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LORETTA LEE

10 SUPERIOR COURT OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SANTA CLARA

12 LORETTA LEE,
13
14 Plaintiff,
15 vs.
16 GOOGLE, INC. and DOES 1-25,
17 Defendants.

Case No. 18CV323651

- COMPLAINT FOR DAMAGES**
- (1) Hostile Work Environment Harassment in Violation of FEHA**
- (2) Gender Discrimination in Violation of FEHA**
- (3) Failure to Prevent Sexual Harassment in Violation of FEHA**
- (4) Retaliation in Violation of FEHA**
- (5) Disability Discrimination in Violation of FEHA**
- (6) Failure to Accommodate in Violation of FEHA**
- (7) Failure to Engage in the Interactive Process in Violation of FEHA**
- (8) Wrongful Termination**
- (9) Interference in Violation of FMLA**
- (10) Retaliation in Violation of FMLA**
- (11) Interference in Violation of CFRA**
- (12) Retaliation in Violation of CFRA**

DEMAND FOR JURY TRIAL

1 Plaintiff Loretta Lee, (hereinafter “Lee” or “Plaintiff”) brings this action against
2 Defendant Google, Inc. (“Google” and/or “Defendant”) and DOES 1-25 (collectively
3 “Defendants”) and alleges as follows:

4 **NATURE OF THE ACTION**

5 1. Plaintiff Loretta Lee worked as a Software Engineer for Defendant Google for over
6 seven years. She performed well in her position and was regarded as an excellent
7 engineer, receiving many commendations over the years.

8 2. In a male-dominated workplace, Plaintiff was frequently subjected to sexual
9 harassment as her male co-workers engaged in inappropriate behavior and made lewd
10 remarks to her. Defendant failed to prevent this severe and pervasive sexual harassment.

11 3. After one particularly troubling incident when Plaintiff found a male co-worker hiding
12 under her desk, refusing to explain himself, Human Resources pressured Plaintiff to file a
13 report against him. When Plaintiff refused to file the report for fear of being labeled an
14 informer, Human Resources wrote her up and failed to take any remedial action regarding
15 the incident.

16 4. Over the next few months, Plaintiff was, as she feared, labeled an informer. Neither
17 the harasser nor anyone else in her group would approve her code and she did not receive
18 appropriate feedback on her work.

19 5. Also around this time, Plaintiff took a medical leave to treat for her mental health
20 after working extreme hours for many years. Shortly after she returned, Plaintiff also
21 requested time to attend physical therapy appointments for a car accident injury. Defendant
22 failed to grant her requests for accommodation or engage in an interactive process to
23 accommodate her disability.

24 ///

1 6. In February 2016, Google terminated Plaintiff for “performance issues.” The
2 termination came shortly after she asked for disability accommodations and once again fell
3 victim to sexual harassment.

4 7. Google’s bro-culture contributed to Plaintiff’s suffering frequent sexual harassment
5 and gender discrimination, for which Google failed to take corrective action. Additionally,
6 Google discriminated against Plaintiff on the basis of her disability, failed to accommodate
7 her, retaliated against her, and terminated her.

8 **PARTIES**

9 8. Plaintiff was, at all relevant times herein, a resident of the State of California and
10 employed by Defendant Google to work as a Software Engineer at its Los Angeles campus,
11 and later at its Mountain View campus.

12 9. Defendant Google is a technology company headquartered in Mountain View,
13 California. At all relevant times, Defendant was Plaintiff’s employer.

14 **JURISDICTION AND VENUE**

15 10. The amount of damages herein is greater than \$25,000. This case is therefore within
16 the unlimited jurisdiction of this Court.

17 11. This Court has jurisdiction over the parties and claims involved in this action because
18 Plaintiff is a resident of California and Defendant is headquartered in Mountain View,
19 California.

20 12. Venue is proper in Santa Clara County pursuant to California Code of Civil Procedure
21 §395.5 because the unlawful acts alleged herein occurred in Santa Clara County.

22 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23 13. Plaintiff filed a timely charge of discrimination against Defendant with the California
24 Department of Fair Employment and Housing (“DFEH”). Plaintiff received a right-to-sue

1 notice from DFEH dated February 18, 2017, and has commenced this action in a timely
2 manner.

3 FACTUAL ALLEGATIONS

4 14. Plaintiff began working at Google's Los Angeles campus as a Software Engineer in
5 2008, and later moved to its Mountain View campus.

6 15. Plaintiff excelled at her job and was considered a talented and rising star at Google.
7 In less than four weeks in 2015, she singlehandedly wrote the code for Google's first ever
8 company-wide internal contest, Product Excellent Fit. Thousands of Googlers participated.
9 The contest is now a biannual event, run by a 10-person team. Plaintiff also placed first and
10 third place in 2011 and 2013 hackathons at Google. She consistently received excellent
11 performance reviews and feedback until shortly before her termination.

12 Gender Discrimination, Sexual Harassment, and Retaliation

13 16. Plaintiff was one of very few female Software Engineers working for Google. For
14 many years, she endured a male-dominated work environment permeated by sexual
15 harassment.

16 17. At Google, Plaintiff was harassed on a daily basis. She was the subject of lewd
17 comments, pranks, and even physical violence. Some examples are as follows: Male
18 colleagues spiked her drinks with whiskey and laughed about it. Male engineers shot nerf
19 balls and darts at her almost every day. On occasion, male colleagues sent Plaintiff
20 disturbing and bizarre messages. One colleague sent her a text message asking if she
21 would like a "horizontal hug." Another showed up at her apartment with a bottle of liquor
22 and offered to work with her to fix a problem she was having with one of her devices.
23 Plaintiff asked him to leave but he refused. During a holiday party, Plaintiff was slapped in
24 the face by an intoxicated male co-worker for no apparent reason. Men in the workplace

1 ogled at her constantly. Plaintiff worked at Google beginning when she was 26 years old,
2 and this bro-culture was the only professional environment she knew.

3 18. In January 2016, Plaintiff was working late one night and when she returned to her
4 desk after a short break, she found a male co-worker on all fours, underneath her desk.
5 When he noticed Plaintiff approaching, he jumped up and shouted “You’ll never know what
6 I was doing!”

7 19. In large part, Plaintiff had grown accustomed to the inappropriate comments and
8 various forms of sexual harassment. However, the incident with the co-worker under her
9 desk unnerved her. Plaintiff had never spoken to that co-worker before. She was frightened
10 by his comment and believed he may have installed some type of camera or similar device
11 under her desk.

12 20. The next day, the co-worker approached Plaintiff, grabbed the name badge that
13 hung on a lanyard around her neck, and asked “What’s your name?” As he grabbed the
14 lanyard, his hand grazed her breasts.

15 21. When Human Resources and the Senior Engineering Director learned of the
16 incident, they began scheduling weekly meetings with Plaintiff in an attempt to get her to file
17 a report against the co-worker. Human Resources explained that it would take action
18 against the co-worker. Specifically, they would notify his supervisor, talk to him, and he
19 *might* be required to watch additional sexual harassment video training.

20 22. Plaintiff knew none of the actions Human Resources claimed they would take would
21 change the sexually charged environment that she endured for years. In fact, she believed
22 filing a report would make her life worse as she would be labeled an “informer.” As a team
23 member, she knew her own performance relied upon the cooperation of others, specifically
24 their approval of the code she wrote. She also knew that being ostracized could effectively

1 end her career at Google. She expressed these views to Human Resources, but they did
2 not relent. They continued to schedule frequent meetings during which they encouraged
3 Plaintiff to file a report against the co-worker.

4 23. At this time, video had apparently surfaced depicting the incident. Despite this,
5 Human Resources continued to pressure Plaintiff, the victim and one of only a few women
6 in a group of 100-200 Googlers, to make a sexual harassment complaint. Google was fully
7 aware of what was transpiring and had no real plan to combat it. More egregiously, Human
8 Resources wrote Plaintiff up again for “not cooperating” when she failed to report the sexual
9 harassment incident.

10 24. Eventually, Human Resources convinced Plaintiff to file the report; however, they did
11 not thoroughly investigate Plaintiff’s claims. Instead, they simply alleged that her claims
12 were unsubstantiated. This emboldened her colleagues to continue their inappropriate
13 behavior.

14 25. Over the next few months, Plaintiff’s fears were realized. Though she diligently wrote
15 code, no one in her group would approve it, which stalled the entire project. This also led to
16 Plaintiff being labeled a “poor performer,” despite her explaining that the team would not
17 approve her code. Plaintiff’s code reviewer also requested questionable changes to the
18 code she had written. The two debated it, and ultimately Plaintiff made the changes.
19 However, her code reviewer then came back and told Plaintiff to return the code to its
20 original version, causing an unnecessary delay of several weeks.

21 26. On February 22, 2016, Plaintiff was terminated for “poor performance.” This came
22 only a couple of months after she fell victim, once again, to sexual harassment. Plaintiff’s
23 failure to report the sexual harassment did not prevent colleagues from retaliating against
24 her. Not only did Google fail to prevent severe and pervasive sexual harassment in

1 Plaintiff's workplace, but the repeated and awkward meetings that Human Resources
2 forced Plaintiff to attend led her group to retaliate against her in the very way she feared.

3 27. Google's failure to take appropriate remedial action is consistent with its pattern and
4 practice of ignoring sexual harassment in the workplace, making no significant efforts to
5 take corrective action, and punishing the victim.

6 Disability Discrimination, Failure to Accommodate, Failure to Engage in the Interactive
7 Process, and Wrongful Termination

8 28. During her employment with Google, Plaintiff was a productive and talented software
9 engineer. She often worked long hours, up to 16 hours per day on occasion.

10 29. After working extreme hours for many years, in July 2015, Google insisted that
11 Plaintiff take time off to assess her mental state. Coming shortly after a particularly
12 sleepless work marathon, she believed that the time off was a reward for all of her efforts
13 and an attempt to get her to de-stress. For the next several months, Plaintiff sought and
14 obtained treatment for her mental health. Plaintiff returned to work on November 3, 2015.

15 30. On November 15, 2015, shortly after Plaintiff returned to work, she was rear ended
16 by a drunk driver and her car was totaled. She began experiencing severe back pain, which
17 required physical therapy. The pain made it painful to sit or stand in one place for several
18 hours.

19 31. To manage her pain and heal, Plaintiff requested time off during the day to attend
20 outpatient treatment and follow up therapy appointments as the appointments were only
21 available during work hours. At first, Google human resources said it would accommodate
22 Plaintiff. However, instead of doing so, the Senior Engineering Director told Plaintiff she
23 "better be doing that on [her] own time."

24 32. Plaintiff also took medication that made her sleep schedule erratic. She asked for a

1 flexible start time to adjust to her medication. Google claimed it would honor this request,
2 however, her managers continued to reprimand her for arriving late.

3 33. Out of fear of losing her job, Plaintiff attempted to suffer through the physical pain
4 and erratic sleep schedule so that she could continue to deliver a high volume of quality
5 software code, in-line with her work prior to the onset of her disability. As a result, Plaintiff's
6 back and mental conditions progressively worsened.

7 34. Shortly after Plaintiff notified her supervisors of her need for accommodations, she
8 began to receive negative feedback for the first time. Plaintiff received a negative two-word
9 performance review – Needs Improvement – which was the first negative review of her
10 career and in spite the fact that she was still producing the same caliber work. Plaintiff was
11 also written up for absences, which caused her to stop attending her therapy sessions.

12 35. Google had previously allowed Plaintiff to work from home and late at night when
13 she was producing a high volume of work for the company, but it would not adjust her
14 schedule when she required accommodations to care for herself.

15 36. After some time, alleging they were “unsatisfied” with her performance and that she
16 had “communication” issues, Human Resources gave Plaintiff three options: (1) exit Google
17 with a severance package; (2) agree to maintain regular attendance, meet performance
18 expectations, and exhibit professional behavior with others, all of which would be outlined in
19 a Final Written Warning; or (3) take a medical leave to address the mental health issues
20 she had been dealing with, such as adjusting to her medications, but that her return would
21 be conditioned upon her agreement with the expectations set forth in a Final Written
22 Warning.

23 37. Plaintiff chose the third option and commenced a leave on February 4, 2016. She
24 returned to work on February 22, 2016 and was given a Final Written Warning. The next

1 day, she was terminated. This termination came shortly after she requested reasonable
2 accommodations.

3 38. Google retaliated against Plaintiff by suggesting that she go out on medical leave
4 and then using her absence against her. Upon her return, Google also retaliated against
5 Plaintiff for requesting accommodations when it used them as a basis for write-ups and
6 poor performance reviews. Google's retaliation eventually led to Google's three-option
7 ultimatum and Plaintiff's unlawful termination.

8 39. Defendant's actions were undertaken for improper purposes as alleged above and
9 were willful, oppressive and in conscious disregard of Plaintiff's rights, and were designed
10 and intended to cause and did, in fact, cause and continue to cause Plaintiff to suffer
11 severe emotional distress, pain and suffering, and substantial economic damage and,
12 therefore, justify the awarding of exemplary and punitive damages.

13 40. The above allegations are incorporated by reference in each and every cause of action
14 stated below.

15 **FIRST CAUSE OF ACTION**

16 **Hostile Work Environment Harassment in Violation of FEHA**

17 41. California's Fair Employment and Housing Act ("FEHA") provides in pertinent part
18 that it is an unlawful practice for an employer to subject an employee to harassment based
19 on his or her sex and/or gender, causing a hostile work environment.

20 42. Defendant is an employer within the meaning of FEHA.

21 43. Plaintiff was an employee of Defendant.

22 44. Plaintiff has been subjected to unwanted harassing conduct and a hostile work
23 environment because of her sex and/or gender.

24 45. The harassing conduct was severe or pervasive.

1 46. A reasonable woman in Plaintiff's circumstances would consider the work
2 environment to be hostile or abusive.

3 47. Plaintiff considered the work environment to be hostile or abusive.

4 48. Plaintiff has been harmed.

5 49. The harassing conduct was a substantial factor in causing Plaintiff's harm.

6 **SECOND CAUSE OF ACTION**

7 **Gender Discrimination in Violation of FEHA**

8 50. FEHA provides in pertinent part that it is an unlawful practice for an employer to
9 discriminate against any individual on the basis of the individual's gender.

10 51. The actions and conduct of Defendant, as alleged hereinabove, constitute
11 discrimination on the basis of gender against Plaintiff, in violation of FEHA.

12 52. As a direct result of the unlawful employment practices of Defendant as alleged
13 hereinabove, Plaintiff has been deprived of a discrimination-free work environment, lost
14 income and benefits, and suffered other damages to be determined at trial.

15 53. As a further and direct result of the unlawful employment practices of Defendant as
16 alleged hereinabove, Plaintiff has suffered emotional distress, physical pain and suffering,
17 and injuries in an amount to be proven at trial.

18 54. As a further result of Defendant's violation of FEHA, Plaintiff has been compelled to
19 employ attorney's fees and is entitled to attorney's fees pursuant to Gov. Code §12965 and
20 CCP §1021.5.

21 **THIRD CAUSE OF ACTION**

22 **Failure to Prevent Sexual Harassment in Violation of FEHA**

23 55. FEHA provides in pertinent part that employers must take all reasonable steps to
24 prevent harassment. Cal. Gov. Code §12940(k).

1 56. The actions and conduct of Defendant, as alleged hereinabove, constitute failure to
2 prevent sexual harassment, in violation of FEHA.

3 57. As a direct result of the unlawful employment practices of Defendant as alleged
4 hereinabove, Plaintiff has lost income and benefits, and suffered other damages to be
5 determined at trial.

6 58. As a further and direct result of the unlawful employment practices of Defendant as
7 alleged hereinabove, Plaintiff has suffered emotional distress, physical pain and suffering,
8 and injuries in an amount to be proven at trial.

9 59. As a further result of Defendant's violation of FEHA, Plaintiff has been compelled to
10 employ attorney's fees and is entitled to attorney's fees pursuant to Cal. Gov. Code §12965
11 and CCP §1021.5.

12 **FOURTH CAUSE OF ACTION**

13 **Retaliation in Violation of FEHA**

14 60. FEHA provides in pertinent part that it is an unlawful practice for an employer to
15 retaliate against an employee for opposing discriminatory activity that she reasonably
16 believes to be unlawful.

17 61. The actions and conduct of Defendant, as alleged hereinabove, constitute retaliation
18 against Plaintiff, in violation of FEHA.

19 62. As a direct result of the unlawful employment practices of Defendant as alleged
20 hereinabove, Plaintiff has lost income and benefits, and suffered other damages to be
21 determined at trial.

22 63. As a further and direct result of the unlawful employment practices of Defendant as
23 alleged hereinabove, Plaintiff has suffered emotional distress, physical pain and suffering,
24 and injuries in an amount to be proven at trial.

1 64. As a further result of Defendant's violation of FEHA, Plaintiff has been compelled to
2 employ attorney's fees and is entitled to attorney's fees pursuant to Gov. Code §12965 and
3 CCP §1021.5.

4 **FIFTH CAUSE OF ACTION**

5 **Disability Discrimination in Violation of FEHA**

6 65. FEHA provides in pertinent part that it is an unlawful practice for an employer to
7 discriminate against any individual on the basis of the individual's physical or mental
8 disability.

9 66. The actions and conduct of Defendant, as alleged hereinabove, constitute
10 discrimination on the basis of physical and/or mental disability against Plaintiff, in violation
11 of FEHA.

12 67. As a direct result of the unlawful employment practices of Defendant as alleged
13 hereinabove, Plaintiff has been deprived of a discrimination-free work environment, lost
14 income and benefits, and suffered other damages to be determined at trial.

15 68. As a further and direct result of the unlawful employment practices of Defendant as
16 alleged hereinabove, Plaintiff has suffered emotional distress, physical pain and suffering,
17 and injuries in an amount to be proven at trial.

18 69. As a further result of Defendant's violation of FEHA, Plaintiff has been compelled to
19 employ attorney's fees pursuant to Gov. Code §12965 and CCP §1021.5.

20 **SIXTH CAUSE OF ACTION**

21 **Failure to Accommodate in Violation of FEHA**

22 70. FEHA provides in pertinent part that employers must make reasonable
23 accommodations for employees' known physical or mental disabilities. Employers must
24 engage in a timely, good faith, interactive process with the employee to determine effective

1 reasonable accommodations. Cal. Gov. Code §12940(n).

2 71. The actions and conduct of Defendant, as alleged hereinabove, constitute failure to
3 accommodate Plaintiff, in violation of FEHA.

4 72. As a direct result of the unlawful employment practices of Defendant as alleged
5 hereinabove, Plaintiff has lost income and benefits, and suffered other damages to be
6 determined at trial.

7 73. As a further and direct result of the unlawful employment practices of Defendant as
8 alleged hereinabove, Plaintiff has suffered emotional distress, physical pain and suffering,
9 and injuries in an amount to be proven at trial.

10 74. As a further result of Defendant's violation of FEHA, Plaintiff has been compelled to
11 employ attorney's fees and is entitled to attorney's fees pursuant to Cal. Gov. Code §12965
12 and CCP §1021.5.

13 **SEVENTH CAUSE OF ACTION**

14 **Failure to Engage in the Interactive Process in Violation of FEHA**

15 75. FEHA provides in pertinent part that it is an unlawful practice for an employer not to
16 engage in the interactive process with an employee.

17 76. Defendant's conduct, as alleged herein, constitutes failure to engage in the
18 interactive process, in violation of FEHA.

19 77. As a direct result of the unlawful employment practices of Defendant, as alleged
20 above, Plaintiff has been deprived of a discrimination-free work environment, lost income
21 and benefits, and suffered other damages to be determined at trial.

22 78. As a further and direct result of the unlawful employment practices of Defendant as
23 alleged hereinabove, Plaintiff has suffered emotional distress, physical pain and suffering,
24 and injuries in an amount to be proven at trial.

1 79. As a further result of Defendant's violation of FEHA, Plaintiff has been compelled to
2 employ attorney's fees and is entitled to attorney's fees pursuant to Gov. Code §12965 and
3 CCP §1021.5.

4 **EIGHTH CAUSE OF ACTION**

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

6 80. Defendant's conduct, as alleged herein, constitutes wrongful termination in violation
7 of public policy against Plaintiff in violation of the common law principles explained in *Tameny*
8 *v. Atlantic Richfield Co.* (1980) 27 Cal.3d 167 and its progeny.

9 81. As a direct result of the unlawful employment practices of Defendant, as alleged
10 above, Plaintiff has suffered lost wages, lost benefits, and emotional distress in an amount
11 to be proven at trial.

12 **NINTH CAUSE OF ACTION**

13 **Interference in Violation of FMLA**

14 82. The Family and Medical Leave Act ("FMLA") provides in pertinent part that it is an
15 unlawful practice for an employer to interfere with, restrain, or deny the exercise or the
16 attempt to exercise any right provided by the FMLA.

17 83. Defendant is an employer covered by the FMLA.

18 84. Plaintiff suffered from a serious health condition.

19 85. Plaintiff was eligible for medical leave under the FMLA.

20 86. Plaintiff notified Defendant of her serious health condition and her need for medical
21 leave.

22 87. Defendant interfered with Plaintiff's FMLA rights.

23 88. Plaintiff was harmed.

24 89. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

1 **TENTH CAUSE OF ACTION**

2 **Retaliation in Violation of FMLA**

3 90. FMLA provides in pertinent part that it is an unlawful practice for an employer to
4 terminate and/or discriminate against an employee for the exercise or attempt to exercise
5 any right provided by the FMLA.

6 91. Plaintiff was eligible for medical leave under the FMLA.

7 92. Plaintiff requested and took medical leave.

8 93. Defendant discriminated against and terminated Plaintiff.

9 94. Plaintiff's request to take medical leave and her taking of the medical leave was a
10 negative factor in Defendant's decision to terminate and/or discriminate against Plaintiff.

11 95. Plaintiff was harmed.

12 96. Defendant's retaliatory conduct was a substantial factor in causing Plaintiff's harm.

13 **ELEVENTH CAUSE OF ACTION**

14 **Interference in Violation of CFRA**

15 97. The California Family Rights Act ("CFRA") provides in pertinent part that it is an
16 unlawful practice for an employer to interfere with an employee's exercise or attempt to
17 exercise any right provided by CFRA.

18 98. Defendant is an employer covered by CFRA.

19 99. Plaintiff suffers from a serious health condition.

20 100. Plaintiff was eligible for medical leave under CFRA.

21 101. Plaintiff notified Defendant of her serious health condition and her need for medical
22 leave.

23 102. Defendant interfered with Plaintiff's CFRA rights.

24 103. Plaintiff was harmed.

1 104. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

2 **TWELFTH CAUSE OF ACTION**

3 **Retaliation in Violation of CFRA**

4 105. CFRA provides in pertinent part that it is an unlawful practice for an employer to
5 terminate and/or discriminate against an employee for the exercise or attempt to exercise
6 any right provided by CFRA.

7 106. Defendant is an employer covered by CFRA.

8 107. Plaintiff was eligible for medical leave under CFRA.

9 108. Plaintiff requested and took medical leave.

10 109. Defendant discriminated against and terminated Plaintiff.

11 110. Plaintiff's request to take medical leave and her taking of the medical leave
12 motivated Defendant's decision to terminate and/or discriminate against Plaintiff.

13 111. Plaintiff was harmed.

14 112. Defendant's retaliatory conduct was a substantial factor in causing Plaintiff's harm.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

17 1. For an award of damages to Plaintiff against Defendant for its termination of
18 Plaintiff, including compensatory damages, economic damages, emotional and physical
19 distress, and for any punitive or penalty damages allowed under California law;

20 2. All applicable statutory penalties;

21 3. Costs and expenses of this action incurred herein, including reasonable
22 attorneys' fees and expert fees;

23 4. A declaratory judgment that Defendant discriminated against and retaliated
24 against Plaintiff in violation of FEHA;

