcome of such investigation and to take appropriate
13 remedial measures based thereupon. Defendants failed and refused to do so and instead elected
14 to ratify, condone and deny the unlawful conduct when Defendants knew the complaints of each
15 Plaintiff to be true. Furthermore, Defendants then engaged in retaliatory conduct (as alleged
16 more specifically hereinbelow) against Plaintiff and began making attempts to force each
17 Plaintiff to resign by continuing in (and intensifying) the unlawful conduct and taking
18 affirmative steps to reduce sales opportunities and commissions payable to each Plaintiff.

19 151. Each Plaintiff's multiple requests for further investigation and protection from the
20 retaliatory conduct, was not only ignored and refused, but such retaliatory conduct was
21 intensified. Each Plaintiff was denied access to and the application of the Defendant's stated
22 policy(ies) of discipline, tolerance of the unlawful discrimination and retaliation.

23 152. In addition to the manifest discriminatory intentions of Defendants and their
24 officers, directors, executives, managing agents, etc.; Defendants' failures and refusals to engage
25 in proper training, supervision, hiring, background checking and other proper human resources
26 functions contributed to the hostile and discriminatory work environment that each Plaintiff was
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1 subjected to during each Plaintiff's employ as well as the conduct alleged herein. The
2 Defendants knew, were informed and apprised and recklessly disregarded the fact that the
3 conduct described herein and other incidents of discrimination were occurring and had occurred
4 and failed to take reasonable steps to prevent and/or discontinue the discrimination and
5 harassment from occurring. In fact, Defendants allowed such conditions to persist and actually
6 condoned, accepted, encouraged, facilitated and furthered such conduct. The Defendants'
7 conduct as alleged in this complaint constitutes an unlawful employment practice in violation of
8 the Fair Employment and Housing Act and California Constitution Article I, Section 8. Such
9 conduct was undertaken, condoned, approved and directed by the Defendants and their
10 individual employees who were Plaintiffs' supervisors. Accordingly, each Plaintiff alleges that
11 all Defendants are strictly liable for the conduct of these individuals.

12 153. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
13 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; Plaintiff has suffered
14 and continues to suffer substantial losses in earnings, job benefits, quality of life, goodwill; and
15 has suffered and continues to suffer humiliation, ridicule, contempt, embarrassment, severe
16 mental and emotional distress, damage to Plaintiff's reputation, discomfort and other damages,
17 the precise amount of which will be proven at trial. In each instance, Defendants failed and
18 refused to: (a) take reasonable steps to prevent harassment, (b) utilize the procedures put in place
19 by Defendants to purportedly address allegations of discrimination, harassment and retaliation
20 and (3) allow Plaintiff to engage in the stated procedure(s) and policy(ies) of Defendants which
21 theoretically would have prevented some of the harassment, discrimination, retaliation and
22 (potentially) minimized Plaintiff's damages. Instead Defendants engaged in the Retaliatory
23 Conduct alleged herein and disrupted and terminated the policies and processes stated by
24 Defendants which may have otherwise minimized same.

25 154. Defendants, their senior executives, managing agents, managers, directors and
26 officers knew about the foregoing conduct and that the impact was causing financial harm to
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1 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
2 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
3 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
4 conduct to continue and refrain from remedying same. These decisions were despicable and done
5 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
6 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
7 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
8 these persons used their superior power and authority over the Plaintiff along with threats and
9 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
10 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
11 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
12 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
13 may be or become available against Defendants in an amount appropriate to punish and make an
14 example of them in addition to the other damages sought herein, subject to applicable law.

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16 **XV. FIFTEENTH CAUSE OF ACTION**

17 **BY EACH PLAINTIFF AGAINST THE EMPLOYERS (ONLY)**

18 **FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS**

19
20 155. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-154
21 above as if they were fully set forth here.

22 156. This action is brought pursuant to the California Fair Employment and Practices
23 Act and California Government Code Sections 12940 et seq. which prohibits harassment against
24 a person based upon their protected status; including, such as the case in this claim, for
25 discrimination against a person in the terms, conditions, or privileges of employment on the basis
26 of the person's disability. This Cause of Action is also brought subject to the parameters of the
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1 Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.), adopted by FEHA, which
2 provides that employment discrimination is prohibited against "qualified individuals with
3 disabilities." This includes applicants for employment and employees. An individual is
4 considered to have a "disability" if s/he has a physical or mental impairment that substantially
5 limits one or more major life activities, has a record of such an impairment, or is regarded as
6 having such an impairment. Persons discriminated against because they have a known
7 association or relationship with an individual with a disability also are protected.

8 157. At all times mentioned in this Complaint, the Defendants regularly employed five
9 (5) or more persons, bringing them within the provisions of Section 12900 et seq. of the
10 Government Code prohibiting employers and/or their agents from discriminating against
11 employees on the basis of age, race, gender, disability and other similar reasons. At all times
12 mentioned in this Complaint, Defendants were otherwise obligated to comply with the provisions
13 of FEHA.

14 158. Each Plaintiff is and was (at all relevant times) an employee of the Employers who
15 suffered from a qualified, medical disability which adversely impacted their mental state and
16 consisted of emotional distress, anxiety, depression and related psychological symptoms which
17 occurred as a combined result of the conduct alleged throughout this complaint. Each Plaintiff
18 filed the proper administrative and governmental complaints against Defendants with regard to
19 all applicable claims hereunder and exhausted any and all required administrative remedies, as
20 applicable, in connection therewith.

21 159. Each Plaintiff suffered from a psychological medical condition which resulted in
22 physical symptoms and manifestations which affected several major life activities and elements
23 of Plaintiff's job and daily living.

24 160. Each Plaintiff reported such medical conditions, in detail, to Defendants and further
25 reported that the medical conditions were impairing each Plaintiff to the extent that a reasonable
26 accommodation was necessary under the ADA so that each Plaintiff could perform the essential
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1 functions of each Plaintiff's job. These medical conditions affected major life activities
2 including each Plaintiff's ability to maintain energy and focus without fatigue and made it more
3 difficult for each Plaintiff to work the long, necessary hours required by each Plaintiff's position.
4 Each Plaintiff also reported, provided proper documentation and reasonably requested that
5 Defendants (and each of them) address each Plaintiff's ongoing complaints of the discriminatory
6 conduct and the harassment alleged herein; as each of the foregoing were significantly
7 exacerbating and contributing to each Plaintiff's medical condition and disability. Each Plaintiff
8 requested that the company take reasonable (and legally-required) action to minimize such
9 discriminatory conduct.

10 161. With a reasonable accommodation (i.e., time off for doctor appointments, re-
11 assignment, some work-from-home, etc. along with Defendants' properly addressing the alleged
12 discrimination, harassment and retaliation); each Plaintiff could have performed the essential
13 elements of each Plaintiff's job without further exacerbating each Plaintiff's medical condition.
14 Each Plaintiff was entitled to and requested a reasonable accommodation which included the
15 foregoing, without limitation and potential modified working conditions. With the requested
16 and/or other reasonable accommodations, each Plaintiff could have performed the essential
17 elements of each Plaintiff's job without exacerbating each Plaintiff's medical condition and
18 disability. Each of the disabilities substantially limited each Plaintiff's mental and physical
19 ability to perform Plaintiff's normal job duties without a reasonable accommodation.
20 Defendants to engage in a good faith interactive process with each Plaintiff and/or to otherwise
21 failed and refuse to allow each Plaintiff any reasonable accommodation appropriate for his
22 medical condition.

23 162. Rather than engaging in the interactive process and/or making a reasonable
24 accommodation to any Plaintiff; Defendants failed and refused to engage in a good-faith,
25 interactive process and failed and refused to offer and/or maintain a reasonable accommodation
26 to any Plaintiff. Each Plaintiff's disability was a qualified disability under the American With
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1 Disabilities Act (as adopted by FEHA. Instead of complying with applicable law and/or
2 engaging in a good-faith, interactive process; Defendants engaged in the unlawful conduct and
3 unlawful harassment alleged herein and did not take reasonable steps to offer any Plaintiff a
4 reasonable accommodation and/or a work environment free of the unlawful conduct alleged
5 herein; which was the major factor from which relief was needed.

6 163. Defendants also failed and refused to take any Plaintiff and any Plaintiff's disability
7 seriously and failed and refused to offer any Plaintiff the support that other non-disabled (or
8 otherwise non-protected) employees received in connection with their claims and/or attempts to
9 enforce the law and/or the Defendants' internal policies. Each Plaintiff requested further
10 investigation of each of their claims for disability discrimination and for a reasonable
11 accommodation. In addition, each Plaintiff requested that Defendants provide each Plaintiff with
12 protection from the harassment and hostile environment and refrain from the foregoing
13 discrimination based upon each Plaintiff's disability. Defendants refused and further failed and
14 refused to engage in the good faith interactive process and denied Plaintiff a reasonable
15 accommodation without even considering Defendants' legal obligation to interactively engage
16 with each Plaintiff with respect thereto.

17 164. Defendants failed and refused to gather sufficient information from qualified
18 experts to determine the appropriate accommodation for a disability. [See, e.g., Prilliman v.
19 United Air Lines, Inc. (1997) 53 Cal.App.4th 935, 948 – 949.] In California Government Code
20 section 12962.1(e), the Legislature affirms the importance of the interactive process between the
21 applicant or employee and the employer in determining a reasonable accommodation, as this
22 requirement is articulated by the Equal Employment Opportunity Commission in its interpretive
23 guidance of the federal Americans with Disabilities Act of 1990.

24 165. As a result, no Plaintiff was afforded the benefit of FEHA and/or ADA as it related
25 to each of Plaintiff's disabilities. Each Plaintiff's disabilities, medical condition and request for a
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1 reasonable accommodation were each a substantial and determining factor in Defendants'
2 decision to engage in the conduct described herein. This conduct permeated the workplace in
3 such a manner that it substantially affected each Plaintiff's ability to perform Plaintiff's job
4 functions and caused injuries and damages to Plaintiff. Rather than fairly and properly
5 considering Plaintiff's disability and engaging in a good-faith, interactive process; Defendants
6 elected to ignore Plaintiff's disability and punish each Plaintiff for making a disability claim by
7 denying any relief to each Plaintiff and/or other reasonable accommodations which would have
8 permitted each Plaintiff to perform the essential requirements of each Plaintiff's job without
9 adversely impacting the requirements of said job. In fact, Defendant Leo Jay threatened to
10 terminate the employment of any employee (including each Plaintiff) who sought any relief
11 under FEHA and/or the ADA.

12 166. In California Government Code section 12962.1(e), the Legislature affirms the
13 importance of the interactive process between the applicant or employee and the employer in
14 determining a reasonable accommodation, as this requirement is articulated by the Equal
15 Employment Opportunity Commission in its interpretive guidance of the federal Americans with
16 Disabilities Act of 1990. Notwithstanding Defendants obligations, Defendants failed and refused
17 to engage in a good-faith interactive process and/or to offer Plaintiff any of the following,
18 appropriate accommodations:

- 19 a) job restructuring;
- 20 b) part-time or modified work schedules;
- 21 c) reassigning to a vacant position;
- 22 d) adjusting or modifying examinations, training materials, or policies; and
- 23 e) other similar accommodations for individuals with disabilities.

24 167. The alleged conduct in this claim was caused by a variety of factors; including,
25 without limitation, systemic discrimination, a long-standing history and tolerance of
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1 discrimination and the failure and refusal of Defendants and their human resources department to
2 take accountability for and/or to enforce the applicable laws prohibiting such conduct. The
3 conduct alleged in this cause of action was unreasonable, unlawful and was a substantial factor in
4 causing Plaintiff to suffer economic and non-economic damages. Defendants could have (and
5 should have) ceased in engaging such conduct and could have (and should have) taken remedial
6 action to eliminate such unlawful conduct and protect each Plaintiff. However, Defendants
7 placed their traditions and systemic tolerance for such conduct above their legal obligations as
8 alleged hereinabove.

9 168. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
10 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; each Plaintiff has
11 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
12 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
13 embarrassment, severe mental and emotional distress, damage to each Plaintiff's reputation,
14 discomfort and other damages, the precise amount of which will be proven at trial. In each
15 instance, Defendants failed and refused to: (a) take reasonable steps to prevent harassment, (b)
16 utilize the procedures put in place by Defendants to purportedly address allegations of
17 discrimination, harassment and retaliation and (3) allow each Plaintiff to engage in the stated
18 procedure(s) and policy(ies) of Defendants which theoretically would have prevented some of
19 the harassment, discrimination, retaliation and (potentially) minimized each Plaintiff's damages.
20 Instead Defendants engaged in the Retaliatory Conduct alleged herein and disrupted and
21 terminated the policies and processes stated by Defendants which may have otherwise minimized
22 same.

23 169. Defendants, their senior executives, managing agents, managers, directors and
24 officers knew about the foregoing conduct and that the impact was causing financial harm to
25 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
26 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
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1 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
2 conduct to continue and refrain from remedying same. These decisions were despicable and done
3 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
4 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
5 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
6 these persons used their superior power and authority over the Plaintiff along with threats and
7 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
8 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
9 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
10 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
11 may be or become available against Defendants in an amount appropriate to punish and make an
12 example of them in addition to the other damages sought herein, subject to applicable law.

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14 **XVI. SIXTEENTH CAUSE OF ACTION**
15 **BY EACH PLAINTIFF AGAINST EACH DEFENDANT**
16 **FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
17

18 170. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-169
19 above as if they were fully set forth here.

20 171. Each Plaintiff was subject to the conduct alleged herein and throughout at the
21 hands, behest and design of each of the Defendants. Such conduct was intentional, hostile,
22 outrageous, unlawful and designed to cause harm to each Plaintiff.

23 172. Each Plaintiff suffered severe emotional distress as a direct result of such conduct,
24 as was intended by the Defendants. Defendants not only were intentional, but Defendants'
25 responsible employees acted with reckless disregard of the knowledge and probability that each
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1 Plaintiff was being treated in the manner alleged and was (and would) suffer severe emotional
2 distress as a direct result of such conduct by the Defendants.

3 173. Defendants' alleged conduct occurred to each Plaintiff while each Plaintiff was
4 present at work and in the work environment. Each Plaintiff suffered severe emotional distress
5 from the conduct and the foreseeable stressors caused thereby along with constant threats to have
6 commissions reduced and their jobs taken away. Such conduct by the Defendants was the
7 substantial factor in causing each Plaintiff's severe emotional distress.

8 174. As a direct, foreseeable, legal, actual and proximate result of the Employers'
9 conduct alleged in this cause of action, each Plaintiff suffered a number of adverse employment
10 actions; including, without limitation, loss of pay, demotions, loss of opportunities for
11 advancement and promotion, loss of opportunities for other assignments, disciplinary action, etc.
12 Each Plaintiff has suffered and continues to suffer substantial losses in earnings, job benefits,
13 quality of life, goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
14 embarrassment, severe mental and emotional distress, damage to Plaintiff's reputation,
15 discomfort and other damages, the precise amount of which will be proven at trial.

16 175. Defendants, their senior executives, managing agents, managers, directors and
17 officers knew about the foregoing conduct and that the impact was causing financial harm to
18 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
19 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
20 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
21 conduct to continue and refrain from remedying same. These decisions were despicable and done
22 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
23 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
24 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
25 these persons used their superior power and authority over the Plaintiff along with threats and
26 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
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1 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
2 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
3 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
4 may be or become available against Defendants in an amount appropriate to punish and make an
5 example of them in addition to the other damages sought herein, subject to applicable law.

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7 **XVII. SEVENTEENTH CAUSE OF ACTION**
8 **BY EACH PLAINTIFF AGAINST EACH DEFENDANT**
9 **FOR WHISTLEBLOWER RETALIATION**
10

11 176. Each Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-175
12 above as if they were fully set forth here.

13 177. Labor Code Section 1102.5 provides the basis for this cause of action. Labor Code
14 Section 1102.5 is, by its terms, applicable to "an employer, or any person acting on behalf of the
15 employer..." as referenced in subdivisions (a), (b), (c), (d), (h) and (i). In connection with this
16 claim, the Employers are each an "employer". In connection with this claim, each of the
17 individually-named Defendants is "a person acting on behalf of the employer" as stated above
18 and as defined in paragraph (1) of subdivision (a) of California Labor Code Section 2810.3 and
19 an employer listed in subdivision (b) of Labor Code Section 6400.

20 178. In this regard, each Defendant acted individually and on behalf of their co-
21 Defendants in engaging unlawful conduct alleged herein and throughout as well as (all
22 collectively the "Retaliatory Conduct"):

23 a) Defendants (and each of them) violated the rules, policies and provisions of
24 Government Code Sections 12940(a) and 12940(h)-(k) as previously alleged herein by engaging
25 in multiple offenses described herein;
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1 b) Defendants (and each of them) violated the rules, policies and provisions of
2 FEHA, as previously alleged herein, by retaliating against each Plaintiff;

3 c) Defendants (and each of them) violated their internal, stated rules and policies
4 of non-discrimination and non-retaliation against employees who made complaints of
5 discrimination, harassment and retaliation under FEHA and otherwise);

6 d) Defendants (and each of them) established a policy and undertook the
7 retaliatory conduct and other conduct alleged herein for purposes of preventing each Plaintiff and
8 other employees from disclosing information to a person with authority over the employee or to
9 another employee who had authority to investigate, discover and/or correct these violations of
10 FEHA and non-compliance with Employer's policies prohibiting discrimination, harassment and
11 retaliation;

12 e) Defendants (and each of them) established a policy and undertook the
13 retaliatory conduct and other conduct alleged herein for purposes of preventing Plaintiff and
14 other employees from testifying and/or giving witness statements;

15 f) The policies referenced above included threats, intimidation and retaliation
16 against each Plaintiff.

17 g) The policies referenced herein as part of the retaliatory conduct were designed
18 to have a chilling effect on employees (including each Plaintiff) of making complaints of
19 discrimination, harassment and retaliation in the workplace and to governmental agencies.

20 h) Defendants retaliated against each Plaintiff and other employees who the
21 Defendants believed disclosed and/or may disclose the unlawful conduct alleged herein to
22 government agencies (e.g., DFEH and EEOC) and internal employees with authority to
23 investigate, address, discover, correct and/or take other legal and appropriate action on
24 complaints of discrimination, harassment and retaliation;
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1 i) Defendants retaliated against each Plaintiff for not dismissing or dropping their
2 complaints of discrimination, harassment and retaliation.

3 179. In connection with each of the foregoing acts, Defendants each retaliated against
4 each Plaintiff for that Plaintiff disclosing information and because Defendants believed that such
5 Plaintiff disclosed information (as alleged herein) to a person with authority over the employee
6 or another employee who has the authority to investigate, discover, or correct the violation or
7 noncompliance, or for providing information to, or testifying before, any public body conducting
8 an investigation, hearing, or inquiry. Such conduct was in violation of California Labor Code
9 Sections 1102.5(a), (b), (c) and (d). The disclosed information consisted of the unlawful conduct
10 alleged hereinabove along with other discriminatory conduct alleged herein; all of which is
11 unlawful under Government Code Sections 12940(a) and 12940 (h)-(k) and otherwise.

12 180. Each Plaintiff had reasonable cause to believe that such information disclosed a
13 violation of state or federal statute, or a violation of or noncompliance with a local, state, or
14 federal rule or regulation, as set forth above. Each Plaintiff believed that attempting to correct the
15 conduct referenced in such information and, after Defendants refused to correct such conduct,
16 reporting such conduct; was part of each Plaintiff's lawful rights and duties under FEHA;
17 Defendants' policies against discrimination, harassment and retaliation and otherwise.

18 181. At all times each Plaintiff acted lawfully and engaged in behavior that is protected
19 (and even encouraged) by FEHA and Defendants' own stated-policies regarding discrimination
20 in the workplace. California's public policy also encourages Plaintiffs and other employees who
21 are discriminated against, harassed, retaliated against and otherwise subject to the unlawful
22 conduct to complain to their employers about such conduct. Each Plaintiff diligently engaged in
23 the protected activities of complaining about and reporting the unlawful conduct alleged herein.
24 In response, Defendants were angered, offended and undertook to discourage each Plaintiff and
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1 potentially others from exercising their rights and engaging in such behavior. Defendants did so
2 in violation of California's whistle-blower statute.

3 182. As a result of Defendants' belief and knowledge that each Plaintiff would and
4 ultimately did report such information referenced hereinabove, Defendants retaliated against
5 each Plaintiff by engaging in the Retaliatory Conduct referenced hereinabove. Such retaliatory
6 conduct by Defendants was also due to each Plaintiff refusing to participate in the described
7 improper activities (which resulted in a violation of state or federal statute, or a violation of or
8 noncompliance with a local, state, or federal rule or regulation; to with, the anti-discrimination,
9 anti-harassment and anti-retaliation provisions of the Fair Employment and Housing Act).
10 Furthermore, such retaliatory conduct by Defendants was also due to Plaintiff having exercised
11 Plaintiff's rights under Labor Code Section 1102.5(a)-(c) in reporting the unlawful conduct
12 alleged herein.

13 183. California Labor Code Section 1102.5(a)-(c) was amended in 2-14 to provide the
14 following protections:

15 (a) internal complaints to "a person with authority over the employee or another
16 employee who has the authority to investigate, discover, or correct the violation or
17 noncompliance."; and

18 (b) protection from retaliation and unlawful conduct by "*any person* acting on
19 behalf of the employer," not just the employer itself (including, in this case, the individually-
20 named Defendants).

21 184. As a result of these changes, individual Supervisors and other employees (including
22 the individual defendants) may be held liable for such conduct as alleged hereinabove. Each
23 Plaintiff alleges that the language of § 1102.5 was amended to refer not only to an "employer,"
24 but also "any person acting on behalf of the employer." Cal. Lab. Code § 1102.5(a) et seq. Each
25 Plaintiff also notes that courts have determined that there is at the very least ambiguity as to
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1 whether § 1102.5 permits individual liability—and alleges that such uncertainty that ought to be
2 resolved in favor of each Plaintiff.²

3 185. In direct response to Plaintiff's complaints which were protected by California
4 Labor Code Section 1102.5, each of the Defendants (by and through the individual defendants
5 Grice, Peters and McLean) engaged in the Retaliatory Conduct alleged herein and other conduct
6 including:

7 a) reducing the provision of sales leads;

8 b) manipulation and theft of commissions;

9 c) increased hostilities designed to force each Plaintiff to quit that Plaintiff's
10 employment and/or abandon that Plaintiff's claims, including the following:

11 i) maligning, defaming and speaking negatively about such Plaintiff in an
12 untrue manner which was designed to get Plaintiff terminated;

13 ii) Falsely accusing each such Plaintiff of poor performance;

14 iii) Denying each Plaintiff access to key, necessary information in the
15 performance of each Plaintiff's duties;

16 iv) Ostracizing and intimidating each Plaintiff;

17 v) Threatening each Plaintiff with termination.
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23 ² [See, e.g., Jackson v. Dollar Tree Distribution, No. CV 18-2302 PSG (SKx), 2018 U.S. Dist. LEXIS 86815, at 15-
24 16 (C.D. Cal. May 23, 2018); Lewis v. Wells Fargo Bank, N.A., No. LA CV 16-7377 PA (RAOx), 2016 U.S. Dist.
25 LEXIS 168587, 2016 WL 7107760, at *2-3 (C.D. Cal. Dec. 5, 2016); De La Torre v. Progress Rail Servs. Corp., No.
26 CV 15-4526 FMO (GJSx), 2015 U.S. Dist. LEXIS 100784, 2015 WL 4607730, at *4 (C.D. Cal. July 31, 2015)
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1 186. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
2 violations of Labor Code Section 1102.5 as alleged herein and otherwise (the "Whistleblower
3 Retaliation"); Plaintiff has suffered and continues to suffer substantial losses in earnings, job
4 benefits, quality of life, goodwill; and has suffered and continues to suffer humiliation, ridicule,
5 contempt, embarrassment, severe mental and emotional distress, damage to Plaintiff's
6 reputation, discomfort and other damages, the precise amount of which will be proven at trial. In
7 each instance, Defendants (and each of them) failed and refused to: (a) take reasonable steps to
8 prevent harassment, (b) utilize the procedures put in place by Defendants to purportedly address
9 allegations of discrimination, harassment and retaliation and (3) allow Plaintiff to engage in the
10 stated procedure(s) and policy(ies) of Defendants which theoretically would have prevented
11 some of the harassment, discrimination, retaliation and (potentially) minimized Plaintiff's
12 damages. Instead Defendants (and each of them) engaged in the retaliatory conduct alleged
13 herein and disrupted and terminated the policies and processes stated by Defendants which may
14 have otherwise minimized same.

15 187. In addition to the foregoing damages, in the event that any defendant in its capacity
16 as a corporation or limited liability company, then such Defendant may be (and in such event
17 Plaintiff shall seek) damages in connection with the Whistleblower Retaliation, for additional
18 civil penalties not exceeding ten thousand dollars (\$10,000) for each violation of Labor Code
19 Section 1102.5. Collectively, Plaintiffs allege in excess of twenty (20) such violations against
20 each named Defendant.

21 188. As a direct, foreseeable, legal, actual and proximate result of the Employers'
22 conduct alleged in this cause of action, each Plaintiff suffered a number of adverse employment
23 actions; including, without limitation, loss of pay, demotions, loss of opportunities for
24 advancement and promotion, loss of opportunities for other assignments, disciplinary action, etc.
25 Each Plaintiff has suffered and continues to suffer substantial losses in earnings, job benefits,
26 quality of life, goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
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1 embarrassment, severe mental and emotional distress, damage to Plaintiff's reputation,
2 discomfort and other damages, the precise amount of which will be proven at trial.

3 189. Defendants, their senior executives, managing agents, managers, directors and
4 officers knew about the foregoing conduct and that the impact was causing financial harm to
5 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
6 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
7 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
8 conduct to continue and refrain from remedying same. These decisions were despicable and done
9 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
10 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
11 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
12 these persons used their superior power and authority over the Plaintiff along with threats and
13 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
14 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
15 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
16 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
17 may be or become available against Defendants in an amount appropriate to punish and make an
18 example of them in addition to the other damages sought herein, subject to applicable law.

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20 **XVIII. EIGHTEENTH CAUSE OF ACTION**

21 **BY EACH PLAINTIFF AGAINST THE EMPLOYERS (ONLY)**

22 **FOR RETALIATION FOR PLAINTIFF'S FILING COMPLAINT(S) OF**
23 **EMPLOYMENT DISCRIMINATION AND UNLAWFUL HARASSMENT**

24 190. Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-189 above
25 as if they were fully set forth here.
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1 191. This action is brought pursuant to the California Fair Employment and Practices
2 Act and California Government Code Sections 12900 et seq. which prohibits retaliation against
3 those who make complaints of discrimination, such as: discrimination against a person in the
4 terms, conditions, or privileges of employment on the basis of the person's protected status under
5 FEHA.

6 192. Each Plaintiff notified Defendants of the unlawful discrimination and harassment
7 alleged herein along with other discriminatory conduct alleged hereinabove in a manner
8 consisted with Defendants' stated policies therefor. Each Plaintiff made complaints and
9 undertook other efforts to request that Defendants engage in the interactive process and properly
10 investigate such conduct alleged herein. Such notifications and requests occurred both verbally
11 and writing by Plaintiff and were received by the designated representatives and employees of
12 Defendants.

13 193. Defendants failed and refused to address such complaints and/or any the other
14 discriminatory conduct alleged hereinbelow in a serious, fair and/or reasonable manner designed
15 to prevent and/or minimize such discriminatory conduct and/or to hold the person(s) and policies
16 related thereto to any level of accountability or responsibility therefor.

17 194. Upon receiving such complaints, Defendants engaged in the Retaliatory Conduct
18 and intentionally harassed, mistreated and created an even more hostile environment for each
19 Plaintiff and further retaliated against each Plaintiff by increasing the severity, frequency and
20 notorious nature of such conduct as alleged herein. Ultimately, when these efforts failed;
21 Defendants threatened each Plaintiff's employment and either terminated each Plaintiff's
22 employment or forced such termination by engaging in the reprehensible conduct alleged herein
23 which was so severe that no reasonable person would be expected to work under such conditions.
24 Such conduct by Defendants was part of a systemic, retaliatory scheme which was regularly
25 implemented by the Defendants, designed to punish, harm and cause injury to each Plaintiff (and
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1 other complaining employees) for making discrimination claims, opposing employment practices
2 that discriminate, filing a discrimination charge and for testifying or participating in any way in
3 an investigation, proceeding, or litigation under FEHA. Such conduct is expressly prohibited by
4 California Government Code Sections 12940(a) and 12940(h)-(k).

5 195. Plaintiff was not afforded access and/or the application of the Defendant's stated
6 policy(ies) of discipline, intolerance of the discrimination, harassment and retaliation. Such
7 notifications were all subsequently directed to Defendants human resources team who
8 discouraged each Plaintiff from pursuing that Plaintiff's complaints and warning such Plaintiffs
9 about the Retaliatory Conduct and the fact that the Employers would not take any corrective
10 action and that each of the Defendants (especially Defendant Leo Jay) would respond harshly
11 and adversely impact each Plaintiff's earnings.

12 196. Such conduct was undertaken, implemented and condoned jointly by each of the
13 Defendants who conspired with each other and the other Defendants to intimidate, harass, harm
14 and terminate each Plaintiff's employment. Such actions were taken within the course and scope
15 of each such individual's employment for the specific purpose of protecting the other Defendants
16 and furthering the discriminatory motives of such Defendants as alleged herein.

17 197. Defendants and each of them engaged in the retaliation (including the Retaliatory
18 Conduct and the intensification of the other unlawful conduct alleged herein) directly in response
19 and retaliation to each Plaintiff's exercise of each Plaintiff's rights protected by FEHA and with
20 the specific intent of forcing each such Plaintiff to drop complaint(s), refrain from pursuing
21 complaints, refrain from supporting other complainants and refrain from making additional
22 complaints. Defendants intent and conduct was to create a chilling effect on employees protected
23 by FEHA and to discourage those persons from making legitimate complaints of discrimination,
24 harassment and retaliation.
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1 198. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
2 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; each Plaintiff has
3 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
4 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
5 embarrassment, severe mental and emotional distress, damage to each Plaintiff's reputation,
6 discomfort and other damages, the precise amount of which will be proven at trial. In each
7 instance, Defendants failed and refused to: (a) take reasonable steps to prevent harassment, (b)
8 utilize the procedures put in place by Defendants to purportedly address allegations of
9 discrimination, harassment and retaliation and (3) allow each Plaintiff to engage in the stated
10 procedure(s) and policy(ies) of Defendants which theoretically would have prevented some of
11 the harassment, discrimination, retaliation and (potentially) minimized each Plaintiff's damages.
12 Instead Defendants engaged in the Retaliatory Conduct alleged herein and disrupted and
13 terminated the policies and processes stated by Defendants which may have otherwise minimized
14 same.

15 199. Defendants, their senior executives, managing agents, managers, directors and
16 officers knew about the foregoing conduct and that the impact was causing financial harm to
17 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
18 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
19 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
20 conduct to continue and refrain from remedying same. These decisions were despicable and done
21 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
22 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
23 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
24 these persons used their superior power and authority over the Plaintiff along with threats and
25 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
26 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
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1 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
2 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
3 may be or become available against Defendants in an amount appropriate to punish and make an
4 example of them in addition to the other damages sought herein, subject to applicable law.

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6 **XIX. NINETEENTH CAUSE OF ACTION**
7 **BY EACH PLAINTIFF AGAINST EACH DEFENDANT**
8 **FOR UNLAWFUL HARASSMENT IN VIOLATION OF FEHA**
9

10 200. Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-199 above
11 as if they were fully set forth here.

12 201. This action is brought pursuant to the California Fair Employment and Practices
13 Act and California Government Code Sections 12900 et seq. which prohibits retaliation against
14 those who make complaints of discrimination, such as: discrimination against a person in the
15 terms, conditions, or privileges of employment on the basis of the person's protected status under
16 FEHA.

17 202. Plaintiff was subject to the unlawful discriminatory conduct alleged herein and the
18 Retaliatory Conduct alleged herein as a result of each Plaintiff's protected status, as alleged.

19 203. This conduct was followed by a pattern of harassment against Plaintiff which was
20 undertaken as a direct result of the previously-alleged discriminatory and retaliatory motives.
21 Such pattern of harassment included the Retaliatory Conduct and intensification of the other
22 discriminatory conduct alleged herein and the efforts alleged designed to force each Plaintiff to
23 terminate their employment. Defendants also took the alleged actions of reducing leads and
24 sales opportunities and adversely affecting each Plaintiff's sales' commissions in direct
25 retaliation for making complaints of discrimination, harassment and retaliation.
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1 204. These Defendants conspired with each other and the other Defendants to intimidate,
2 harass, harm and terminate Plaintiff for discriminatory and retaliatory motives as alleged herein.
3 Such actions were taken within the course and scope of each such individual's employment for
4 the specific purpose of protecting the other Defendants and furthering the discriminatory motives
5 of such Defendants as alleged herein. Defendants also instructed other employees to further
6 harass, intimidate, mistreat, retaliate against and disrupt each Plaintiff's work environment in an
7 effort to discourage and institute fear, worry and emotional distress for each Plaintiff due to their
8 complaining about the discrimination alleged herein. Such conduct and harassment was
9 specifically designed to force each Plaintiff to abandon that Plaintiff's complaints and to quit
10 their jobs. Each Defendant was aware of such conduct and took no efforts to avoid it. In fact,
11 each Defendant approved, condoned, consented to and supported the conduct and engaged in a
12 consistent and ever-escalating pattern of retaliation (including intensifying the Retaliatory
13 Conduct alleged herein) against each Plaintiff. In this regard, in addition to the foregoing,
14 Defendants would intentionally make the working environment and working conditions of those
15 who complained (including each Plaintiff) and their protected counterparts so much more harsh,
16 discriminatory, unbearable and unreasonable that no reasonable person could be expected to
17 continue their employ under such conditions. This was followed-by the Defendants generating
18 false and defamatory allegations of misconduct by each Plaintiff, baseless disciplinary action and
19 the unlawful and attempts to cause the termination of each Plaintiff's employment.

20 205. The harassment described hereinabove by each Defendant was, most obviously,
21 unlawful, uninvited, undeserving, unwelcome and undertaken maliciously by the Defendants
22 without justification. The conduct was undertaken in a severe and pervasive manner which
23 consistently disrupted and made each Plaintiff's daily work experience miserable. The
24 Defendants (and especially each of the individually-named Defendants) engaged in such conduct
25 multiple times per week and in such a harsh manner that they intended and expected each
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1 Plaintiff to quit that Plaintiff's employment because the conduct made that Plaintiff's work
2 unbearable.

3 206. The conduct created a work environment that was hostile, intimidating, offensive,
4 oppressive and abusive. The individually-named Defendants engaged in the conduct in an open
5 and notorious manner which was designed to humiliate, embarrass and disparage among
6 Plaintiff's co-workers and each Plaintiff had to work harder and go out of Plaintiff's way to undo
7 this damage.

8 207. All of the foregoing occurred on a frequent and recurrent basis with incidents of
9 harassment (as described) happening nearly every day at work. This conduct well-exceeded any
10 boundaries of decency and went far beyond the Defendants duties to train, manage, supervise
11 and even properly discipline Plaintiff (in the event any such discipline was needed... which it
12 was not).

13 208. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
14 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; each Plaintiff has
15 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
16 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
17 embarrassment, severe mental and emotional distress, damage to each Plaintiff's reputation,
18 discomfort and other damages, the precise amount of which will be proven at trial. In each
19 instance, Defendants failed and refused to: (a) take reasonable steps to prevent harassment, (b)
20 utilize the procedures put in place by Defendants to purportedly address allegations of
21 discrimination, harassment and retaliation and (3) allow each Plaintiff to engage in the stated
22 procedure(s) and policy(ies) of Defendants which theoretically would have prevented some of
23 the harassment, discrimination, retaliation and (potentially) minimized each Plaintiff's damages.
24 Instead Defendants engaged in the Retaliatory Conduct alleged herein and disrupted and
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1 terminated the policies and processes stated by Defendants which may have otherwise minimized
2 same.

3 209. Defendants, their senior executives, managing agents, managers, directors and
4 officers knew about the foregoing conduct and that the impact was causing financial harm to
5 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
6 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
7 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
8 conduct to continue and refrain from remedying same. These decisions were despicable and done
9 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
10 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
11 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
12 these persons used their superior power and authority over the Plaintiff along with threats and
13 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
14 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
15 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
16 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
17 may be or become available against Defendants in an amount appropriate to punish and make an
18 example of them in addition to the other damages sought herein, subject to applicable law.

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20 **XX. TWENTIETH CAUSE OF ACTION BY EACH PLAINTIFF**

21 **AGAINST THE EMPLOYERS (ONLY)**

22 **FOR WRONGFUL, TORTIOUS AND CONSTRUCTIVE TERMINATION**

23
24 210. Plaintiff re-alleges and incorporates herein by this reference Paragraphs 1-209 above
25 as if they were fully set forth here.

1 211. As a direct, unjustified and retaliatory response to Plaintiff's complaints of
2 discrimination, harassment and retaliation set forth hereinabove (including the whistleblower
3 allegations), Defendants sought to unlawfully terminated each Plaintiff's employment by making
4 working conditions unbearable to each such Plaintiff. Such conduct was undertaken in bad faith
5 and in retaliation to the complaints by each Plaintiff.

6 212. It is the public policy of the State of California to encourage employees to notify
7 employers and an appropriate government or law enforcement agency, person with authority
8 over the employee, or another employee with authority to investigate, discover, or correct the
9 violation or noncompliance, and to provide information to and testify before a public body
10 conducting an investigation, hearing or inquiry, when they have reason to believe their employer
11 is violating a state or federal statute, or violating or not complying with a local, state or federal
12 rule or regulation.

13 213. More specifically, California Constitution, Article I, Section 8, the Civil Rights
14 Act and FEHA (the "Civil Rights Acts"), prohibit, among other things, employment
15 discrimination based on race, age, creed, disability, color or national or ethnic origin. As stated
16 previously, this includes the State of California's public policy as codified in California
17 Government Code Sections 12940(a) and (h)-(k)] prohibiting discrimination, harassment and
18 retaliation based upon (among other things) race and age. Plaintiff is a protected-class (former)
19 employee of Defendants who sought to exercise Plaintiff's rights under FEHA. In addition,
20 Labor Code Section 1102.5(a) et seq. protects Plaintiff and other employees from retaliation due
21 to so-called "whistle-blowing" (i.e., retaliation for reporting unlawful conduct to the proper
22 governmental, internal and/or other agencies).

24 214. In addition, California Labor Code Section 923 sets forth the State of
25 California's public policy and provides in part that an employee shall be free from the
26 interference, restraint and coercion of employers or their agents and also that an employee shall
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1 be free to negotiate the terms and conditions of each Plaintiff's employment. This public policy
2 also inures to the public at large. The scope of Section 923 is not limited to unionization; but
3 express a broader policy designed to permit employees to negotiate freely with their employees
4 directly and/or through a union.

5 215. Each of the foregoing provisions sets forth a fundamental public policy. The duty
6 imposed upon employers, including the Defendants, from each of these provisions inures to the
7 benefit of the public at large. Each of the Plaintiffs attempted to negotiate and participate in a
8 process which would improve work conditions for her and other employees. More specifically,
9 each Plaintiff strived to convince Defendants to treat each Plaintiff and other employees in a fair,
10 lawful and equitable manner consistent with FEHA and to eliminate discrimination, harassment
11 and retaliation in the workplace. After the working conditions described hereinabove
12 (throughout this entire complaint) occurred and each Plaintiff sought relief from Defendants;
13 conditions only worsened. Defendants engaged in the Retaliatory Conduct and other unlawful
14 conduct alleged hereinabove to force each Plaintiff to quit. The work conditions became so
15 unbearable that each Plaintiff had no choice but to terminate Plaintiff's employment. Each
16 Plaintiff notified the Employers of the intolerable conditions and the desire of the Defendants to
17 force each Plaintiff out of the workplace. Defendants elected to proceed with their unlawful
18 efforts and Retaliatory Conduct.

19 216. Accordingly, each Plaintiff was wrongfully and tortiously discharged by the
20 Defendants and is entitled to relief therefor as part of the State of California's public policy
21 prohibiting discrimination, harassment and retaliation therefor under FEHA and otherwise. The
22 constructive or actual termination of each Plaintiff was solely motivated by the Unlawful
23 Conduct and Plaintiffs' complaints of discrimination, harassment and retaliation which occurred
24 prior to said constructive termination.

1 217. As a direct, foreseeable, legal, actual and proximate result of the Defendants'
2 discriminatory acts, the Unlawful Conduct and the Retaliatory Conduct; each Plaintiff has
3 suffered and continues to suffer substantial losses in earnings, job benefits, quality of life,
4 goodwill; and has suffered and continues to suffer humiliation, ridicule, contempt,
5 embarrassment, severe mental and emotional distress, damage to each Plaintiff's reputation,
6 discomfort and other damages, the precise amount of which will be proven at trial. In each
7 instance, Defendants failed and refused to: (a) take reasonable steps to prevent harassment, (b)
8 utilize the procedures put in place by Defendants to purportedly address allegations of
9 discrimination, harassment and retaliation and (3) allow each Plaintiff to engage in the stated
10 procedure(s) and policy(ies) of Defendants which theoretically would have prevented some of
11 the harassment, discrimination, retaliation and (potentially) minimized each Plaintiff's damages.
12 Instead Defendants engaged in the Retaliatory Conduct alleged herein and disrupted and
13 terminated the policies and processes stated by Defendants which may have otherwise minimized
14 same.

15 218. Defendants, their senior executives, managing agents, managers, directors and
16 officers knew about the foregoing conduct and that the impact was causing financial harm to
17 each Plaintiff, while increasing the Employers' "profit". Notwithstanding this knowledge, such
18 person's elected to intentionally, wilfully, oppressively, fraudulently and maliciously (for the
19 purpose of injuring each Plaintiff and depriving each Plaintiff of that Plaintiff's rights) permit the
20 conduct to continue and refrain from remedying same. These decisions were despicable and done
21 in conscious disregard of each Plaintiff's fundamental rights. Such conduct on the part of
22 Defendants and those persons was intentional, oppressive, fraudulent, malicious and done in a
23 wanton effort to deprive each Plaintiff of that Plaintiff's fundamental rights. Defendants and
24 these persons used their superior power and authority over the Plaintiff along with threats and
25 intimidation to subject each Plaintiff to cruel and unjust hardships in conscious disregard of
26 Plaintiff's rights. All of the foregoing conduct was undertaken by the Defendants and their
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1 owners, managing agents, senior executives, supervisors, directors and officers. Accordingly,
2 each Plaintiff also seeks any allowable and/or appropriate punitive or exemplary damages which
3 may be or become available against Defendants in an amount appropriate to punish and make an
4 example of them in addition to the other damages sought herein, subject to applicable law.

5
6 **PRAYER FOR RELIEF**

7 WHEREFORE , Plaintiff prays judgment against Defendants as follows:

- 8 1. For general and special damages according to proof;
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10 2. For statutory damages according to proof;
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12 3. For interest, according to law, on the amount to be ascertained at trial from the
13 applicable date upon which that interest begins to accrue according to law and as proved at trial;
14
15 4. For any and all costs and attorneys' fees as provided by law;
16
17 5. For allowable and applicable punitive damages in an amount sufficient to deter
18 Defendants from engaging in such conduct again in the future; and
19
20 6. For any other and further relief according to proof, any applicable law and/or that the
21 Court considers proper.

22
23 **DEMAND FOR JURY TRIAL**

24 Plaintiff hereby demand a trial by jury of the foregoing causes of action.

25 DATED: March 9, 2022

26 *Michael S. Traylor*
27 _____
28 Michael S. Traylor, Esq.
Attorney for Plaintiffs