

1 JENNIFER S. SCHWARTZ, ESQ. (SBN 135932)
2 MENAKA N. FERNANDO, ESQ. (SBN 271380)
3 OUTTEN & GOLDEN LLP
4 One Embarcadero Center, 38th Floor
5 San Francisco, CA 94111
6 Telephone: (415) 638-8800
7 Facsimile: (415) 638-8810
8 E-mail: jschwartz@outtengolden.com
9 E-mail: mfernando@outtengolden.com

10 *Attorneys for Plaintiff Ingrid Avendaño*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN FRANCISCO**
13 **UNLIMITED CIVIL JURISDICTION**

14 INGRID AVENDAÑO,

15 Plaintiff,

16 v.

17 UBER TECHNOLOGIES, INC. and
18 DOES 1 through 20, inclusive,

19 Defendant.

Case No. **CGC-18-566677**

COMPLAINT FOR DAMAGES

1. **DISCRIMINATION BASED UPON SEX AND/OR RACE/ETHNICITY – DISPARATE TREATMENT (CAL. GOV. CODE §§ 12940 *et seq.*)**
2. **DISCRIMINATION BASED UPON SEX AND/OR RACE/ETHNICITY – DISPARATE IMPACT (CAL. GOV. CODE §§ 12940 *et seq.*)**
3. **SEXUAL HARASSMENT – HOSTILE WORK ENVIRONMENT (CAL. GOV. CODE §§ 12940 *et seq.*)**
4. **FAILURE TO TAKE REASONABLE STEPS TO PREVENT OR CORRECT DISCRIMINATION (CAL. GOV. CODE §§ 12940 *et seq.*)**
5. **DISCRIMINATION BASED UPON DISABILITY (CAL. GOV. CODE §§ 12940 *et seq.*)**
6. **RETALIATION FOR OPPOSING UNLAWFUL EMPLOYMENT PRACTICES (CAL. GOV. CODE §§ 12940 *et seq.*)**
7. **RETALIATION FOR TAKING JOB-PROTECTED MEDICAL LEAVE (CAL. GOV. CODE §§ 12945.2)**
8. **RETALIATION FOR DISCLOSURE OF UNLAWFUL ACTS (CAL. LAB. CODE § 1102.5)**
9. **FAILURE TO PROVIDE EQUAL PAY BASED UPON SEX AND/OR RACE/ETHNICITY (CAL. LAB. CODE § 1197.5)**
10. **WRONGFUL TERMINATION (CONSTRUCTIVE DISCHARGE) IN VIOLATION OF PUBLIC POLICY**
11. **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

**ENDORSED
FILED**
San Francisco County Superior Court

MAY 21 2018

**CLERK OF THE COURT
KALENE APOLONIO**
Deputy Clerk

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**12. NEGLIGENT INFLICTION OF EMOTIONAL
DISTRESS**
**13. UNLAWFUL AND UNFAIR BUSINESS
PRACTICES (CAL. BUS. & PROF. CODE §§ 17200
et. seq.)**

DEMAND FOR JURY TRIAL

1 **NATURE OF THE ACTION**

2 1. This is a civil rights action brought by Plaintiff Ingrid Avendaño (“Plaintiff” or
3 “Avendaño”), a Latina female software engineer, against her former employer Defendant Uber
4 Technologies, Inc., (“Defendant”, “the Company”, or “Uber”). Over her entire tenure at Uber,
5 Avendaño saw and experienced a male-dominated work culture, permeated with degrading,
6 marginalizing, discriminatory, and sexually harassing conduct towards women. This culture was
7 perpetuated and condoned by numerous managers, including high level company leaders. When
8 Avendaño began working for Uber as a software engineer in February 2014, she was passionate
9 about Uber’s product and mission and hoped to build a long and successful career at the Company.
10 Throughout her employment, however, she was repeatedly faced with discriminatory treatment and
11 sexually explicit conduct specifically directed at female employees. When she witnessed such
12 injustices within the company, Avendaño often advocated for herself and others out of a steadfast
13 commitment to the betterment of the company with the hope that she could be a vehicle for
14 change. Avendaño became a leader within Uber’s female engineer (“LadyEng”) community and
15 served in a mentorship role for several other female engineers. But each time Avendaño raised
16 concerns regarding unlawful conduct, she was met with Uber’s entrenched disregard for the rights
17 of its women employees and a refusal to take effective steps to prevent harassment. Worse, she
18 suffered blatant retaliation, including denial of promotions and raises, unwarranted negative
19 performance reviews, and placement on an oppressively demanding on-call schedule that had
20 detrimental effects on her health. She was also threatened with termination. Uber’s failure to take
21 effective remedial measures forced her to resign. Ultimately, Avendaño’s battle to make Uber a
22 safe and just place to work for herself and other female employees came at a great cost to her –
23 both in terms of Avendaño’s career and her physical and mental health.

24 2. Plaintiff alleges violations of the Fair Employment and Housing Act (“FEHA”)
25 based on Defendant’s discrimination of her based on her sex, race/ethnicity, and disability.
26 Plaintiff also alleges claims of sexual harassment (hostile work environment), failure to take
27 reasonable steps to prevent discrimination, retaliation for opposing unlawful employment practices
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1 pursuant to FEHA, California Family Rights Act (“CFRA”) and retaliation for disclosure of
2 unlawful acts pursuant to California Labor Code section 1102.5, failure to pay equal wages in
3 violation of the California Equal Pay Act (“EPA”), unlawful business practices under California
4 Business and Professions Code section 17200, wrongful termination (constructive discharge) in
5 violation of public policy, and intentional and negligent infliction of emotional distress.

6 **PARTIES**

7 3. Plaintiff Avendaño is an individual and at all times relevant to this litigation was a
8 resident of the County of San Francisco, California. At all times relevant to this Complaint,
9 Avendaño was an employee within the meaning of California Government Code §§ 12940 *et. seq.*

10 4. Defendant Uber Technologies, Inc. (“Uber”) is a corporation formed under the laws
11 of the State of Delaware with its corporate headquarters in the City and County of San Francisco,
12 California. Upon information and belief, Uber’s California headquarters maintains control,
13 oversight, and direction over the operation of its facilities, including its employment practices. At
14 all times relevant herein, Uber was Plaintiff’s employer within the meaning of all applicable
15 statutes.

16 5. On May 15, 2018, Uber publicly announced a decision not to enforce mandatory
17 arbitration against employees, among others, who alleged claims for sexual harassment or sexual
18 assault.¹

19 6. Plaintiff is ignorant of the true names or capacities of the Defendants sued here
20 under the fictitious names DOES 1 through 20, inclusive, pursuant to Code of Civil Procedure
21 section 474. Plaintiff is informed and believes and thereon alleges that each of the Doe Defendants
22 was responsible in some manner for the occurrences and injuries alleged in this Complaint.

23 7. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
24 was at all times relevant herein the agent, servant, employee, and/or representative of the other

25 _____
26 ¹ See Uber Newsroom, <https://www.uber.com/newsroom/turning-the-lights-on/> (last visited May
27 18, 2018).

1 Defendants and was acting, at least in part, within the course and scope of such relationship and
2 that each and every Defendant herein is jointly and severally responsible and liable to Plaintiff for
3 the damages hereinafter alleged.

4 **EXHAUSTION OF REMEDIES**

5 8. On February 27, 2018, Avendaño filed a timely charge of discrimination with the
6 California Department of Fair Employment and Housing (“DFEH”), alleging that she was
7 discriminated against on the basis of her gender, race/ethnicity, and disability, subjected to a
8 hostile work environment, retaliated against based on protected activity pursuant to FEHA and
9 CFRA, and wrongfully terminated (constructively discharged) in violation of public policy. On
10 the same day, the DFEH issued Plaintiff a Right-to-Sue notice to bring a civil action against
11 Defendant based on the charges described herein. Uber has been served with the Right to Sue
12 Notice by certified mail as required by law.

13 **FACTUAL ALLEGATIONS**

14 9. In February 2014, Avendaño was hired as a Software Engineer at Uber on the
15 Company’s Starcraft team. Her compensation included a base salary of \$100,000 and an equity
16 grant of 30,000 incentive stock options (“ISO’s”). Avendaño’s position was later classified as a
17 Software Engineer I. As a Software Engineer and Software Engineer I, Avendaño was responsible
18 for “backend” software architecture and development, system outage mitigation, and improving
19 the performance of Uber’s ride hailing technology. Throughout her tenure, Avendaño also worked
20 on the Application Program Interface (“API”), Realtime, Site Engineering Reliability (“SRE”),
21 Infra, and People Engineering teams. Over the course of her tenure, she had ten different
22 managers.

23 **Uber Subjected Avendaño to a Hostile Work Environment**

24 10. Avendaño performed well in the first nine months of her employment.

25 11. In or around early October 2014, Avendaño attended a recruiting event at the
26 University of California, Berkeley with several Uber employees, including a male software
27 engineer who had been tasked with recruiting responsibilities. In the course of his duties at the
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1 event, the male coworker repeatedly made unwelcome, demeaning comments about women in
2 front of Avendaño, Uber employees, other software engineers, and students. For example, this
3 coworker repeatedly said that he believed that “Uber is the type of company where women can
4 sleep their way to the top.” He also noted that a female software engineer at the event wore a ring
5 on her finger and said, “What’s up with women getting married so early now?” Avendaño was
6 offended by these inappropriate remarks.

7 12. Within days of the recruiting event, Avendaño reported the male coworker’s
8 comments to a senior human resources (“HR”) official at Uber. Avendaño also reported the
9 comments to two of her managers. A senior HR representative responded that he would look into
10 Avendaño’s concerns, but dismissively stated that this was only Avendaño’s coworker’s “first
11 offense.” Avendaño is informed and believes that Uber failed to investigate Avendaño’s
12 complaint and/or impose any effective disciplinary or other remedial measures until the male
13 coworker engaged in further acts of illegal conduct months later.

14 13. On October 26, 2014, apparently to motivate Uber employees to hit certain goals
15 and be rewarded with a company trip to Las Vegas, former Uber CEO Travis Kalanick
16 (“Kalanick”) sent an email to all to Uber employees, including Avendaño, in which he forwarded
17 another company-wide email he had sent in 2013 before a company trip to Miami. The email
18 contained the subject line, “URGENT, URGENT – READ THIS NOW OR ELSE!!!!” In the
19 email, Kalanick set out “rules” for the trip by making light of drug use, excessive drinking, and
20 sexual activity. For example, the email stated:

21 Do not have sex with another employee UNLESS a) you have asked that person for
22 that privilege and they have responded with an emphatic “YES! I will have sex with
23 you” AND b) the two (or more) of you do not work in the same chain of command.
Yes, that means that Travis will be celibate on this trip. #CEOLife #FML

24 14. Avendaño was shocked in reading Kalanick’s overtly offensive email that
25 encouraged sexual activity between employees and could not fathom how the CEO of a company
26 could justify such a communication. Kalanick’s email effectively signaled the company’s
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1 indifference to sexually explicit language and set the tone for the culture of harassment that
2 Avendaño would continue to experience throughout her tenure.

3 15. Avendaño continued to be subjected to sexually harassing conduct. In March 2015,
4 Avendaño learned from another female software engineer, that during an Uber “workcation” in the
5 Dominican Republic in January 2015, the same male coworker that made sex-based offensive
6 remarks to Avendaño at the Berkeley recruiting event began spreading a false and offensive rumor
7 about Avendaño in the workplace. Specifically, this male engineer repeatedly expressed that “the
8 only reason Ingrid had a job at Uber was because she had slept with someone at the company.”

9 16. Avendaño is informed and believes that this coworker made this defamatory,
10 harassing, and demeaning comment to at least *four different teams* of software engineers, including
11 managers. Humiliated by his actions and worried that his statements would impact her career,
12 Avendaño immediately reported the conduct to the same HR representative to whom she had
13 complained previously and an engineering director at Uber. Both senior officials apologized to
14 Avendaño for the fact that Uber had failed to take any remedial measures after her first complaint
15 five months earlier and finally conducted an investigation, which Avendaño is informed and
16 believes led to the male coworker’s termination.

17 17. The stain of the malicious rumor followed Avendaño and interfered substantially
18 with her work environment. For months after lodging her second complaint against this male
19 coworker, Avendaño was isolated and ignored by many male Uber managers and other employees
20 who had worked with him. For example, Avendaño worked closely with the male coworker’s
21 former teammates on a user search project and poured countless hours into the assignment as the
22 project’s *only* backend developer on the search project team. However, when the team presented
23 the project to the entire company, Avendaño’s name was conspicuously left out of the credits.
24 Avendaño is informed and believes that this blatant failure to recognize her hard work on the
25 project was retaliatory but her manager at the time did nothing to remedy the omission.

26 18. As a result of the harassment she experienced and Uber’s failure to address her
27 concerns with effective remedial measures, Avendaño began to suffer from frequent panic attacks
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1 at work, which recurred for approximately the following year and required medical treatment. She
2 had difficulty getting the attacks under control in the workplace, and on occasion, Avendaño's
3 panic attacks were so severe that she vomited at work.

4 19. Avendaño continued to be subjected to other sexually harassing behavior
5 throughout her employment, which included but was not limited to the following:

- 6 • In or around October 2015, during the Company's Las Vegas retreat, a male senior
7 software engineer inappropriately touched Avendaño on her upper thigh while
8 intoxicated. Avendaño is informed and believed that another coworker who
9 witnessed the incident reported it to Thuan Pham ("Pham"), Uber's Chief
10 Technology Officer ("CTO"), who failed to take any corrective measures. On
11 multiple occasions, the same male senior software engineer made other repeated
12 inappropriate sexual advances including telling Avendaño she was "so cute" and
13 that he wanted to "take [her] home."
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- 15 • A number of male software engineers made repeated comments about Avendaño's
16 appearance, including telling her that she had a "a big ass."
17
- 18 • Male employees repeatedly discussed other female employees in a demeaning
19 fashion including objectifying their bodies and/or discussing whom they wanted to
20 "fuck." Uber managers were privy to, and/or aware of, these conversations.
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- 22 • On multiple occasions between May and December 2015, an Uber engineering
23 manager made inappropriate comments about women on an internal channel of the
24 Company's instant messenger system called "Lunchington's." This manager
25 apparently felt free to do so because the messages were automatically deleted after
26 sixty lines of text were added. Avendaño is informed and believes that this
27 manager used Lunchington's to organize a work outing to a strip club on at least
28 one occasion. Avendaño is further informed and believes that another female
employee made a written complaint reporting this manager's sexist comments but
Uber failed to take any immediate disciplinary measures against the manager and
his sexually harassing conduct continued unabated.
- The same manager often made sexually harassing comments directly in front of
Avendaño and other women, including frequently discussing sexual encounters and
boasting about his "open relationship" with his significant other, which he said
enabled him to have relationships with other women. On one occasion, when
Avendaño was out to lunch with coworkers and this manager, he openly bragged
about sleeping with underage girls.
- Other male employees also used the instant messaging system to make
inappropriate comments and share sexually explicit content. On at least one
occasion, Avendaño saw a YouTube video that appeared to feature a topless woman

1 being shared on the chat system, which automatically deleted messages after 60
2 lines of text. When inappropriate messages were shared, it was a common practice
3 for other male employees to rapidly type lines of text in order to have the
4 conversation thread reach 60 lines so that the offensive message would be deleted
5 quickly.

- 6 • An Uber engineering director also repeatedly made demeaning remarks about
7 women directly in front of Avendaño and other female employees, including on one
8 occasion, telling Avendaño that he liked to “pick up women” using Uber rides.
9 Indeed, it was well known within the Company that this director liked to make
10 sexual advances towards female employees, and that prior to Avendaño joining the
11 Company, Avendaño is informed and believes that he had said to a female
12 employee that “[she] was so hot [he] wanted to rape [her].” On information and
13 belief, rather than disciplining him, Pham, and another senior engineering officials
14 took this employee under their wings and helped advance his career within the
15 company.

16 20. Sexually harassing behavior was often intensified with employee alcohol
17 consumption, an activity encouraged by the Company at work and during work functions. Uber
18 promoted a culture of drinking with multiple beer taps at various locations in the workplace, a
19 “Bey” bar – which featured a life-size cutout of singer Beyoncé Knowles dressed skimpily – and
20 numerous social events that involved excessive drinking – so excessive that employees not
21 infrequently blacked out from drinking. Avendaño is informed and believes that at least one
22 female software engineer made written complaints about her male manager and coworkers’
23 excessive use of alcohol at offsite events that made female employees feel unsafe in the workplace,
24 but Uber failed to take this complaint seriously.

25 **Uber Discriminated Against Avendaño on the Basis of Her Gender and/or Race/Ethnicity**
26 **and Retaliated Against Her for Reporting Unlawful Conduct**

27 21. Avendaño is informed and believes that throughout her employment, Uber
28 maintained a discriminatory work environment in which female software engineers and/or non-
white engineers received less compensation, including salary, stock grants and/or other benefits for
performing the same or substantially similar work as their male and/or white counterparts.
Avendaño is also informed and believes that female software engineers and/or non-white engineers
were given fewer promotional opportunities at Uber, and that women were not hired or promoted
at the same rate as male and/or white engineers.

1 22. When Avendaño began her employment at Uber in February 2014, she estimates
2 that Uber’s engineering department was comprised of approximately 20 percent of female
3 engineers. At the time of separation, Avendaño believes that number has been reduced to
4 approximately 7 percent.

5 23. When Avendaño began her employment at Uber in February 2014, Avendaño
6 earned a starting salary of \$100,000 and received a stock grant of 30,000 ISO’s. On information
7 and belief, this starting compensation package was significantly less than packages received by
8 male and/or white coworkers with similar experience that were hired around the same time period
9 to perform the same or substantially similar work. When Avendaño learned that these coworkers
10 were offered better compensation, she attempted to negotiate a better package for herself. Uber
11 immediately threatened to rescind Avendaño’s offer.

12 24. Throughout her employment, Avendaño referred both men and women to Uber to
13 fill software engineering positions that opened up at the company. Avendaño is informed and
14 believes that on several occasions, job offers were made to female engineers but thereafter
15 rescinded because these women countered offers with requests for improved compensation
16 packages. Avendaño is not aware of any male applicants whose job offers were rescinded for
17 seeking better employment packages.

18 25. Avendaño raised the aforementioned discriminatory hiring practices with HR, and
19 other senior officials, but Uber’s managers failed to take any corrective measures.

20 26. Rather, in November 2014, Pham emailed the engineering department to explicitly
21 advise all engineering employees that they should not discuss their compensation with Uber
22 applicants.

23 27. Avendaño also complained about the Company’s pervasive failure to promote
24 deserving female software engineers. From October to December 2014, Avendaño and her team
25 worked tirelessly in the “NYE (New Year’s Eve) War Room” to ensure that Uber’s software
26 system ran smoothly and effectively during the company’s busiest ride service day of the year.
27 Despite the team’s indisputable successes and the praise it received by senior management, none of
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1 the female employees on the team (many of whom had been at the Company for well over a year
2 or longer) were promoted. Yet, a male engineer on the team who had been at the Company only
3 for four months – far less time than his female counterparts – received a promotion.

4 28. In or around January 2015, Avendaño reported this situation to her then manager,
5 and told him that she believed he was “being sexist” in his promotional decisions. Her manager
6 dismissed Avendaño’s concerns and took no further action.

7 29. Shortly thereafter, in direct retaliation for Avendaño’s complaint of gender bias,
8 Avendaño received a low performance rating and minimal raise increasing her base salary from
9 \$100,000 to \$103,500 per year, an amount that Avendaño is informed and believes was
10 substantially lower than her male and/or white counterparts.

11 30. In or around March 2015, Avendaño began reporting to a new manager. This
12 manager told Avendaño that she could expect to be promoted from Software Engineer I to
13 Software Engineer II in the short term.

14 31. However, in or around July 2015, again in retaliation for making protected
15 complaints, Uber denied Avendaño the promotion. Avendaño’s manager advised her that her
16 former manager – the same manager that Avendaño had confronted for “being sexist” – had
17 “recalibrated” her review precisely so that she would receive a lower total performance score and
18 effectively be precluded from receiving a promotion.

19 32. In September 2015, Pham again emailed the engineering department directing them
20 to refrain from talking about compensation with Uber applicants. The directive came soon after
21 many female engineers had discussed their compensation and promotion decisions on the
22 “LadyEng” channel of Uber’s internal messaging program. In response to Pham’s email,
23 Avendaño replied:

24 I feel not being transparent hurts women, minorities and/or those not well connected
25 with friends at the company to get an idea of what are normal/reasonable
26 expectations . . . It can be very daughting (sic) to grow up your whole life hearing
27 that women only make ~70% of what men make, and then join the workforce not
28 knowing whether or not that is true – well that can be frustrating, but that is our
reality.

1 33. Shortly thereafter, Avendaño’s then-manager announced to her and her team:
2 “We’ve been told from upper management that you guys can’t talk about comp. It’s
3 unprofessional.”

4 34. Uber’s policy of prohibiting employees from discussing their compensation with
5 other employees and job applicants served to perpetuate systemic pay disparity based on gender
6 and/or race/ethnicity throughout Avendaño’s tenure.

7 35. In October 2015, concerned by the alarming number of reports of female Uber
8 passengers being sexually assaulted by Uber drivers, Avendaño emailed senior managers to
9 advocate for more safety functions on the Uber app including a panic button.

10 36. Rather than taking Avendaño’s concerns seriously, Uber continued to retaliate
11 against Avendaño for repeatedly raising these and other complaints of unlawful conduct against
12 women employees and riders. By approximately November 2015, Avendaño had still not been
13 promoted, whereas many of her male colleagues who had started with Uber at the same level and
14 even after she had started, had been promoted once or even multiple times (*e.g.*, to senior software
15 engineer or supervisory roles).

16 37. Notwithstanding these facts, Avendaño regularly worked consecutive 15+ hour
17 days and served as an on-call engineer, which required her to be on call 24 hours a day for a period
18 of three consecutive months at the end of 2015, during which time she received thousands of
19 telephone pages regarding issues with the Uber systems. Avendaño is informed and believes that
20 she was placed on this oppressively demanding on-call schedule in direct retaliation for raising her
21 repeated protestations of unlawful conduct. Indeed, Avendaño was not aware of any other
22 engineering employee who was placed on-call for three consecutive months.

23 38. On December 31, 2015, Avendaño and her team performed exceptionally to ensure
24 another successful New Year’s Eve for the Company.

25 39. Immediately thereafter, Avendaño checked herself into the hospital to be treated for
26 exhaustion, burnout, depression, and anxiety caused in large part by the ongoing discriminatory
27 conduct to which she was being subjected at Uber. Avendaño immediately notified her manager
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1 of her medical condition and hospitalization. Despite explicit notice of her serious health
2 condition, Avendaño was paged a total of approximately 142 times about technical problems with
3 the Uber app while she was hospitalized.

4 40. In or around January 2016, Avendaño explicitly complained to Pham and other
5 senior managers that Uber’s culture was so “toxic” that several employees were suicidal. Again,
6 Uber paid virtually no attention to Avendaño’s concerns.

7 41. In or around February or March 2016, after two years with the Company, Avendaño
8 was finally promoted to a Software Engineering II position with a salary of \$120,000. Avendaño
9 is informed and believes that she was promoted at a much slower pace and for less compensation
10 than her male and/or white counterparts. Indeed, Avendaño is informed and believes that most, if
11 not all, of the male and/or white engineers that joined the Company at or around the same time she
12 did had been promoted to at least senior engineer positions at the time of her separation (in June of
13 2017).

14 42. Avendaño’s experiences prompted her to take on a role as mentor and advocate for
15 women within the LadyEng community and generally for other female software engineers at Uber.

16 43. While Uber often required diverse employees including Avendaño to lead and
17 participate in time-consuming recruiting and hiring events, Avendaño is informed and believes that
18 the Company simultaneously failed to consider these additional forced responsibilities in the
19 performance review process and effectively punished female and/or non-white engineers for taking
20 time away from their regular duties. Avendaño is informed and believes these practices enhanced
21 pay and promotional disparities between female and/or non-white engineers in comparison to their
22 male and/or white counterparts.

23 **Uber Further Retaliated Against Avendaño For Escalating Her Concerns About**
24 **Unlawful Conduct, Including Uber’s Response to Susan Fowler’s Sexual Harassment**
Complaint, and/or for Taking Protected Medical Leave.

25 44. In or around March 2016, Avendaño learned that her coworker, Susan Fowler, had
26 complained to Uber HR that her manager had made sexual advances towards her and that the
27 Company had responded by transferring Fowler to another team. Avendaño also learned from a
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1 mutual friend of Fowler's manager (who did not work for Uber) that Fowler's manager had made
2 disparaging remarks about Fowler (both internally and to third parties), conveying the impression
3 that Fowler was somehow oversensitive for complaining about sexual harassment in the
4 workplace. Frustrated by Fowler's manager's conduct and Uber's response to Fowler's complaint,
5 Avendaño raised her concerns with her newest manager.

6 45. On or about March 17, 2016, Avendaño's manager immediately emailed HR a
7 screenshot of a chat conversation he had with Fowler regarding other female employees raising
8 sexual harassment concerns about Fowler's manager, and copied Fowler, Avendaño and another
9 Uber manager.

10 46. Avendaño responded to the thread by complaining about the sexual harassing
11 behavior she herself had experienced, specifying the reasons she believed Uber mishandled the
12 situation with Fowler and copying Uber's then-director of engineering, the former head of SRE,
13 and another senior manager.

14 47. The SRE head immediately dismissed Avendaño's written complaint, responding
15 that Uber had taken appropriate corrective measures even though, at the time, no disciplinary
16 action of any import had been taken. Avendaño understands that Uber's decisions regarding
17 discipline of Fowler's manager were based on the company's false determination that the incident
18 with Fowler was his "first offense."

19 48. Avendaño next escalated this issue to Pham through his assistant. Avendaño
20 emphasized that she was concerned about being retaliated against for elevating her concerns.

21 49. On the same day, Avendaño emailed her concerns to HR again and advised HR that
22 Uber's mishandling of Fowler's complaint created a hostile work environment.

23 50. Shortly thereafter, Uber's then-director of engineering scheduled a meeting with
24 Avendaño and another manager. During the meeting, this senior manager reprimanded Avendaño
25 for escalating her concerns to Pham and purportedly "throwing [senior officials] under the bus."
26 He further advised Avendaño that she allegedly had failed to follow Uber's policies and
27 procedures. Avendaño's already high level of stress over the series of discriminatory and
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1 retaliatory incidents during her tenure was heightened as she was now being punished for raising
2 protected hostile work environment complaints.

3 51. In or around April 2016, because she felt threatened, intimidated, and retaliated
4 against and thus extremely concerned about additional adverse employment action Uber might
5 take against her, Avendaño's emotional state began worsening. She began suffering mental and
6 physical symptoms of extreme anxiety. From on or about April 14, 2016 through on or about July
7 11, 2016, she took job-protected medical leave under the Family Medical Leave Act ("FMLA")
8 and CFRA. On or about July 11, 2016, Avendaño returned from medical leave and for
9 approximately one month, worked on a part-time schedule as a reasonable accommodation for her
10 disability.

11 52. In or around July or August 2016, only a few weeks after returning from protected
12 medical leave, Avendaño received a low performance rating on her mid-year performance review
13 for purported low productivity. Her manager claimed, among other things, that she was not
14 performing up to Uber's standard to "make magic" (a wholly invalid performance metric).

15 53. Avendaño protested this retaliatory performance review to her new manager.
16 Avendaño's manager then advised her that the rating was given at the direction of the former head
17 of SRE who explicitly requested that an initially higher rating be reviewed and "recalibrated" or
18 lowered.

19 54. On February 19, 2017, Avendaño learned of Fowler's blog post describing her
20 experiences at Uber.

21 55. Avendaño became aware that certain commentators both inside and outside Uber
22 viewed Fowler's experience as exceptional.

23 56. Knowing otherwise, in order to dispel views of this sort and to prompt Uber to take
24 some effective corrective measures, Avendaño sent an email titled "Sexism I have experienced at
25 Uber" to Kalanick, Liane Hornsey, Uber's chief HR officer, and Arianna Huffington, an Uber
26 board member, among others, describing in detail many instances of discriminatory, harassing and
27 retaliatory conduct she suffered throughout her employment.

1 57. Avendaño also forwarded the same email to some LadyEng team leads. In
2 response, Avendaño received several supportive emails – in particular from female engineers –
3 expressing appreciation for raising these pervasive issues.

4 58. For several days, no senior officers from Uber responded to Avendaño’s complaint
5 forcing her to follow up specifying, among other things, that she was retaliated against for
6 escalating Fowler’s complaint to Pham.

7 59. While Hornsey was a direct recipient of Avendaño’s lengthy harassment complaint,
8 publicly, she made light of the complaints. Indeed, public statements demonstrate that Hornsey
9 saw the barrage of HR complaints by Uber employees prompted by Fowler’s blog as a
10 considerable burden for her and the Company:

11 The Susan Fowler blog was very difficult for this company. We did 200 listening sessions.
12 I made it very clear that every single email from every single employee would be answered
13 by me in 48 hours. Believe you me, I sat up until 4 a.m. every bloody morning answering
14 thousands of bloody emails.²

15 60. On February 27, 2017, Avendaño’s HR representative notified Avendaño via text
16 that upon conducting a salary and bonus audit for apparent gender and diversity bias she had
17 discovered that Avendaño had an “abnormally low” base salary and that the Company would
18 purportedly begin to take steps to remedy that. Avendaño is informed and believes that this
19 “abnormally low” salary stemmed not only from discriminatory pay practices based on her gender
20 and/or race/ethnicity but also from years of retaliation for Avendaño’s repeated protestations of
21 Uber’s unlawful conduct.

22 61. Because of the role she had taken in opposing discrimination and harassment at
23 Uber, Avendaño was bombarded with communications from current and former colleagues, friends
24 and acquaintances, and the media. This situation aggravated Avendaño’s health, which was

25 ² Yoree Koh and Greg Bensinger, *Can This Executive Make Uber a Place Women Want to Work?*
26 *The Wall Street Journal*, Oct. 9, 2017, available at <https://www.wsj.com/amp/articles/can-this-executive-make-uber-a-place-women-want-to-work-1507539602?mg=prod/accounts-wsj> (last
27 visited May 18, 2018).

1 already compromised by stress related to job demands, opposing Uber’s illegal conduct, and
2 surgery she had undergone in or around February of 2017.

3 62. In April 2017, Avendaño took job-protected medical leave under FMLA/CFRA.

4 **Uber Continued to Fail to Take Effective Remedial Measures and Constructively**
5 **Discharged Avendaño.**

6 63. In late April 2017, Avendaño’s health continued to worsen as a result of Uber’s
7 discriminatory treatment of her, including threats of termination. She was hospitalized for
8 approximately three weeks and thereafter attended an intensive out-patient treatment program.

9 64. Investigations undertaken by two law firms of Uber’s culture and workplace
10 (including one by the law firm of Covington & Burling LLP) reportedly identified 215 complaints
11 of workplace violations, with 47 related to sexual harassment and 54 involving some form of
12 discrimination, while the others pertained to “bullying, retaliation, physical security and other
13 nonsexual forms of harassment.”³ The investigations reportedly resulted in the termination of 20
14 employees, including senior executives.

15 65. Upon information and belief, several employees – including managers and HR
16 representatives who engaged in and/or sanctioned sexually harassing, discriminatory and/or
17 retaliatory conduct against Avendaño – remained employed at the company.

18 66. After the release of a report prepared by Covington & Burling, several members of
19 Uber’s leadership team, including the CTO and chief HR officer, minimized the harassment and
20 discrimination claims raised by Fowler, Avendaño and others, leading Avendaño to conclude that
21 Uber, under its then leadership, would continue the longstanding pattern she had witnessed of
22 refusing to address unlawful conduct. Because Uber’s failure to take effective remedial measures
23 threatened Avendaño’s already compromised emotional and physical health, on June 28, 2017,
24 Avendaño resigned from her job.

25 _____
26 ³ See Mike Isaac, *Uber Fires 20 Amid Investigation Into Workplace Culture*, N.Y. Times (June 6,
27 2017), available at https://www.nytimes.com/2017/06/06/technology/uber-fired.html?_r=0 (last
28 visited May 18, 2018).

1 67. Uber knowingly created intolerable working conditions such that a reasonable
2 woman in Avendaño's position would have had no reasonable alternative except to resign.

3 68. Uber's unlawful conduct was engaged in and/or ratified by managing agents of the
4 company, whom Avendaño placed her justified and good faith trust. Uber acted in a deliberate,
5 malicious, cold, callous, deceptive, oppressive and intentional manner in order to injure and
6 damage Avendaño and/or with callous disregard for Avendaño's rights to be free from
7 discrimination, harassment and retaliation in the workplace.

8 69. Uber's outrageous conduct towards Avendaño in maintaining a workplace
9 permeated with intolerable working conditions has irreparably disrupted Avendaño's life and
10 career. As a result of Uber's unlawful conduct, Plaintiff has and continues to suffer significant
11 emotional distress and physical sickness.

12 **FIRST CAUSE OF ACTION**
13 **Discrimination Based upon Sex and/or Race/Ethnicity – Disparate Treatment**
14 **(Cal. Gov. Code §§ 12940, et. seq.)**
15 **(Against All Defendants)**

16 70. Plaintiff incorporates, by reference, her allegations from each of the preceding
17 paragraphs.

18 71. At all times relevant herein, Plaintiff was a Latina female employee protected from
19 discrimination in employment on the basis of her gender and/or race/ethnicity.

20 72. It is an unlawful employment practice for an employer to discriminate against an
21 employee, including discriminating against her in the terms and conditions of her employment,
22 based on her gender and/or race/ethnicity.

23 73. Plaintiff was discriminated against in the terms and conditions of her employment,
24 as outlined above, on the basis of her gender and/or race/ethnicity in violation of FEHA.

25 74. Defendant unlawfully discriminated against Plaintiff because of her gender and/or
26 race/ethnicity with respect to the terms, conditions, and privileges of her employment, including
27 but not limited to failing to provide equal compensation and benefits as male and/or white
28

1 coworkers; refusing to promote; and constructively discharging from employment; and otherwise
2 changing the terms and conditions of her employment in violation of FEHA.

3 75. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff suffered
4 and will continue to suffer economic and non-economic compensatory damages for which
5 Defendant is liable, including but not limited to pain and suffering, and the loss of past and future
6 salary, wages, benefits, or other privileges and conditions of employment in an amount to be
7 proven at arbitration.

8 76. As a result of Defendant's unlawful acts, Plaintiff is entitled to compensatory
9 damages, equitable relief, attorneys' fees, and costs.

10 77. Defendant committed the acts herein alleged maliciously, fraudulently, and
11 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
12 punitive damages from Defendant in an amount according to proof. The unlawful conduct alleged
13 above was engaged in and/or ratified by the officers, directors, supervisors and/or managing agents
14 of Defendant and each of them, who were acting at all times relevant to this Complaint within the
15 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendant is
16 liable for punitive damages.

17 **SECOND CAUSE OF ACTION**

18 **Discrimination Based upon Sex and/or Race/Ethnicity – Disparate Impact**
19 **(Cal. Gov. Code §§ 12940, *et. seq.*)**
20 **(Against All Defendants)**

21 78. Plaintiff incorporates, by reference, her allegations from each of the preceding
22 paragraphs.

23 79. At all times relevant herein, Plaintiff was a female employee protected from
24 discrimination in employment on the basis of her gender and/or race/ethnicity.

25 80. At all times relevant herein, Defendant had a practice of providing compensation
26 (including base salary, bonuses, stock grants) and other employment benefits, measuring
27 performance and promoting employees that had a disproportionate adverse effect on female
28 employees and/or non-white employees, including Plaintiff.

1 81. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has
2 sustained, and will continue to sustain, economic and emotional injuries, resulting in damages in
3 an amount to be proven at trial.

4 82. Defendant's unlawful actions were intentional, willful, malicious, and/or done with
5 reckless disregard to Plaintiff's right to be free from discrimination based on gender and/or
6 race/ethnicity.

7 83. Plaintiff is entitled to her reasonable attorneys' fees and costs of suit.

8 **THIRD CAUSE OF ACTION**
9 **Sexual Harassment – Hostile Work Environment**
10 **(Cal. Gov. Code §§ 12940, et. seq.)**
 (Against All Defendants)

11 84. Plaintiff incorporates, by reference, her allegations from each of the preceding
12 paragraphs.

13 85. At all times relevant herein, Plaintiff was a female employee protected from
14 harassment in employment on the basis of her gender.

15 86. At all times relevant herein, Defendant participated in the harassment of Plaintiff by
16 its harassing, discriminatory and retaliatory behavior toward Plaintiff as alleged herein and/or
17 substantially assisted, encouraged and condoned the continued harassment toward Plaintiff
18 creating a hostile work environment, and sanctioned and ratified the unlawful harassing conduct.

19 87. Defendant subjected Plaintiff to severe and/or pervasive harassment of a sexual
20 manner that a reasonable woman in Plaintiff's position would have found the environment to be
21 hostile and abusive. The behavior was unwanted, without Plaintiff's consent, objected to, and
22 offensive to Plaintiff.

23 88. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff suffered
24 and will continue to suffer economic and non-economic compensatory damages for which
25 Defendant is liable, including but not limited to pain and suffering, and the loss of past and future
26 salary, wages, benefits, or other privileges and conditions of employment in an amount to be
27 proven at arbitration.

1 89. As a result of Defendant’s unlawful acts, Plaintiff is entitled to compensatory
2 damages, equitable relief, attorneys’ fees, and costs.

3 90. Defendant committed the acts herein alleged maliciously, fraudulently, and
4 oppressively in conscious disregard for Plaintiff’s rights, and Plaintiff is entitled to recover
5 punitive damages from Defendant in an amount according to proof. The unlawful conduct alleged
6 above was engaged in and/or ratified by the officers, directors, supervisors and/or managing agents
7 of Defendant and each of them, who were acting at all times relevant to this Complaint within the
8 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendant is
9 liable for punitive damages.

10 **FOURTH CAUSE OF ACTION**
11 **Failure to Prevent Discrimination and Harassment**
12 **(Cal. Gov. Code §§ 12940, et. seq.)**
 (Against All Defendants)

13 91. Plaintiff incorporates, by reference, her allegations from each of the preceding
14 paragraphs.

15 92. At all relevant times mentioned herein, California Government Code §§ 12940 et.
16 seq. was in full force and effect and binding upon Defendant and their employees. Section
17 12940(k) provides that it is an unlawful employment practice for an employer “to fail to take all
18 reasonable steps necessary to prevent discrimination . . . from occurring.”

19 93. Through its acts and omissions, Defendant failed in their affirmative duty to take all
20 reasonable steps necessary to prevent discrimination on the basis of gender, race/ethnicity, and/or
21 disability and harassment based on gender from occurring in violation of California Government
22 Code § 12940(k).

23 94. As a direct and proximate result of Defendant’s unlawful conduct, Plaintiff suffered
24 and will continue to suffer economic and non-economic compensatory damages for which
25 Defendant is liable, including but not limited to pain and suffering, the loss of past and future
26 salary, wages, benefits, and other privileges and conditions of employment in an amount to be
27 proven at arbitration.

1 95. As a result of Defendant's unlawful acts, Plaintiff is entitled to compensatory
2 damages, equitable relief, attorneys' fees, and costs.

3 96. Defendant committed the acts herein alleged maliciously, fraudulently, and
4 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
5 punitive damages from Defendant in an amount according to proof. The unlawful conduct alleged
6 above was engaged in and/or ratified by the officers, directors, supervisors and/or managing agents
7 of Defendant and each of them, who were acting at all times relevant to this Complaint within the
8 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendant is
9 liable for punitive damages.

10 **FIFTH CAUSE OF ACTION**
11 **Discrimination Based upon Disability**
12 **(Cal. Gov. Code §§ 12940, *et. seq.*)**
13 **(Against All Defendants)**

14 97. Plaintiff incorporates, by reference, her allegations from each of the preceding
15 paragraphs.

16 98. At all times relevant herein, Plaintiff was an employee protected from
17 discrimination in employment on the basis of her disability.

18 99. It is an unlawful employment practice for an employer to discriminate against an
19 employee, including discrimination in the terms and conditions of employment, based on her
20 disability.

21 100. Plaintiff is informed and believes and thereon alleges that she was discriminated
22 against in the terms and conditions of her employment, as outlined above, on the basis of her
23 disability in violation of FEHA.

24 101. Defendant unlawfully discriminated against Plaintiff because of her disability with
25 respect to the terms, conditions, and privileges of her employment, including but not limited to
26 failing to provide equal compensation and benefits as male coworkers; refusing to promote; and
27 constructively discharging from employment; and otherwise changing the terms and conditions of
28 her employment in violation of FEHA.

1 102. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff suffered
2 and will continue to suffer economic and non-economic compensatory damages for which
3 Defendant is liable, including but not limited to pain and suffering, and the loss of past and future
4 salary, wages, benefits, or other privileges and conditions of employment in an amount to be
5 proven at arbitration.

6 103. As a result of Defendant's unlawful acts, Plaintiff is entitled to compensatory
7 damages, equitable relief, attorneys' fees, and costs.

8 104. Defendant committed the acts herein alleged maliciously, fraudulently, and
9 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
10 punitive damages from in an amount according to proof. The unlawful conduct alleged above was
11 engaged in and/or ratified by the officers, directors, supervisors and/or managing agents of
12 Defendant and each of them, who were acting at all times relevant to this Complaint within the
13 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendant is
14 liable for punitive damages.

15 **SIXTH CAUSE OF ACTION**
16 **Retaliation in Violation of FEHA**
17 **(Cal. Gov. Code §§ 12940, *et. seq.*)**
18 **(Against All Defendants)**

19 105. Plaintiff incorporates, by reference, her allegations from each of the preceding
20 paragraphs.

21 106. At all times alleged herein, California Government Code § 12940(h) was in full
22 effect and binding on all Defendants.

23 107. Pursuant to California Government Code § 12940(h), Plaintiff had a legal right to
24 protest harassment and/or discrimination in the workplace, without retaliation from Defendant.

25 108. As a result of Plaintiff's protest and opposition to the unlawful conduct of
26 employees of Defendant, Plaintiff was retaliated against by Defendant.
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1 109. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff suffered
2 and will continue to suffer economic and non-economic compensatory damages for which
3 Defendant is liable, including but not limited to pain and suffering, and the loss of past and future
4 salary, wages, benefits, or other privileges and conditions of employment in an amount to be
5 proven at arbitration.

6 110. As a result of Defendant's unlawful acts, Plaintiff is entitled to compensatory
7 damages, equitable relief, attorneys' fees, and costs.

8 111. Defendant committed the acts herein alleged maliciously, fraudulently, and
9 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
10 punitive damages from Defendant in an amount according to proof. The unlawful conduct alleged
11 above was engaged in and/or ratified by the officers, directors, supervisors and/or managing agents
12 of Defendant and each of them, who were acting at all times relevant to this Complaint within the
13 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendant is
14 liable for punitive damages.

15 **SEVENTH CAUSE OF ACTION**
16 **Retaliation in Violation of CFRA**
17 **(Cal. Gov. Code § 12945.2)**
18 **(Against All Defendants)**

19 112. Plaintiff incorporates, by reference, her allegations from each of the preceding
20 paragraphs.

21 113. At all times alleged herein, California Government Code § 12945.2 was in full
22 effect and binding on all Defendants.

23 114. Pursuant to California Government Code § 12945.2, Plaintiff had a legal right to
24 take job-protected medical leave, without retaliation from Defendant.

25 115. As a result of Plaintiff's taking job-protected medical leave, Plaintiff was retaliated
26 against by Defendant.

1 116. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff suffered
2 and will continue to suffer economic and non-economic compensatory damages for which
3 Defendant is liable, including but not limited to pain and suffering, and the loss of past and future
4 salary, wages, benefits, or other privileges and conditions of employment in an amount to be
5 proven at arbitration.

6 117. As a result of Defendant's unlawful acts, Plaintiff is entitled to compensatory
7 damages, equitable relief, attorneys' fees, and costs.

8 118. Defendant committed the acts herein alleged maliciously, fraudulently, and
9 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
10 punitive damages from Defendant in an amount according to proof. The unlawful conduct alleged
11 above was engaged in and/or ratified by the officers, directors, supervisors and/or managing agents
12 of Defendant and each of them, who were acting at all times relevant to this Complaint within the
13 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendant is
14 liable for punitive damages.

15 **EIGHTH CAUSE OF ACTION**
16 **Retaliation for Disclosure of Unlawful Acts**
17 **(Cal. Lab. Code § 1102.5)**
18 **(Against All Defendants)**

19 119. Plaintiff incorporates, by reference, her allegations from each of the preceding
20 paragraphs.

21 120. At all times alleged herein, California Labor Code § 1102.5 was in full effect and
22 binding on all Defendants.

23 121. Pursuant to California Labor Code § 1102.5, Plaintiff had a legal right to be
24 disclose unlawful acts to those with authority to investigate, discover or correct such violations
25 without retaliation from Defendant.
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1 122. Plaintiff reported and disclosed unlawful acts prohibited FEHA, CFRA, the Labor
2 Code, and the Business & Professions Code, among other laws, to managers and superiors
3 employed by Defendant.

4 123. As a result of Plaintiff's reporting and disclosure of unlawful acts, Defendant
5 retaliated against Plaintiff.

6 124. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff suffered
7 and will continue to suffer economic and non-economic compensatory damages for which
8 Defendants are liable, including but not limited to pain and suffering, and the loss of past and
9 future salary, wages, benefits, or other privileges and conditions of employment in an amount to be
10 proven at arbitration.

11 125. As a result of Defendant's unlawful acts, Plaintiff is entitled to compensatory
12 damages, equitable relief, attorneys' fees, and costs.

13 126. Defendant committed the acts herein alleged maliciously, fraudulently, and
14 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
15 punitive damages from Defendant in an amount according to proof. The unlawful conduct alleged
16 above was engaged in and/or ratified by the officers, directors, supervisors and/or managing agents
17 of Defendant and each of them, who were acting at all times relevant to this Complaint within the
18 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendant is
19 liable for punitive damages

20 **NINTH CAUSE OF ACTION**

21 **Failure to Provide Equal Pay in Violation of the EPA**
22 **(Cal. Lab. Code § 1197.5)**
23 **(Against All Defendants)**

24 127. Plaintiff incorporates, by reference, her allegations from each of the preceding
25 paragraphs.

26 128. At all times alleged herein, California Labor Code § 1197.5 was in full effect and
27 binding on all Defendants.
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1 129. Pursuant to California Labor Code § 1197.5, Plaintiff had a legal right to be
2 compensated equally as her similarly situated male and/or white coworkers for performing
3 substantially similar work, with the same or substantially similar skill, effort and responsibility
4 under similar working conditions.

5 130. Defendant violated the provisions of California Labor Code § 1197.5 when
6 Defendant failed provide equal compensation to Plaintiff as her similarly situated male and/or
7 white coworkers for performing substantially similar work, with the same or substantially similar
8 skill, effort and responsibility under similar working conditions.

9 131. As a direct and proximate result of Defendant’s unlawful conduct, Plaintiff suffered
10 and will continue to suffer economic and non-economic compensatory damages for which
11 Defendant is liable, including but not limited to pain and suffering, and the loss of past and future
12 salary, wages, benefits, or other privileges and conditions of employment in an amount to be
13 proven at arbitration.

14 132. As a result of Defendant’s unlawful acts, Plaintiff is entitled to compensatory
15 damages, equitable relief, liquidated damages, attorneys’ fees, and costs.

16 133. Defendant committed the acts herein alleged maliciously, fraudulently, and
17 oppressively in conscious disregard for Plaintiff’s rights, and Plaintiff is entitled to recover
18 punitive damages from Defendant in an amount according to proof. The unlawful conduct alleged
19 above was engaged in and/or ratified by the officers, directors, supervisors and/or managing agents
20 of Defendant and each of them, who were acting at all times relevant to this Complaint within the
21 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendants are
22 liable for punitive damages.

23 **TENTH CAUSE OF ACTION**

24 **Wrongful Termination (Constructive Discharge) in Violation of Public Policy**
25 **(Against All Defendants)**

26 134. Plaintiff incorporates, by reference, her allegations from each of the preceding
27 paragraphs.

1 135. At all times alleged herein, Plaintiff was subjected to working conditions that
2 violated public policy, including but not limited to violations of her rights under the FEHA, CFRA,
3 EPA, Labor Code section 1102.5, and Business and Professions Code section 17200, among other
4 statutory and constitutional rights.

5 136. At all times alleged herein, Defendant intentionally created or knowingly permitted
6 these working conditions.

7 137. These working conditions, as set forth herein, were so intolerable that a reasonable
8 person in Plaintiff's position would have had no reasonable alternative except to resign.

9 138. Plaintiff resigned her employment because of the working conditions described
10 herein.

11 139. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff suffered
12 and will continue to suffer economic and non-economic compensatory damages for which
13 Defendant is liable, including but not limited to pain and suffering, and the loss of past and future
14 salary, wages, benefits, or other privileges and conditions of employment in an amount to be
15 proven at arbitration.

16 140. As a result of Defendant's unlawful acts, Plaintiff is entitled to compensatory
17 damages, equitable relief, attorneys' fees, and costs.

18 141. Defendant committed the acts herein alleged maliciously, fraudulently, and
19 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
20 punitive damages from Defendant in an amount according to proof. The unlawful conduct alleged
21 above was engaged in and/or ratified by the officers, directors, supervisors and/or managing agents
22 of Defendant and each of them, who were acting at all times relevant to this Complaint within the
23 scope and course of their employment. Pursuant to California Civil Code § 3294, Defendant is
24 liable for punitive damages.

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ELEVENTH CAUSE OF ACTION
Intentional Infliction of Emotional Distress
(Against All Defendants)

142. Plaintiff incorporates, by reference, her allegations from each of the preceding paragraphs.

143. The conduct complained of above was outside the conduct expected to exist in the workplace, was intentional and malicious and done for the purpose of causing Plaintiff to suffer humiliation, mental anguish, and emotional and physical distress. Defendant, and each of their conduct, in confirming and ratifying the complained of conduct, was done with the knowledge that Plaintiff's emotional and physical distress would thereby increase, and was done with a wanton and reckless disregard of the consequences to Claimant.

144. As a proximate result of Defendant's conduct and by their intentional infliction of emotional distress as alleged herein, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish, and emotional and physical sickness, and has been injured in mind and health. As a result of said distress and consequent harm, Plaintiff has suffered such damages in an amount in accordance with proof at time of arbitration.

145. Defendant, and each of them, engaging in the conduct as alleged herein, acted fraudulently, maliciously, oppressively and with reckless disregard of Plaintiff's rights and safety, and thereby entitling Plaintiff to an award of punitive damages. Defendant, and each of them, authorized, ratified, knew of the wrongful conduct complained of herein, but failed to take immediate and appropriate corrective action to remedy the situation and thereby acted fraudulently, maliciously, oppressively and with reckless disregard of Plaintiff's rights and safety, and thereby entitling Plaintiff to an award of punitive damages.

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TWELFTH CAUSE OF ACTION
Negligent Infliction of Emotional Distress
(Against All Defendants)

146. Plaintiff incorporates, by reference, her allegations from each of the preceding paragraphs.

1 147. In the alternative, if said conduct of Defendant, and each of them, and of their
2 agents and employees was not intentional, it was negligent and Plaintiff is thereby entitled to
3 general damages for the negligent infliction of emotional distress.

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5 **THIRTEENTH CAUSE OF ACTION**
6 **Unlawful and Unfair Business Practices**
7 **Cal. Bus. & Prof. Code §17200 *et seq.***
8 **(Against All Defendants)**

9 148. Plaintiff incorporates, by reference, her allegations from each of the preceding
10 paragraphs.

11 149. Defendant's policies and/or practices of discriminating against and paying Plaintiff
12 and other female engineers and non-white engineers less than male and/or white engineers for
13 substantially similar work performed and of discriminating against female engineers and non-white
14 engineers in compensation and the terms, conditions, and privileges of employment on the basis of
15 their sex and race or ethnicity constitute business practices because Uber's acts and omissions as
16 alleged herein have been done repeatedly over a significant period of time, and in a systematic
17 manner, to the detriment of Plaintiff.

18 150. Defendant's acts and omissions, as alleged herein, violate the FEHA, Government
19 Code § 12940 *et seq.* and California Equal Pay Act, as amended, Labor Code § 1197 .5 *et seq.*,
20 and therefore constitute unlawful business practices prohibited by Business & Professions Code §
21 17200 *et seq.*

22 151. Defendant's acts and omissions, as alleged herein, constitute unfair business
23 practices prohibited by Business & Professions Code § 17200 *et seq.* Defendant's business
24 practices of discriminating against Plaintiff and other women engineers and non-white engineers
25 caused harm to Plaintiff that outweighs any reason Defendant may have had for doing so.
26 Defendant's business practices as alleged herein are also immoral, unethical, oppressive,
27 unscrupulous, and offensive to the established public policies of ensuring women and non-white
28 employees are paid equally to male and/or white individuals for performing substantially similar

1 work, as reflected in the FEHA and California Equal Pay Act, Cal. Labor Code § 1197 .5 *et seq.*
2 As a result of its unlawful and/or unfair business practices during the course of Plaintiff's
3 employment, Defendant reaped unfair and illegal profits at the expense of Plaintiff. Accordingly,
4 Uber should be disgorged of illegal profits, and Plaintiff is entitled to restitution with interest of
5 such ill-gotten profits in an amount according to proof at the time of trial.

6 152. Defendant's unlawful and/or unfair business practices entitle Plaintiff
7 to preliminary and permanent injunctive relief and other equitable relief available under law.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Claimant, on behalf of all aggrieved employees, prays for relief as follows:

- 10 (a) For compensatory damages including lost wages, earnings, equity, employee
11 benefits, liquidated damages, and all other sums of money, together with interest on
12 these amounts at prevailing rates and according to proof;
- 13 (b) For general, special, and incidental damages and amounts for emotional and
14 physical distress according to proof;
- 15 (c) For punitive damages in an amount to be determined at trial sufficient to punish,
16 penalize and/or deter Defendant;
- 17 (d) For prejudgment interest and interest on the sum of damages awarded to the
18 maximum extent permitted by law;
- 19 (e) An order that Uber immediately refrain from spoliation, destruction, an/or
20 significant alteration of evidence in the subject litigation and/or to restore any such
21 evidence already so spoiled, destroyed and/or altered;
- 22 (f) An order restoring Plaintiff to her rightful position at Uber (*i.e.*, reinstatement) with
23 appropriate seniority and compensation;
- 24 (g) A preliminary and permanent injunction against Uber, officers, agents, successors,
25 employees, representatives, and any and all persons acting in concert with them,
26 from engaging in policies, patterns, and/or practices that discriminated against
27 Plaintiff and other employees based on gender and/or race/ethnicity;
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- 1 (h) An order that Uber institute and carry out policies, practices, and programs, that
2 provide equal employment opportunities for all employees regardless of gender
3 and/or race or ethnicity, and that it eradicate the effects of their past and present
4 unlawful employment practices;
- 5 (i) An order requiring Uber to develop and institute accurate and validated standards
6 for evaluating performance, determining pay, and making promotion decisions;
- 7 (j) An order to ensure that Uber complies with the injunction provisions of any decree
8 that the Court orders;
- 9 (k) An order retaining jurisdiction over this action to ensure that Uber complies with
10 such a decree;
- 11 (l) Restitution of all monies due to Plaintiff, as well as disgorgement of Uber's profits
12 from its unlawful and/or unfair business practices;
- 13 (m) For reasonable attorneys' fees and costs of suit herein incurred; and
- 14 (n) For such other and further relief as the Court deems proper.
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1 Dated: May 21, 2018

Respectfully submitted,

2 By: 

3 JENNIFER S. SCHWARTZ
4 MENAKA N. FERNANDO
5 OUTTEN & GOLDEN LLP
6 One Embarcadero Center, 38th Floor
7 San Francisco, CA 94111
8 Telephone: (415) 638-8800
9 Facsimile: (415) 638-8810
10 E-mail: jschwartz@outtengolden.com
11 E-mail: mfernando@outtengolden.com

Attorneys for Plaintiff Ingrid Avendaño

12 **JURY DEMAND**

13 Plaintiff hereby demands a jury trial to the extent authorized by law.

14 Respectfully submitted,

15 Dated: May 21, 2018

16 By: 

17 JENNIFER S. SCHWARTZ
18 MENAKA N. FERNANDO
19 OUTTEN & GOLDEN LLP
20 One Embarcadero Center, 38th Floor
21 San Francisco, CA 94111
22 Telephone: (415) 638-8800
23 Facsimile: (415) 638-8810
24 E-mail: jschwartz@outtengolden.com
25 E-mail: mfernando@outtengolden.com

Attorneys for Plaintiff Ingrid Avendaño