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15 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **IN AND FOR THE COUNTY OF LOS ANGELES**

17 TRISHA VELEZ, an individual;

18 Plaintiff,

19 v.

20 STATE OF CALIFORNIA; JEFFREY W.
21 JOHNSON, an individual; and DOES 1-25,
22 inclusive,

23 Defendants.

Case No.: **20STCV09721**
(Unlimited Civil Case)

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

1. Hostile Work Environment Sexual Harassment (Gov. Code, § 12940(j))
2. Quid Pro Quo Sexual Harassment (Gov. Code, § 12940(j))
3. Failure to Prevent and Correct Harassment (Gov. Code, § 12940(k))
4. Intentional Infliction of Emotional Distress;
5. Negligent Hiring, Supervision, and Retention

24 Plaintiff TRISHA VELEZ (hereinafter sometimes referred to as "Plaintiff") for her
25 complaint against defendants STATE OF CALIFORNIA ("CALIFORNIA"), JEFFREY W.
26 JOHNSON ("JOHNSON"), and DOES 1-25, inclusive (sometimes collectively "Defendants"),
27 alleges as follows:
28

1 **JURISDICTION AND VENUE**

2 1. Venue is proper because the injuries and wrongful acts occurred in Los Angeles
3 County, California.

4 2. Subject matter in this action is properly heard in this Court, as the action
5 incorporates an amount in controversy as set forth in the complaint which exceeds \$25,000.00.

6 **PARTIES**

7 3. Plaintiff is an adult female who is domiciled in Los Angeles, California. She is
8 employed by the STATE OF CALIFORNIA as a Judicial Assistant at the Second District Court
9 of Appeal.

10 4. Defendant JEFFREY JOHNSON is an adult male who, on information and belief,
11 is domiciled in Los Angeles County, California. He is an Associate Justice of the California
12 Court of Appeal. Plaintiff is further informed and believes, and thereon alleges, that at all times
13 herein mentioned, JOHNSON was a "supervisor" as that term is defined in Government Code
14 section 12926(t).

15 5. The true names and capacities, whether individual, corporate, associate or
16 otherwise, of DOES 1-25, inclusive, are unknown to Plaintiff, who therefore sues such
17 defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges, that
18 each of the defendants designated herein as DOE is legally responsible in some manner for the
19 acts and omissions alleged herein. Plaintiff will amend this Complaint to allege the true names
20 and capacities of such defendants when they are ascertained.

21 6. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
22 mentioned, defendants CALIFORNIA and/or DOES 1 to 25 employed five or more people, and,
23 consequently, were an "employers," as that term is defined in Government Code sections
24 12926(d) and 12940(j)(4)(A), and, as such, were barred from harassing their employees on the
25 basis of, among other things, sex.

26 7. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
27 mentioned, defendants CALIFORNIA and/or DOES 1 to 25 knew, or should have known, of
28

1 defendant JOHNSON's acts of, and propensity to commit acts of, sexual harassment, and failed
2 to take immediate, appropriate corrective action despite knowledge of such.

3 8. In doing the acts complained of herein, defendant JOHNSON acted individually
4 and as the agent of defendants CALIFORNIA and/or DOES 1 to 25, as a result of which
5 defendants CALIFORNIA and/or DOES 1 to 25 are liable for defendant JOHNSON's acts of
6 unlawful harassment. Defendant JOHNSON is also personally liable for his acts of unlawful
7 harassment pursuant to Government Code section 12940(j)(3).

8 9. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
9 mentioned, each of the defendants was the agent, employee, supervisor, servant, and/or joint
10 venturer of each of the remaining defendants, and in doing the things alleged herein, was acting
11 within the course, scope, and authority of such agency, employment, and/or joint venture, and
12 with the consent and permission of each of the other defendants. Plaintiff is further informed and
13 believes, and thereon alleges, that all acts and omissions alleged herein were ratified and
14 approved by the officers, directors, and/or managing agents of each defendant.

15 10. Plaintiff is informed and believes, and thereon alleges, that the managerial or
16 supervisory employees described herein, and the DOE defendants, and the other employees,
17 were the agents, servants, and employees of each of the Defendant entities named herein, and, in
18 doing the things herein alleged, were acting in a managerial or supervisory capacity within the
19 scope of their authority, or, if said conduct was outside the scope of their authority, said conduct
20 was known to, authorized by, and/or ratified by the other Defendants.

21 11. Plaintiff is ignorant of the true names and capacities of the Defendants sued
22 herein as DOES 1 to 25, inclusive, and, therefore, sue said Defendants by such fictitious names.
23 Plaintiff will seek leave of court to amend this Complaint, or file an amendment to complaint, to
24 allege their true names and capacities when the same have been ascertained. Plaintiff is informed
25 and believes, and thereon alleges, that each of the fictitiously-named Defendants is responsible in
26 some actionable manner for the acts, conduct, and/or omissions complained of herein, which
27 resulted in injury and damage to Plaintiff and were the legal cause of the same.

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1 12. Plaintiff filed complaints with the California Department of Fair Employment and
2 Housing (“DFEH”) and obtained right-to-sue letters.

3 13. Plaintiff also filed a Government Tort Claim.

4 **FACTUAL ALLEGATIONS**

5 14. In or around November 2006, Plaintiff began working for the STATE OF
6 CALIFORNIA at the Second District Court of Appeal. She was a Judicial Assistant for Justice
7 Armstrong.

8 15. Plaintiff is informed and believes, and thereon alleges, that defendants
9 CALIFORNIA and/or DOES 1 to 25 failed to provide sufficient training on any sexual
10 harassment policy and on the topic of harassment prevention.

11 16. In or around August 2013, Plaintiff was moved to Division One, where she
12 became a Judicial Assistant for Justice Victoria Chaney. There, she also started working with
13 JOHNSON, one of the four Justices in her division, and had frequent interactions with him.

14 17. Beginning in or around October 2013, and continuing until June 2018, JOHNSON
15 began engaging in unwelcome, inappropriate conduct of a sexual nature towards Plaintiff. This
16 conduct was severe and/or pervasive and negatively impacted Plaintiff, and included, but is not
17 limited to, the following:

- 18 a. Repeatedly asking her out to coffee after she declined;
- 19 b. Forcing her into a coffee date, saying, “You have no excuse not to have coffee
20 with me” because her direct supervisor was on vacation;
- 21 c. Asking her about her sexual history;
- 22 d. Asking her whether she had a boyfriend in high school;
- 23 e. Asking her if she had sex;
- 24 f. Asking her if she “got into trouble”;
- 25 g. Asking her about her marriage;
- 26 h. Asking her if she was married prior;
- 27 i. Asking her how her prior marriage ended;
- 28 j. Telling her he was unhappy in his marriage;

- 1 k. Telling her, "If I was married to you, I would never leave your bed. I like you
- 2 Trish."
- 3 l. Telling her he loved her;
- 4 m. Blowing her kisses;
- 5 n. Telling her "You are my favorite";
- 6 o. Telling her "I got your back," implying that he could use his position of authority
- 7 to benefit her.

8 18. The foregoing examples are not meant to be exhaustive, but rather only examples
9 of JOHNSON's harassment and inappropriate conduct towards Plaintiff.

10 19. Plaintiff continually, through her words and actions, let JOHNSON know that all
11 of the foregoing conduct was unwanted, offensive, hostile, and intimidating.

12 20. Shortly after Plaintiff was transferred to work with Justice Chaney, JOHNSON
13 insisted that Plaintiff go to coffee with him and would not take no for an answer. Plaintiff felt
14 she had to go to coffee with him and went. He told Plaintiff that he was being considered for a
15 position with the Supreme Court of California because he is African American. He said that, if
16 he got the position, he could have two judicial assistants and he would take her along with him.

17 21. About two weeks later, JOHNSON asked Plaintiff to have coffee again; this time,
18 in a more secluded place. Again, Plaintiff felt she had to go to coffee with him. They went to a
19 café called Syrup. While there, he asked her a series of very personal questions, like whether she
20 had a boyfriend in high school, if she had sex and if she "got in trouble." He asked her about her
21 marriage and told her he was unhappily married. He also asked her if she was married prior and
22 Plaintiff told him "yes." He then asked her how that marriage ended and she, reluctantly, told
23 him that her ex-husband cheated on her. JOHNSON then said, "If I was married to you, I would
24 never leave your bed. I like you, Trish." Plaintiff immediately told him to stop and then left the
25 café. JOHNSON followed her back to the courthouse.

26 22. About two weeks after this incident, JOHNSON asked Plaintiff out to coffee yet
27 again. She firmly told him that she was never going to coffee, or anywhere else, with him. He
28 walked away. About five minutes later, JOHNSON called Plaintiff and asked her to come to his

1 chambers to talk. She froze. JOHNSON had never called her to his chambers before. One of
2 Plaintiff's coworkers, Kristi Cook, was with her and Plaintiff told her what JOHNSON said.
3 Plaintiff confided in Kristi prior, after JOHNSON made inappropriate comments to her at Syrup.
4 Kristi responded, "Let's go," and they both left work immediately.

5 23. Thereafter, JOHNSON stopped asking Plaintiff out to coffee, but the harassing
6 conduct continued. JOHNSON would consistently, among other things, tell Plaintiff that he
7 loved her and would blow her kisses.

8 24. JOHNSON would also say things to Plaintiff like, "You're my favorite," or "I
9 love you," and would wink at her. He would say "I got your back" or "We're good." This
10 conduct made Plaintiff uncomfortable.

11 25. In September 2016, Plaintiff saw JOHNSON in the hallway and he introduced her
12 to a man named AJ. Plaintiff thought he looked familiar and, after he left, she realized that she
13 went to high school with him. She later found a note on her desk with his contact information
14 and JOHNSON told Plaintiff that AJ wanted her to contact him. They exchanged innocuous
15 messages back and forth on Facebook. Plaintiff later learned that JOHNSON was AJ's mentor
16 and was also a godfather to AJ's child.

17 26. Shortly after this, Justice Chaney told Plaintiff that she heard some "crazy stories"
18 about Plaintiff acting wild in high school, especially with her high school boyfriend. On
19 information and belief, AJ told this to JOHNSON who, in turn, spread rumors about Plaintiff's
20 "wild youth" around the workplace.

21 27. Plaintiff did not make a formal complaint about JOHNSON, though, because of
22 the power differential and her fear of retaliation. JOHNSON was a high level Justice and she
23 was scared to lose her job. She also had a negative experience making complaint years prior,
24 when she was working in Division Five. Plaintiff reported a situation involving another Justice to
25 Justice Turner and asked him for help. Justice Turner responded by calling her a whistleblower
26 to her face and insisting that nothing was wrong with the other Justice. This experience made
27 Plaintiff even more hesitant to ask for help with JOHNSON.

28

1 28. However, Plaintiff did complain about JOHNSON’S sexual conduct towards her
2 to numerous other employees.

3 29. In about June 2018, a brave individual reported sexual harassment by JOHNSON.
4 Her complaint prompted an investigation into JOHNSON’s misconduct.

5 30. When an investigation into JOHNSON’s harassment commenced, Justice Chaney
6 called Plaintiff into her office and asked Plaintiff if she had been experiencing issues with
7 JOHNSON. Plaintiff confirmed that she had also been sexually harassed and told Justice Chaney
8 about her experiences with JOHNSON. Plaintiff learned that JOHNSON had made sexual
9 advances toward Justice Chaney.

10 31. Notably, Justice Chaney was also sexually harassed by JOHNSON but she, too,
11 never reported it until another person formally reported sexual harassment by JOHNSON.

12 32. In addition to Plaintiff and Justice Chaney, many other victims also came forward.

13 33. An investigation was commenced and Plaintiff was interviewed, along with many
14 other victims.

15 34. After the investigation was completed, a report was prepared regarding the details
16 learned during the investigation and the findings.

17 35. In November 2019, an Examiner with the Commission on Judicial Performance at
18 California State Bar Court, submitted her “Proposed Findings of Fact and Conclusions of Law”
19 in connection with the Commission’s disciplinary proceedings against JOHNSON. In her
20 Proposed Findings, it was stated that they found that Plaintiff’s testimony was credible. The
21 “Conclusions of Law” provided, “We find that Justice Johnson’s conduct created a work
22 environment for [Plaintiff] that was hostile or abusive on the basis of sex ...[and] constituted
23 prejudicial misconduct.”

24 36. On January 3, 2020, the panel of Special Masters filed their Findings of Fact and
25 Conclusions of Law. In the Special Masters’ final report, they found Plaintiff to be credible and
26 determined that JOHNSON “made sexually suggestive and inappropriate comments to
27 [Plaintiff],” including that he was unhappily married, if he was married to her he would never
28 leave her bed, and that he liked her. The report stated “These comments from a Court of Appeal

1 justice, who had been persistent in seeking to overcome her resilience in going to coffee with
2 him, understandably made Plaintiff very uncomfortable and upset. Justice Johnson compounded
3 her discomfort by asking her to come to his chambers *after* she told him she did not want to have
4 further contact with him.”

5 37. The report further indicated that Plaintiff was a “credible witness” and “she
6 described events in a detailed and straightforward manner; she did not embellish her account;
7 and there was no evidence she had motive to misinterpret the facts.”

8 38. The report also noted that “[Plaintiff’s] description of Justice Johnson’s statements
9 bore close similarity to the testimony of several other court personnel...who each testified that
10 Justice Johnson made highly personal comments during one-on-one encounters.”

11 39. Additionally, the report also noted that “much of [Plaintiff’s] testimony was
12 corroborated by Justice Johnson himself.”

13 40. The report also noted that the investigator found truthful Plaintiff’s testimony
14 about Justice Johnson’s comments during the five years following the coffee outings, such as
15 “You’re my favorite,” or “I love you,” and wink at me, or say “I got your back” or “We’re good”
16 and that he blew kisses at her.

17 41. The report further noted that the investigator found that Plaintiff’s allegation that
18 Justice Johnson communicated personal information about her to Justice Chaney in 2016 was
19 true.

20 42. The investigation found that JOHNSON’s testimony “was not credible and
21 reflects [his] intentional fabrication of the relevant facts.” The “Legal Conclusion” stated: “With
22 respect to [Plaintiff], the conduct included seeking to create a personal or romantic relationship
23 during working hours in 2013; making sexually suggestive remarks at a café; making
24 inappropriate and overly personal statements to her for the next five years; and discussing
25 [Plaintiff’s] personal life with other justices without her permission in about 2017...[This]
26 conduct violated canons 1 (judge shall observe high standards of conduct so integrity of judiciary
27 is preserved); 2 (judge shall avoid impropriety and appearance of impropriety); 2A (judge shall
28 act at all times in manner that promotes public confidence in integrity of judiciary); 3B(4) (judge

1 shall be dignified, and courteous to persons with whom judge deals in official capacity); and
2 3C(1) (judge shall discharge administrative responsibilities without bias or prejudice and in a
3 manner that promotes public confidence in the integrity of the judiciary, and shall not engage in
4 speech or gestures that would reasonably be perceived as bias based on sex or gender or sexual
5 harassment).” Finally, the Special Masters determined that “the canon violations constituted
6 prejudicial misconduct because it would appear to an objective observer to be conduct
7 prejudicial to the public esteem for the judicial office [and that] respect for the judicial office is
8 diminished when a judicial officer uses sexually suggestive language and seeks to establish a
9 personal or romantic relationship with a judicial assistant during working hours over her clear
10 discomfort.”

11 43. Besides Plaintiff, many other women came forward during the investigation and
12 shared their experiences about Justice Johnson sexually harassing them. According to the report,
13 there were allegations made of inappropriate conduct by Justice Johnson towards 17 women,
14 including two Court of Appeal justices, three court research attorneys, two judicial assistants,
15 two CHP officers, six private attorneys, and two federal court employees. The report states “The
16 alleged misconduct ranges from overly familiar compliments to highly offensive touching and
17 vulgar, sexually explicit statements.”

18 44. The report notes “We find the Examiner met its high proof burden on most of
19 these counts. The proven allegations establish that Justice Johnson lacked personal boundaries;
20 engaged in unwanted touching of several women; attempted to use the prestige of the judicial
21 office to create personal relationships with women; and engaged in ongoing improper touching
22 and sexually related comments towards his colleague.” The report also notes “Justice Johnson’s
23 pattern of conduct toward these women reflects ethical lapses that undermine the public’s trust in
24 the judicial process and erodes the confidence we ask the public to place in our individual judges.”

25 45. It has become clear that Justice Johnson engaged in a widespread pattern of
26 conduct that demeaned and sexualized women and that was totally inappropriate not just for a
27 Justice of the Appellate Court, but for anyone in this society to engage in.
28

1 46. On information and belief, JOHNSON is still hearing cases at the Second District
2 Court of Appeal.

3
4 **FIRST CAUSE OF ACTION**

5 **(Against All Defendants for Hostile Work Environment**

6 **Harassment in Violation of Government Code Section 12940(j))**

7 47. Plaintiff incorporates by this reference all the other allegations of this Complaint.

8 48. At all times herein mentioned, Government Code section 12940(j) was in full
9 force and effect, was binding on Defendants, and required them to refrain from subjecting
10 Plaintiff to unwanted harassing conduct because of her sex.

11 49. Defendant JOHNSON's acts, as more fully described above, were unwelcome to
12 Plaintiff, and were severe, or pervasive, or both, and created an oppressive, hostile, intimidating,
13 and/or offensive work environment for Plaintiff. A reasonable person in Plaintiff's position
14 would also have considered the environment to be hostile and/or abusive.

15 50. Defendant JOHNSON is personally liable for his own acts of harassment,
16 pursuant to Government Code section 12940(j)(3). Defendants STATE OF CALIFORNIA and
17 DOES 1 to 25 are strictly liable for defendant JOHNSON's acts of harassment because, at all
18 times herein mentioned, JOHNSON was a supervisor, as that term is defined in Government
19 Code section 12926(t). In the alternative, even if JOHNSON was not a supervisor, defendants
20 STATE OF CALIFORNIA and DOES 1 to 25 are liable for his acts of harassment because they
21 knew, or should have known, about them and failed to take immediate and appropriate corrective
22 action.

23 51. As a direct and proximate result of the sexual harassment of Plaintiff described
24 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
25 proof at the time of trial.

26 52. As a direct and proximate result of the unlawful conduct of Defendants, and each
27 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
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1 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
2 distress, stress, and other damages to be proven at the time of trial.

3 53. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
4 an attorney, and has incurred, and will continue to incur, costs, including attorney fees, to
5 enforce her statutory and constitutional rights to be free from harassment in the workplace.
6 Plaintiff is, therefore, entitled to an award of attorney fees and costs pursuant to Government
7 Code section 12965(b), in an amount according to proof.

8 54. Defendant JOHNSON committed the acts herein alleged maliciously,
9 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an
10 improper and evil motive amounting to malice, and in conscious disregard of the rights of
11 Plaintiff. Plaintiff consequently seeks an award of punitive damages against Defendant
12 JOHNSON, in an amount according to proof.

13 55. Within the time required by law, Plaintiff filed a Complaint with the Department
14 of Fair Employment & Housing and obtained an immediate Notice of Case Closure. Plaintiff
15 has, therefore, exhausted her administrative remedies before the filing of this lawsuit.

16 WHEREFORE Plaintiff prays for judgment as set forth below;

17 **SECOND CAUSE OF ACTION**

18 **(Against All Defendants for Quid Pro Quo**

19 **Harassment in Violation of Government Code Section 12940(j))**

20 56. Plaintiff incorporates by this reference all the other allegations of this Complaint.

21 57. At all times herein mentioned, Government Code section 12940(j) was in full
22 force and effect, was binding on Defendants, and required them to refrain from subjecting
23 Plaintiff to unwanted harassing conduct because of her sex.

24 58. At all times herein mentioned, Plaintiff and JOHNSON were employed by
25 Defendant STATE OF CALIFORNIA.

26 59. Defendant JOHNSON made unwanted sexual advances and engaged in other
27 unwanted verbal and physical conduct of a sexual nature, as set forth above and incorporated
28 herein.

1 60. The terms of Plaintiff's employment, her job benefits, and/or her favorable
2 working conditions were made contingent, by words and/or conduct, on Plaintiff's acceptance of
3 defendant JOHNSON's sexual advances and conduct.

4 61. At all times herein mentioned, defendant JOHNSON was a supervisor as that term
5 is defined in Government Code section 12926(t).

6 62. Plaintiff was harmed as set forth above and incorporated herein.

7 63. Defendant JOHNSON is personally liable for his own acts of harassment,
8 pursuant to Government Code section 12940(j)(3). Defendants STATE OF CALIFORNIA and
9 DOES 1 to 25 are strictly liable for defendant JOHNSON's acts of harassment because, at all
10 times herein mentioned, JOHNSON was a supervisor, as that term is defined in Government
11 Code section 12926(t). In the alternative, even if JOHNSON was not a supervisor, defendants
12 STATE OF CALIFORNIA and DOES 1 to 25 are liable for his acts of harassment because they
13 knew, or should have known, about them and failed to take immediate and appropriate corrective
14 action.

15 64. As a direct and proximate result of the sexual harassment of Plaintiff described
16 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
17 proof at the time of trial.

18 65. As a direct and proximate result of the unlawful conduct of Defendants, and each
19 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
20 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
21 distress, stress, and other damages to be proven at the time of trial.

22 66. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
23 an attorney, and has incurred, and will continue to incur, costs, including attorney fees, to
24 enforce her statutory and constitutional rights to be free from harassment in the workplace.
25 Plaintiff is, therefore, entitled to an award of attorney fees and costs pursuant to Government
26 Code section 12965(b), in an amount according to proof.

27 67. Defendant JOHNSON committed the acts herein alleged maliciously,
28 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an

1 improper and evil motive amounting to malice, and in conscious disregard of the rights of
2 Plaintiff. Plaintiff consequently seeks an award of punitive damages against Defendant
3 JOHNSON, in an amount according to proof.

4 68. Within the time required by law, Plaintiff filed a Complaint with the Department
5 of Fair Employment & Housing and obtained an immediate Notice of Case Closure. Plaintiff
6 has, therefore, exhausted her administrative remedies before the filing of this lawsuit.

7 WHEREFORE Plaintiff prays for judgment as set forth below;

8 **THIRD CAUSE OF ACTION**

9 **(Against All Defendants, Except JOHNSON, for Failure to Take**
10 **All Reasonable Steps Necessary to Prevent and Correct Harassment**
11 **in Violation of Government Code Section 12940(k))**

12 69. Plaintiff incorporates herein the allegations set forth in the other paragraphs of
13 this Complaint.

14 70. At all times herein mentioned, Government Code section 12940(k) was in full
15 force and effect, was binding on Defendants, and required them to take all reasonable steps
16 necessary to prevent harassment and retaliation from occurring in the workplace.

17 71. Plaintiff is informed and believes, and thereon alleges, that Defendants, and each
18 of them, failed to take all reasonable steps necessary to prevent harassment and retaliation from
19 occurring by failing to sufficiently educate its employees about those things, including what they
20 are and how to report them; by failing to sufficiently express strong disapproval of those things;
21 by failing to sufficiently monitor the workplace; by failing to have in place a sufficient plan to
22 promptly and adequately investigate complaints of harassment and retaliation; by failing to
23 promptly and adequately investigate complaints of harassment and retaliation; by failing to have
24 in place appropriate sanctions to deter those things; by failing to apply appropriate sanctions to
25 deter future harassment and retaliation; by failing to comply with Government Code sections
26 12950 and 12950.1, to the extent they applied; by failing to comply with relevant sections of
27 Title 2 of the California Code of Regulations, including, but not limited to sections 11023 and
28

1 11024; by engaging in retaliatory conduct, as set forth above; and other, yet-to-be-identified
2 failures to take reasonable steps to prevent and correct harassment and retaliation.

3 72. As a direct and proximate result of Defendants' failure to take all reasonable steps
4 necessary to prevent harassment from occurring, Plaintiff was subjected to unwelcome conduct
5 of a sexual nature by defendant JOHNSON, as set forth above. Said conduct was severe, or
6 pervasive, or both, and created an oppressive, hostile, intimidating, and/or offensive work
7 environment for Plaintiff. A reasonable person in Plaintiff's position would also have considered
8 the environment to be hostile and/or abusive. She has also been subjected to retaliation, as set
9 forth more fully above.

10 73. As a direct and proximate result of the sexual harassment of Plaintiff described
11 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
12 proof at the time of trial.

13 74. As a direct and proximate result of the unlawful conduct of Defendants, and each
14 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
15 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
16 distress, stress, and other damages to be proven at the time of trial.

17 75. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
18 an attorney, and has incurred, and will continue to incur, costs, including attorney fees, to
19 enforce her statutory and constitutional rights to be free from harassment in the workplace.
20 Plaintiff is, therefore, entitled to an award of attorney fees and costs pursuant to Government
21 Code section 12965(b), in an amount according to proof.

22 76. Within the time required by law, Plaintiff filed a Complaint with the Department
23 of Fair Employment & Housing and obtained an immediate Notice of Case Closure. Plaintiff
24 has, therefore, exhausted her administrative remedies before the filing of this lawsuit.

25 WHEREFORE Plaintiff prays for judgment as set forth below;

26 **FOURTH CAUSE OF ACTION**

27 **(Against All Defendants for Intentional Infliction of Emotional Distress)**

28 77. Plaintiff incorporates by this reference all the other allegations of this Complaint.

1 78. Defendant JOHNSON's conduct, as set forth above, was extreme and outrageous
2 because it amounted to sexual harassment of an subordinate. As a Court of Appeals Justice,
3 JOHNSON had apparent and real power to affect the terms and conditions of Plaintiff's
4 employment.

5 79. Defendant JOHNSON acted intending to cause Plaintiff severe emotional distress,
6 or with reckless disregard of the probability that Plaintiff would suffer severe emotional distress.

7 80. Plaintiff suffered severe emotional distress.

8 81. Defendants' conduct was a substantial factor in causing Plaintiff's severe
9 emotional distress.

10 82. As a direct and proximate result of the sexual harassment of Plaintiff described
11 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
12 proof at the time of trial.

13 83. As a direct and proximate result of the unlawful conduct of Defendants, and each
14 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
15 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
16 distress, stress, and other damages to be proven at the time of trial.

17 84. Defendant JOHNSON committed the acts herein alleged maliciously,
18 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an
19 improper and evil motive amounting to malice, and in conscious disregard of the rights of
20 Plaintiff. Plaintiff consequently seeks an award of punitive damages against Defendant
21 JOHNSON, in an amount according to proof.

22 WHEREFORE Plaintiff prays for judgment as set forth below;

23 **FIFTH CAUSE OF ACTION**

24 **(Against All Defendants, Except Defendant JOHNSON, for Negligent, Hiring, and**
25 **Retention)**

26
27 85. Plaintiff incorporates herein the other allegations of this Complaint.
28

1 86. Defendant JOHNSON was unfit and/or incompetent to perform the work for
2 which he was hired by Defendants.

3 87. Defendants knew, or should have known, that defendant JOHNSON was unfit
4 and/or incompetent to supervise female employees. Defendants were, on information and belief,
5 aware, but yet negligently decided to hire him, and/or negligently supervise him, and/or
6 negligently retained him, creating the risk that this unfitness and/or incompetence would result in
7 harm to others, particularly in harm to female employees such as Plaintiff.

8 88. Defendant JOHNSON'S unfitness and/or incompetence harmed Plaintiff as
9 otherwise alleged in this Complaint.

10 89. Defendants' negligence in hiring and/or supervising and/or retaining defendant
11 JOHNSON was a substantial factor in causing Plaintiff's harm, and Defendants are, therefore,
12 directly liable to Plaintiff for such harm.

13 90. As a direct and proximate result of the sexual harassment of Plaintiff described
14 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
15 proof at the time of trial.

16 91. As a direct and proximate result of the unlawful conduct of Defendants, and each
17 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
18 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
19 distress, stress, and other damages to be proven at the time of trial.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
22 follows:

- 23 1. For special damages, according to proof at the time of trial.
- 24 2. For general damages, according to proof at the time of trial;
- 25 3. For attorney fees, as allowed by law, under, but not limited to, Government Code
26 section 12965(b); Civil Code, sections 51.9(b), 52(b)(3), 52.4(a), and 1021.5;
- 27 4. For pre- and post-judgment interest, pursuant Civil Code section 3289;
- 28 5. For costs of suit incurred herein;

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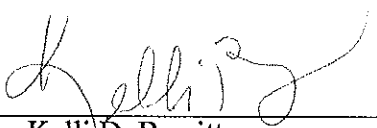
- 6. For such other and further relief as the Court deems just and proper.
- 7. For punitive damages against Defendant Johnson only, according to proof at the time of trial;

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

DATED: March 10, 2020

WINER, BURRITT & TILLIS, LLP

BY: 

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Rachael E. Sauer
Attorneys for Plaintiff