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FILED
SAN MATEO COUNTY

JAN 29 2018
Clerk of the Superior Court
[Signature]
DEPUTY CLERK

10 **SUPERIOR COURT IN AND FOR THE STATE OF CALIFORNIA**

11 **COUNTY OF SAN MATEO**

BY FAX

18CIV00442

12 **ARNE WILBERG**

13 Plaintiff,

14 v.

15 **GOOGLE, INC. and DOES 1 THROUGH 25,**
16 **INCLUSIVE,**

17 Defendants.

CASE NO.:
PLAINTIFF'S FIRST COMPLAINT FOR
DAMAGES FOR:

1. Discrimination in Violation of California Government Code § 12940 et seq. (Sex)
2. Discrimination in Violation of California Government Code § 12940 et seq. (Race)
3. Failure to Take Reasonable Steps to Prevent Discrimination and Retaliation from Occurring in Violation of California Government Code § 12940 et seq.
4. Retaliation in Violation of Government Code 12940 et seq. for Complaining About Discriminatory Hiring Practices Retaliation in Violation of Government Code Section 12940 Based on Race and Gender
5. Wrongful Termination in Violation of Public Policy [California Labor Code Section 1102.
6. Violation of Business and Professions Code § 17200
7. Violations of the Unruh Act

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23 18-CIV-00442
24 CMP
25 Complaint
26 947996



DEMAND FOR JURY TRIAL
DEMAND FOR PUNITIVE DAMAGES

1 Plaintiff ARNE WILBERG alleges as follows:

2 **PARTIES**

3 1. At all times relevant hereto, Plaintiff ARNE WILBERG (“Plaintiff” or “Wilberg was
4 employed as a recruiter by Defendant Google, Inc. (“Defendant”, “Google” or “YouTube”. Plaintiff
5 worked at Defendant’s facilities in San Bruno, California.

6 2. Defendant Google is a Delaware corporation with its principal place of business in
7 California. In addition to the Defendant named above, Plaintiff sues fictitiously Defendants DOES 1
8 through 25, inclusive, because their names, capacities, status, or facts showing them to be liable are
9 not presently known. Plaintiff is informed and believes, and thereon alleges, that each of the
10 fictitiously named Defendants is responsible in some manner for the occurrences herein alleged, and
11 such Defendants proximately caused Plaintiffs’ damages as herein alleged. Plaintiff will amend this
12 complaint to show their true names and capacities, together with appropriate charging language, when
13 such information has been ascertained.

14 3. Plaintiff is informed and believes, and thereon alleges, that Defendant, and/or DOES 1-25,
15 and each of them, was always relevant herein the agent, servant, employee, and/or representative of
16 each of the other Defendants, and in doing the acts and things alleged in this complaint was acting
17 within the course and scope of such agency, service, employment and/or representation. Plaintiff is
18 further informed and believes and thereon alleges that Defendant, and/or DOES 1-25, and each of
19 them, are the employers of the managers and supervisors herein complained of, and supervising over
20 Plaintiff, and therefore Defendant, and/or DOES 1-25, and each of them, are jointly and severally
21 responsible and liable to Plaintiffs for the damages hereinafter alleged.

22 **JURISDICTION & VENUE**

23 4. Plaintiff brings this action pursuant to and under the provisions of the Fair Employment and
24 Housing Act, California Government Code §§ 12900, et seq. (hereinafter referred to as FEHA);
25 California Constitution, Article I, §1; and other common and statutory laws, as well as various
26 provisions of the California Labor Code.

27 5. Plaintiff was considered an “employee” within the meaning of Fair Employment Housing
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1 Act (hereinafter referred to as "FEHA"). Plaintiff is informed and believes and thereupon alleges that
2 each of the Defendants were always relevant hereto an "employer" as defined by FEHA.

3 6. The amount in controversy exceeds the minimum jurisdictional threshold of this Court.

4 7. At all times relevant herein, Defendant and/or DOES 1-25, and each of them, employed five
5 (5) or more employees for each working day in each of twenty or more calendar weeks in the current
6 or preceding calendar year and is otherwise subject to the provisions of FEHA and other applicable
7 laws.

8 8. Venue is proper in this Court because the certain of the alleged unlawful acts in violation of
9 Cal. Gov. Code § 12940 et seq. occurred in San Mateo County.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 9. Plaintiff filed a timely charge of discrimination with the California Department of Fair
12 Employment and Housing (DFEH). The DFEH issued a Right-To-Sue notice in December of 2017.

13 **GENERAL FACTUAL ALLEGATIONS**

14 10. Plaintiff Arne Wilberg ("Wilberg" or "Plaintiff") was employed by Defendant Google, Inc.,
15 the parent company of YouTube ("Google" or "YouTube") as Recruiter for the YouTube Tech
16 Staffing Management Team for 7 years as a recruiter for Google, including his last 4 years at YouTube
17 and two additional years as a contractor onsite at Google before becoming a Google employee. In
18 this capacity, he was responsible for identifying qualified candidates for engineering and technology
19 positions and recruiting them for positions in technology jobs at Google/YouTube. Plaintiff was an
20 exemplary employee and received positive performance evaluations until he began opposing illegal
21 hiring and recruiting practices at Google.

22 11. For the past several years, Google has had and implemented clear and irrefutable policies,
23 memorialized in writing and consistently implemented in practice, of systematically discriminating in
24 favor job applicants who are Hispanic, African American, or female, and against Caucasian and Asian
25 men. These policies were reflected in multiple bulletins, memorandum, charts, and other documents
26 prepared by Google's highest-level managers, and approved by Google's C-level officers and
27 directors. The stated purpose of these policies was to achieve "Diversity" in the Google workforce,
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1 and to manage public relations problems arising from the underrepresentation of women and certain
2 minority groups in the Google workforce, particularly in engineering positions.

3 12. For example, Google policy documents state that, for Q3 of 2017, YouTube recruiters,
4 including Plaintiff, would hire only individuals who were “diverse.” The policy document states:
5 “Beginning of Q3—we hire for 2018—all diverse.” Further, Google used Weekly Recaps to track the
6 number of hires who were “Female,” “Black”, and “LatinX.” For the first quarter of 2017, Google’s
7 “Weekly Recap” reflected that Google had hired 14 females (with a goal of 82), 1 Black (with a goal
8 of 21) and 5 LatinX (with a goal of 13). A true and correct copy of one of Google’s “Weekly Recap”
9 of Diversity Hiring, for the week of 3/20/17 is attached hereto as Exhibit 1 and made a part hereof. To
10 execute is “Diversity” hiring program objectives, Google would carefully track the race and gender of
11 each applicant for a position in its technology workforce and use these characteristics to choose which
12 of the candidates and applicants for technology positions to make offers of employment, and which
13 candidates and applicants to reject. In March of 2017, the manager of YouTube’s Tech Staffing
14 Management Team, Allison Alogna, wrote an e-mail to the staffing team in which she writes, “Hi
15 Team: Please continue with L3 candidates in process and only accept new L3 candidates that are from
16 historically underrepresented groups.” A true and correct copy of Alogna’s e-mail dated March 1,
17 2017 is attached hereto as Exhibit 2. For several quarters, Google would not extend an offer of
18 employment for any applicants for technical positions who were not “diverse,” which Google defined
19 as Women, Blacks and LatinX. Google had a policy that recruiters were not to hire Level 3 and Level
20 4 Software Engineers. However, YouTube recruiters were given permission to hire Level 3 and Level
21 4 Software Engineers, if they were diversity hires.

22 13. In April of 2017, Google’s Technology Staffing Management team was instructed by Alogna
23 to immediately cancel all Level 3 (0-5 years experience) software engineering interviews with every
24 single applicant who was not either female, Black or Hispanic, and to purge entirely any applications
25 by non-diverse employees from the hiring pipeline. Plaintiff refused to comply with this request.

26 14. As described in detail below, Plaintiff repeatedly opposed these illegal and discriminatory
27 hiring practices by complaining to his managers and HR. He repeatedly told them that it was illegal to
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1 have such hiring quotas favoring certain groups based on race and gender, that it violated state and
2 federal law, and that Google must immediately cease and desist from engaging in such illegal hiring
3 practices. In response to Plaintiff's complaints, Google on occasion would circulate e-mails
4 instructing its employees purge any and all references to the race/gender quotas from its e-mail
5 database in a transparent effort to wipe out any paper trail of Google's illegal practices. Google
6 repeatedly retaliated against Plaintiff for opposing Google's illegal hiring practices by subjecting him
7 to unsubstantiated performance reviews, performance criticisms and terminating his employment in
8 November of 2017.

9 15. In approximately December of 2015, Plaintiff's Supervisor, Terry O'Conner (O'Conner")
10 emailed the entire Youtube Tech Staffing team (alias - recruitytswes@google.com), to tell the entire
11 team that the goal for Q1 2016 was 5 SWE hires per recruiter and all of the hires had to be diverse
12 SWE candidates which means they must be black, Hispanic or women. Google internally and
13 externally states that it does not make any hiring decisions based upon race ethnicity or gender.
14 Wilberg believed Google's policy on non-discriminatory hiring practices was not followed on the
15 YouTube tech staffing team. Based upon this belief that O'Conner was asking recruiters to
16 discriminate against men and non-minority applicants, Plaintiff believed that pressure was exerted by
17 management on Wilberg and other recruiters, including only giving recruiters credit against the
18 recruiters' hiring goals they hired Woman, Black or Hispanic applicants (Google's definition of
19 diversity). Wilberg felt uncomfortable reporting to O'Conner as her disregard for following important
20 hiring policies put Google at significant risk and made recruiters vulnerable for firing or legal action
21 by following management discriminatory hiring goals. In addition, O'Conner yelled at recruiters in
22 meetings and made people on the team feel completely uncomfortable and psychologically unsafe
23 reporting to her.

24 16. In approximately, January of 2016, Wilberg and 3 additional YouTube Google recruiters
25 agreed to escalate their complaints about O'Conner to her manager Lisa Pisacane ("Pisacane"), the
26 YouTube Staffing Manager. The four recruiters previously referenced spoke with Pisacane to let her
27 know that O'Conner was a micromanager that made almost everyone feel uncomfortable on the team,
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1 and that they had significant issues with O'Conner's management. Two other YouTube technical
2 team recruiters were not invited to the meeting with O'Conner because the recruiters had spoken with
3 Pisacane with respect to their complaints about O'Conner resulting in one recruiter's work being taken
4 away from her.

5 17. In retaliation for complaining about O'Conner, a co-worker was given a poor performance
6 review and had her level reduced from a L6 recruiter to an L5 recruiter in what was perceived as
7 retaliation for complaining to about O'Conner. In addition, two recruiters both transferred off of
8 O'Conner's Team, the YouTube Tech Recruiting team, based on the fact that one of the recruiters was
9 uncomfortable reporting to O'Conner. Additionally, another co-worker was unhappy about and felt
10 uncomfortable with being given a goal of hiring 5 diverse hires for Q1 2016. Pisacane listened to the
11 team complaints about O'Conner's management style and the "diversity hiring" policies, and told the
12 team that she would get back them with follow up feedback about the concerns.

13 18. In approximately early January of 2016, members of the You Tube recruiting team escalated
14 their concerns about hiring practices to their overall function boss, who was the Director of Google
15 Staffing Services. Google Staffing Services is the team that oversees recruiting support functions such
16 as managing recruiting coordinators who schedule interviews. The Recruiting Coordinators for
17 YouTube lodged a complaint about Diversity hiring practices at YouTube that made them
18 uncomfortable. The coordinators complained about the way the O'Conner and Lisa Pisacane spoke
19 about black candidates as the team needed to hire more blacks. One team member complained that
20 managers were speaking about Blacks like they were objects. Managers asked coordinators to have 2
21 black Google/YouTube engineers as interviewers on each interview panel for black candidates, or 2
22 Hispanic engineer interviewers on each panel for Hispanic candidates or 2 female interviewers on each
23 panel for female candidates. This interview panel policy for diversity candidates at YouTube was
24 called Project Mirror. At the same time, O'Conner and Pisacane, ran a diversity steering committee
25 which was comprised of recruiting managers at YouTube and YouTube engineering managers who
26 were to review close call diversity candidates who didn't meet the hiring bar to try to find them homes
27 and find manager support to make the diversity hire. This Youtube Policy contradicted Google's
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1 policy around a non-specific, non-separate and general process for hiring. The Staffing Director
2 flagged the complaints of her team members around diversity hiring concerns to HR.

3 19. In January of 2016, Wilberg reached out to the Staffing Director over instant message and
4 asked to have a meeting about YouTube hiring practices. Wilberg let the Staffing Director know that
5 many employees on the hiring team were uncomfortable with YouTube's "Diversity Hiring Practices"
6 because they believed these policies were discriminatory. Wilberg described another recruiter's
7 feedback around this "diversity" hiring program where the other recruiter told other recruiters that she
8 felt the way the team talked about black people in team meetings was like we were talking about black
9 slaves as slave traders on a ship. The other recruiter asked Wilberg to speak with HRBP about this
10 issue and Wilberg participated in the investigation. The Staffing Director said she would flag this issue
11 to the VP of Google People Services, who oversees HR and that she would speak with Wilberg's
12 HRBP (Human Resources Business Partner).

13 20. In approximately January of 2016, a black engineer named S.N. (initials) reported to her
14 manager that she was only being asked to interview only black SWE candidates and this made her feel
15 uncomfortable. S.N. and her manager escalated their complaints to HR. As a result of S.N.'s
16 complaints, Google deleted the Youtube Candidate Tracker for the Youtube Diversity Steering
17 Committee from the Google Drive. Further O'Conner and others deleted all emails around diversity
18 hiring goals from the YouTube Technical Staffing Team's Gmail inboxes. Pisacane confirmed to
19 Wilberg in a meeting that there that the team was asked to "clean up" its diversity hiring practices.
20 Pisacane also told the entire YouTube recruiting team in a team meeting that HR was involved in an
21 investigation of YouTube hiring practices and the team had to change its specialized diversity hiring
22 process. Pisacane told Wilberg that these changes were only temporary and told him that YouTube
23 would soon continue with the quota-based hiring practices. Pisacane told Wilberg not to share outside
24 of the core recruiting team what the team was doing, such as sharing with Recruiting Coordinators.

25 21. In January of 2016, recruiters at Google were asked to fill out a survey that included manager
26 feedback. In February of 2016: the manager feedback survey results were released, and O'Conner
27 scored -30% satisfaction that is exceptionally low. In February of 2016, Wilberg had a follow up
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1 conversation with Pisacane. Pisacane told Wilberg that she had decided she would not make any
2 changes in replacing O'Conner as the team manager. In February of 2016, Wilberg spoke with the
3 Google Technical Staffing Director to let him know that Wilberg wanted to change teams. The
4 Technical Staffing Director asked Wilberg why and Wilberg told him that O'Conner made him
5 uncomfortable. The Technical Staffing Director recommended staying put for now and that HR was
6 looking into the situation.

7 22. In February of 2016, Wilberg told a few coworkers about speaking with the Technical
8 Staffing Director. One of these co-workers spoke with Pisacane about Wilberg's complaints.
9 Pisacane immediately asked Wilberg to a meeting where she demanded to know what Wilberg had
10 told Pisacane's manager. Pisacane told Wilberg that she wasn't sure if she could trust him any longer
11 in that meeting for going above her head. Wilberg told Pisacane in this meeting the environment was
12 toxic on the team.

13 23. Pisacane told O'Conner that Wilberg had escalated his concerns about O'Conner to the
14 Technical Staffing Director. As a result, O'Conner retaliated against Wilberg by not speaking with
15 him and by cancelling all weekly one-on-one meetings. Wilberg told Pisacane that O'Conner was
16 retaliating against Wilberg. In response, Pisacane told Wilberg, "what do you expect, you complained
17 to the director about O'Conner." Pisacane failed to take any corrective steps to fix the toxic work
18 environment or to address any of the complaints that Wilberg had made about Google/YouTube's
19 discriminatory hiring practices.

20 24. In February of 2016, Wilberg spoke with HRBP A.L. (initials) at Google. HR met separately
21 with every full-time member of the YouTube Staffing team. At the beginning of the meeting A.L. said
22 she was there to help Pisacane and O'Conner through this situation and then proceeded to ask
23 questions about Wilberg's experiences working with O'Conner.

24 25. In March or April of 2016, A.L. followed up with Wilberg and conveyed to him that all
25 members of the YT recruiting team felt the same about O'Conner. In approximately March or April
26 2016, Wilberg began seeing an onsite mental health counselor for mental stress.

27 26. In April of 2016, Wilberg received poor performance review for QTR4-2015 and QTR1-
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1 2016 from O'Conner in retaliation for his complaints to staffing leadership and to HR regarding
2 discriminatory hiring practices at Google. The reason proffered by management for the poor
3 performance review were allegations that Wilberg had received a low candidate survey feedback score
4 of 60%. However, another recruiter on the team received an exceeded expectations rating even though
5 she had a feedback score of just 30% satisfaction, just half of Wilberg's score. Wilberg's performance
6 review also cited this client escalation for the low rating. However, the escalation had actually
7 occurred after the performance review period had ended and managers were calibrating feedback for
8 the previous cycle. Wilberg was not told what the "escalation" was in the performance review.
9 During the performance review meeting, Pisacane told Wilberg that didn't remember anything about
10 the "escalation". Wilberg was not told about what the client escalation was until July of 2016 after he
11 lodged a complaint with HR.

12 27. After the negative performance review, Wilberg filed complaints about retaliation against
13 him by his managers with his HRBP, which forwarded the complaints to Employee Relations. After
14 investigating Wilberg's complaints, HR found that O'Conner had retaliated against Wilberg in
15 violation of Google Policies. Google considered Wilberg's complaints to have been resolved based on
16 Allison Alogna ("Alogna") being hired to replace O'Conner as Wilberg's manager and manager of the
17 rest of the tech staffing team at YouTube.

18 28. O'Conner remained the team manager until Alogna started in July 2016. In the second one-
19 on-one meeting between Wilberg and Alogna, Alogna become hostile and angry towards Wilberg for
20 no apparent reasons and created a hostile work environment. In subsequent meetings, Alogna told
21 Wilberg she wanted him to leave the tech recruiting team, that the team was not a good fit, and that
22 Wilberg didn't know how to do his job. She was hostile and angry for months in every weekly one on
23 one. Wilberg became fearful about attending the one on ones and meeting with Alogna each week, so
24 Wilberg requested to work in another Google building next to the building Wilberg's desk was in.
25 Even though O'Conner had been replaced, O'Conner was the staffing business partner and responsible
26 for training Alogna. In addition, when Alogna told Wilberg he should transfer off the team, Wilberg
27 informed Alogna that Pisacane asked Wilberg to stay on the team before Alogna had joined and that
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1 Alogna's allegations that Pisacane did not want Wilberg on the team were untrue. Wilberg reported
2 Alogna's hostile, angry and toxic behavior to HRBP A.L, but she took no action to intervene.

3 29. O'Conner continued to be hostile to other team members including a new hire who was
4 responsible for training and mentoring. A YouTube recruiting peer came to Wilberg and let him know
5 that the new hire needed help creating hiring offer packets stating that she was not getting proper
6 training from O'Conner and that O'Conner was treating the new hire in an abusive manner as she sat
7 next to the new hire and overheard their conversations where O'Conner was speaking disrespectfully
8 and talking down to the new hire. The new hire came to Wilberg to ask for packet training which was
9 core to her job and training she did not successfully receive yet from Wilberg. The new hire was upset
10 when she asked for help and Wilberg agreed to stay after hours, from 5 to 7pm and help train her. The
11 new hire gave Wilberg a peer bonus for this help.

12 30. In August of 2016. Alogna was grilling Wilberg in a 1:1 and she asked him to explain why
13 he helped the new hire when he was the mentor for the new hire. Wilberg explained that she needed
14 help. Alogna became even angrier and asked why Wilberg didn't escalate the issues that the new hire
15 was having to Alogna and Pisacane. Alogna became more angry and hostile than ever and demand that
16 Wilberg find another team immediately. Alogna was so angry that Wilberg explained that he didn't
17 want to make trouble for O'Conner as O'Conner had been found by HR to retaliate against Wilberg in
18 the past. Wilberg showed Alogna the email from the HR employee relations team that found
19 O'Conner was retaliatory to Wilberg in the past and violated Google's policy around retaliation.
20 Wilberg told Alogna not to share this information with Pisacane as Pisacane didn't know who filed the
21 complaint against O'Conner and caused the HR investigation. Alogna said Pisacane must already
22 know and refused to keep the information in confidence and signaled she would let Pisacane know that
23 Wilberg was the one that filed a confidential complaint against O'Conner.

24 31. Wilberg interviewed with and found a new team in San Francisco. Wilberg was going to
25 share the news with Alogna in the weekly 1:1 and instead during the week's 1:1, Wilberg and Alogna
26 were joined by HRBP A.L. Alogna and A.L. put Wilberg on a Performance Improvement Plan. The
27 PIP was full of lies, exaggerations and misinformation. Also, the PIP was mostly written with
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1 complaints about Wilberg from O'Conner, who was an acting retaliatory against Wilberg in violation
2 of Google's anti-retaliation policies. Wilberg refused to sign the PIP as it was a strong
3 misrepresentation of Wilberg's work. Wilberg met with A.L. immediately Wilberg told HR the
4 majority of info was from O'Conner who was proven to be retaliatory toward Wilberg. A.L. said she
5 was suspicious as well about the timing of the PIP. However, she told Wilberg that she though the
6 reasons for the PIP were reasonable and that Pisacane, who Wilberg did not work directly with and
7 had only second-hand knowledge of Wilberg's work, wrote the PIP with input from O'Conner.
8 Wilberg told A.L. that he had another team lined up to internally transfer to and that he needed to
9 change teams because he would continue to be retaliated against on this team for raising HR concerns.
10 A.L. said she did not support a move off the team.

11 32. Wilberg then escalated the retaliation issue to A.L.'s manager HRBP who took over the case.

12 33. In December of 2016, Wilberg's recruiting performance was strong and Wilberg hit all of
13 the metrics required in the PIP and after the 3 months on the PIP. Wilberg's new HRBP removed
14 Wilberg from a PIP and recommended that Wilberg change teams.

15 34. In early 2017, Wilberg interviewed and found another team in Google Data Science
16 recruiting and the manager wanted to quickly speak with Alogna before making the transfer official.
17 Alogna gave Wilberg a bad recommendation and the manager withdrew her support to have Wilberg
18 transfer, so Wilberg was stuck on Alogna's team. Alogna later denied speaking with this manager,
19 however, the manager confirmed with Wilberg that the 1:1 happened.

20 35. In March of 2017, Alogna let Wilberg know that he would be fired if he did not meet
21 diversity-hiring goals he was given. Alogna also relayed the same threats to other recruiters. For
22 example, one recruiter told him that Allison Alogna told her that her job was in jeopardy if she did not
23 hire 3 black engineers in the quarter. Alogna encouraged the recruiter to leave the team if she thought
24 she could not meet her hiring goals.

25 36. In April of 2017, Wilberg emailed Allison Alogna and his HRBP that he was having stress-
26 related medical issues. Wilberg went on 2-week medical leave approved by his doctor for a weakened
27 immune system, which was a stress-related illness.

1 37. In April of 2017, Allison Alogna let the team entire YouTube Staffing team know that they
2 were not allowed for a time to hire any non-diverse Junior and Mid-Level engineers and that the
3 YouTube Staffing Team needed to make a list of all of the Junior and Mid-Level engineers the
4 YouTube Tech recruiting team was working with and cancel all onsite and phone interviews for
5 candidates who were not Black, Hispanic or a Woman. Recruiting made a list of all interview for
6 Junior and Mid-Level engineers in process and the team proceeded to cancel all interviews except
7 diversity candidates who were allowed to continue interviewing. The decisions on who to interview
8 was not made by the candidate's qualifications for the role, it was solely made by gender and race
9 whereas only females could continue to interview for Junior and Mid-Level Engineering roles as well
10 as Black and Hispanic engineers. Wilberg did not follow the team policy, which opposed Google's
11 policy and canceled all interviews for candidates he was working with regardless of race and gender.
12 Wilberg proceeded to revive a male engineer candidate during this time and hire one engineer who
13 was not diverse. Alogna was not happy about this and threatened Wilberg that he needed to follow the
14 team policy or he could lose his job.

15 38. In June of 2017, Wilberg's HRBP left and Wilberg met with his new HRBP to let her know
16 about the toxic culture on the team, the policy violations and the continued retaliation against Wilberg
17 for his earlier complaints. Wilberg's new HRBP met immediately with Alogna about Wilberg's
18 concerns about retaliation. Alogna also met with Wilberg and another manager on the YouTube
19 Staffing Team, to let Wilberg know he was meeting expectations for Q317. Alogna sent an email to
20 Wilberg to confirm this.

21 39. In June of 2017, the You Tube Staffing Team was restructured. Google formed a group of
22 "Diversity Only" technical recruiters. They were responsible for College Recruiting where the goal in
23 college recruiting was to hire only (100%) Black, Hispanic and woman Engineers. The goal for 2018
24 hiring was to hire a total of 80 engineers and they were to all required to be "diverse."

25 40. Google continued to pursue its Diversity hiring practices. However, to mask the
26 implementation of these policies, an email came out from Google Tech staffing leadership that stated
27 that a Recruiters should no longer be tracking candidate's diversity status and that Google recruiters
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1 should moving forward not be making decisions about who should be hired based on diversity status.
2 Management asked Wilberg and other tech recruiters to delete all references in Google's internal
3 records reflecting diversity trackers. Allison Alogna sent an email to the team urgently asking that the
4 team delete all diversity trackers as each week they had to provide diversity hiring numbers to Allison.
5 Google's Staffing Team continued with Google's illegal hiring policies, but stopped tracking and
6 engaged in an effort to delete all the evidence of the preferences given to women and minorities in
7 Google's hiring practices.

8 41. In June of 2017, Allison Alogna went on Leave and manager Jae Jun became Wilberg's
9 manager. In October of 2017, Wilberg's performance continued to be top 2 out of between 10-15
10 recruiters on the tech recruiting team (people transferred in and out of the team so the size of the team
11 changed month over month), however, Wilberg continued to receive bad performance reviews for
12 exaggerated reasons like talking too much in meetings.

13 42. In September and October of 2017, Wilberg met with his HRBP and informed her that he and
14 other members of the team found that the team's new leader Jae Jun was difficult to work with.
15 Wilberg also shared his ongoing concerns about violations of the law around discriminatory hiring
16 practices, which was Wilberg's concern with manager O'Conner. He told his HRBP he was upset that
17 the discriminatory hiring practices were continuing even after multiple complaints. Furthermore,
18 Wilberg let HR know that Lisa Pisacane had continued to encourage policy violations to be the team
19 policy by encouraging or pressuring each manager who led YouTube tech staffing to violate the law
20 and that it was Lisa Pisacane who was driving the Federal and State Law violations and the Google
21 policy violations around unfair hiring practices and discrimination against non-diverse applications
22 based on their race and gender.

23 43. The HRBP started setting up meetings with team member to investigate. Several YouTube
24 recruiters met with their HRBP to discuss their issues.

25 44. In October of 2017, Wilberg was given a bad performance review by Jae Jun in retaliation
26 for his ongoing complaints about Google's illegal hiring practices. She cited criticisms in the
27 evaluation that were based on events that had taken place much earlier and which were the basis for
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1 the bad performance review 6 months earlier. Wilberg informed Jae that her rationale was not
2 relevant to this performance cycle and Jae stated she did not know that he had been given a bad
3 performance review six months before these same events.

4 45. Google had a practice of systematically discriminating against older engineers in its hiring
5 practices. Wilberg opposed these practices. Wilberg gave a job applicant over 40 years old who had
6 applied for an engineering position a lower experience level than the level his supervisors wanted him
7 to give the applicant because he didn't qualify for the higher level under Google's standards.
8 However, his supervisors wanted him to require that the applicant interview for a position of a higher
9 level, knowing that he could not meet the requirements of the higher position, because they didn't
10 want to hire him because of his age. Google's hiring policies allowed exceptions to the hiring
11 guidelines. Wilberg's managers were angry with him because he was seeking an exception for hiring
12 an engineer over 40 years of age as a mid-level engineer.

13 46. Under pressure from Jae Jun, Wilberg brought the candidate back in for two additional
14 design interviews. The applicant failed both interviews as he didn't have Level 5 skills. Wilberg
15 brought the employee back to the YouTube Hiring Committee where he was re-approved as an Level
16 4. Wilberg felt that Jun was pressuring Wilberg to discriminate against this candidate and not hire him
17 as an Level 4 if he didn't meet the Level 5 hiring bar, which she should have reasonably known he
18 would not. There was tremendous pressure on recruiters at Google not to hire candidates with over 10
19 years of industry experience as an Level 4. Wilberg protested Google's age discrimination. Wilberg
20 complained about this discrimination against older workers to his managers, and resisted the efforts to
21 force order applicants to apply for positions that they would not get because they didn't have the
22 requisite experience and skills.

23 47. In the Fall of 2017, Wilberg sent many emails with HRBP around illegal hiring practices on
24 the YouTube Staffing team. About two weeks later, Lisa Pisacane and Jae Jun met with the entire
25 YouTube Tech Staffing team and told everyone the team was no longer having a dedicated Diversity
26 hiring team or individual recruiter diversity hiring targets. In this meeting Lisa Pisacane wouldn't look
27 at Wilberg when he asked questions. In retaliation for his opposition to discriminatory practices,
28

1 Google gave Wilberg a poor performance review.

2 48. In October of 2017, Google's college recruiters gave an update in the bi-weekly YouTube
3 team recruiting team meeting that for 2018 college hiring, 75% of all hires were diverse and the team
4 had hired over 30 of the 80 all Diverse Software engineer hiring goal.

5 49. In November of 2017, Jae Jun stepped down and went on a 3-month leave of absence and
6 Lisa Pisacane took over as Wilberg's manager. On Friday, November 3, 2017, Wilberg was brought
7 into a meeting with HR and Lisa Pisacane and terminated for client escalations, not meeting goals,
8 talking too much in meetings and not being collaborative. These reasons for Wilberg's termination
9 were all pretextual.

10 **FIRST CAUSE OF ACTION**

11 **Discrimination in Violation of California Government Code §12940, et seq. [Sex]**

12 **[Against All Defendants]**

13 50. Plaintiffs incorporate by reference the allegations set forth above as though fully restated
14 herein.

15 51. At all times material to this complaint, Plaintiff was an employee within the meaning of the
16 FEHA.

17 52. At all times mentioned herein, Defendant qualified as an "employer" within the meaning of
18 the FEHA in that they each regularly employed five or more workers.

19 53. Within the time provided by law, Plaintiff filed a complaint with the Department of Fair
20 Employment and Housing ("DFEH") and received a Right to Sue Notice.

21 54. At all times during Plaintiff's tenure with Defendants, and each of them, Plaintiff performed
22 his duties in an acceptable manner.

23 55. California's FEHA makes it an unlawful employment practice for an employer to
24 discriminate against an employee in the terms, conditions, or privileges of employment, including
25 altering the working conditions or discharging an employee because of his sex.

26 56. Defendants made decisions based on Plaintiff's sex which adversely affected Plaintiff
27 regarding the terms and conditions and privileges of his employment. Such actions included, but were
28

1 not limited to subjecting Plaintiff to negative performance criticisms, evaluations and a PIP which
2 were unjustified and the result of standards of performance that were different from other employees
3 who were not men.

4 57. As a direct and proximate result of the above violations of his rights under FEHA, Plaintiff
5 has suffered damages in the form of past and future wage loss, other pecuniary losses, loss of potential
6 promotion and pay increase, emotional distress, loss of self-esteem, grief, stress, anxiety, mental
7 anguish, and loss of enjoyment of life in an amount that exceeds the jurisdictional threshold of this
8 Court, the exact amount of which will be proven at trial.

9 58. Because of Defendants' unlawful acts, Plaintiff is entitled to and seeks compensatory
10 damages, equitable relief, attorneys' fees, and costs.

11 59. Defendants, and each of them, committed the acts herein alleged with malice, fraud and
12 oppression, with willful and conscious disregard of Plaintiff's rights and with the wrongful intention
13 and motive of injuring Plaintiff, and therefore an award of exemplary and punitive damages is
14 justified. The actions directed at Plaintiff were done by supervising employees acting in a deliberate,
15 callous, and intentional manner to injure and damage Plaintiff.

16 WHEREFORE, Plaintiff requests relief, including punitive damages, as more fully set forth
17 below.

18 **SECOND CAUSE OF ACTION**

19 **Discrimination in Violation of California Government Code §12940, et seq. [Race]**

20 **[Against All Defendants]**

21 60. Plaintiffs incorporate by reference the allegations set forth above as though fully restated
22 herein.

23 61. At all times material to this complaint, Plaintiff was an employee within the meaning of the
24 FEHA.

25 62. At all times mentioned herein, Defendant qualified as an "employer" within the meaning of
26 the FEHA in that they each regularly employed five or more workers.

27 63. Within the time provided by law, Plaintiff filed a complaint with the Department of Fair
28

1 Employment and Housing (“DFEH”) and received a Right to Sue Notice.

2 64. At all times during Plaintiff’s tenure with Defendants, and each of them, Plaintiff performed
3 his duties in an acceptable manner.

4 65. California’s FEHA makes it an unlawful employment practice for an employer to
5 discriminate against an employee in the terms, conditions, or privileges of employment, including
6 altering the working conditions or discharging an employee because of race.

7 66. Defendants made decisions based on Plaintiff’s race which adversely affected Plaintiff
8 regarding the terms and conditions and privileges of his employment. Such actions included, but were
9 not limited to treating Plaintiff differently than other employees because of his race and terminating
10 Plaintiff because of his race.

11 67. As a direct and proximate result of the above violations of his rights under FEHA, Plaintiff
12 has suffered damages in the form of past and future wage loss, other pecuniary losses, loss of potential
13 promotion and pay increase, emotional distress, loss of self-esteem, grief, stress, anxiety, mental
14 anguish, and loss of enjoyment of life in an amount that exceeds the jurisdictional threshold of this
15 Court, the exact amount of which will be proven at trial.

16 68. Because of Defendants’ unlawful acts, Plaintiff is entitled to and seeks compensatory
17 damages, equitable relief, attorneys’ fees, and costs.

18 69. Defendants, and each of them, committed the acts herein alleged with malice, fraud, and
19 oppression, with willful and conscious disregard of Plaintiff’s rights and with the wrongful intention
20 and motive of injuring Plaintiff, and therefore an award of exemplary and punitive damages is
21 justified. The actions directed at Plaintiff were done by supervising employees acting in a deliberate,
22 callous, and intentional manner to injure and damage Plaintiff.

23 WHEREFORE, Plaintiff requests relief, including punitive damages, as more fully set forth.

24
25 **THIRD CAUSE OF ACTION**

26 **Failure to Take Reasonable Steps to Prevent Discrimination**
27 **and Retaliation from Occuring in Violation of Government Code § 12940 et seq.**
28

[Against All Defendants]

1
2 70. Plaintiff incorporates by reference the allegations set forth above as though fully restated
3 herein.

4 71. At all times mentioned herein, Defendant was an “employer” within the meaning of the
5 FEHA in that it regularly employed five or more workers.

6 72. Within the time provided by law, Plaintiff filed a complaint with the Department of Fair
7 Employment and Housing (“DFEH”) and received a Right to Sue Notice.

8 73. At all times during Plaintiff’s tenure with Defendants, and each of them, Plaintiff performed
9 her duties in an acceptable manner.

10 74. It is an unlawful employment practice under the FEHA, Government Code § 12940, for an
11 employer to fail to take all reasonable steps necessary to prevent discrimination and retaliation from
12 occurring. Defendants had a duty to prevent discrimination and retaliation against Plaintiff and others
13 from occurring.

14 75. Defendants failed to prevent, and in fact allowed continued discriminatory conduct and
15 retaliation against Plaintiff his complaints of discrimination.

16 76. On information and belief, Defendants failed to maintain and enforce adequate policies and
17 procedures, failed to provide adequate training of personnel, and failed to take other reasonable steps
18 necessary to prevent the violations of the FEHA alleged herein from occurring.

19 77. The above-described actions and omissions of Defendants constitute a failure to prevent
20 discrimination and retaliation under the FEHA.

21 78. As a direct and proximate result of the above violations of his rights under FEHA, Plaintiff
22 has suffered damages in the form of past and future wage loss, other pecuniary losses, loss of potential
23 promotion and pay increase, emotional distress, loss of self-esteem, grief, stress, anxiety, mental
24 anguish, and loss of enjoyment of life in an amount that exceeds the jurisdictional threshold of this
25 Court, the exact amount of which will be proven at trial.

26 79. Because of Defendants’ unlawful acts, Plaintiff is entitled to and seeks compensatory
27 damages, equitable relief, attorneys’ fees, and costs.

1 80. Defendants, and each of them, committed the acts herein alleged with malice, fraud, and
2 oppression, with willful and conscious disregard of Plaintiff's rights and with the wrongful intention
3 and motive of injuring Plaintiff, and therefore an award of exemplary and punitive damages is
4 justified. The actions directed at Plaintiff were done by supervising employees acting in a deliberate,
5 callous, and intentional manner to injure and damage Plaintiff.

6 WHEREFORE, Plaintiff requests relief, including punitive damages, as more fully set forth
7 below.

8 **FOURTH CAUSE OF ACTION**

9 **Retaliation in Violation of Government Code § 12940 et seq.**

10 [Against All Defendants]

11 81. Plaintiffs incorporate by reference the allegations set forth above as though fully restated
12 herein.

13 82. At all times mentioned herein, Defendant qualified as an "employer" within the meaning of
14 the FEHA in that it regularly employed five or more workers.

15 83. Within the time provided by law, Plaintiff filed a complaint with the Department of Fair
16 Employment and Housing ("DFEH") and received a Right to Sue Notice.

17 84. It is an unlawful employment practice under the FEHA, Government Code § 12940, for an
18 employer to retaliate against an employee for complaining about conduct and/or practices prohibited
19 by FEHA.

20 85. Defendants retaliated against Plaintiff for complaining about Defendants' illegal and
21 discriminatory hiring practices by subjecting him to unfair and unwarranted performance criticisms
22 and then terminating his employment.

23 86. As a direct and proximate result of the above violations, Plaintiff has suffered damages in the
24 form of past and future wage loss, other pecuniary losses, loss of potential promotion and pay
25 increase, emotional distress, loss of self-esteem, grief, stress, anxiety, mental anguish, and loss of
26 enjoyment of life in an amount that exceeds the jurisdictional threshold of this Court, the exact amount
27 of which will be proven at trial.

1 87. Because of Defendants' unlawful acts, Plaintiff is entitled to and seeks compensatory
2 damages, equitable relief, attorneys' fees, and costs.

3 88. Defendants, and each of them, committed the acts herein alleged with malice, fraud, and
4 oppression, with willful and conscious disregard of Plaintiff's rights and with the wrongful intention
5 and motive of injuring Plaintiff, and therefore an award of exemplary and punitive damages is
6 justified. The actions directed at Plaintiff were done by supervising employees acting in a deliberate,
7 callous, and intentional manner to injure and damage Plaintiff.

8 WHEREFORE, Plaintiff requests relief, including punitive damages, as more fully set forth

9 **FIFTH CAUSE OF ACTION**

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

11 **[Against All Defendants]**

12 89. Plaintiffs incorporate by reference the allegations set forth above as though fully restated
13 herein.

14 90. Defendants terminated Plaintiff because of his opposition to Defendants' unlawful hiring
15 practices.

16 91. Defendants' actions in terminating Plaintiff under the circumstances alleged herein violate
17 the fundamental policies of the State of California embodied, among elsewhere, in the California
18 Constitution, Art. 1, §8; California Government code §12940 *et seq.*, and Labor Code 1102.5.

19 92. Defendants' conduct in terminating Plaintiff under these circumstances constitutes a
20 wrongful termination in violation of public policy.

21 93. As a direct and proximate result of the above violations of his rights, Plaintiff has suffered
22 damages in the form of past and future wage loss, other pecuniary losses, loss of potential promotion
23 and pay increase, emotional distress, loss of self-esteem, grief, stress, anxiety, mental anguish, and
24 loss of enjoyment of life in an amount that exceeds the jurisdictional threshold of this Court, the exact
25 amount of which will be proven at trial.

26 94. Because of Defendants' unlawful acts, Plaintiff is entitled to and seeks compensatory
27 damages, equitable relief, attorneys' fees, and costs.

1 95. Defendants, and each of them, committed the acts herein alleged with malice, fraud, and
2 oppression, with willful and conscious disregard of Plaintiff's rights and with the wrongful intention
3 and motive of injuring Plaintiff, and therefore an award of exemplary and punitive damages is
4 justified. The actions directed at Plaintiff were done by supervising employees acting in a deliberate,
5 callous, and intentional manner to injure and damage Plaintiff.

6 WHEREFORE, Plaintiff requests relief, including punitive damages, as more fully set forth
7 below.

8 **SIXTH CAUSE OF ACTION**

9 **California Business and Professions Code §§ 17200 et seq.**

10 **[Against All Defendants]**

11 96. Plaintiff has incurred, and will continue to incur, attorneys' fees and costs in the prosecution
12 of this action, and Plaintiff therefore seeks attorneys' fees and costs under all applicable provisions of
13 law.

14 97. Plaintiff re-alleges and incorporates herein by reference each allegation contained in this
15 complaint as though fully set forth herein.

16 98. Plaintiff further brings this action pursuant to the Business and Professions Code, sections
17 17200, et seq., seeking injunctive relief against Defendants for profiling employees, prospective
18 employees and others based on their race and gender in violation of California law.

19 99. Defendants have inequitably and unlawfully conspired, agreed, arranged, and combined to
20 violate California labor laws, and anti-discrimination laws as alleged herein.

21 WHEREFORE, Plaintiff prays for judgment as more fully set forth below.

22 **SEVENTH CAUSE OF ACTION**

23 **Violations of the Unruh Civil Rights Act**

24 **[Against All Defendants]**

25 100. Plaintiff re-alleges and incorporates herein by reference each allegation contained in
26 this complaint as though fully set forth herein.

27 101. Plaintiff further brings this action pursuant to The Unruh Civil Rights Act, California
28

1 Civil Code sections 51 through 52, which provides protection from discrimination by all business
2 establishments in California, including housing and public accommodations. California Civil Code
3 section 51(b) describes the protections found under the Unruh Civil Rights Act: All persons within the
4 jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry,
5 national origin, disability, medical condition, genetic information, marital status, or sexual orientation
6 are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all
7 business establishments of every kind whatsoever. Civil Code section 51(b). The language of the
8 Unruh Civil Rights Act (see above) specifically outlaws discrimination in housing and public
9 accommodations based on sex, race, color, religion, ancestry, national origin, disability, medical
10 condition, genetic information, marital status, or sexual orientation.

11 102. Defendants have inequitably and unlawfully conspired, agreed, arranged, and
12 combined to violate The Unruh Civil Rights Act.

13 103. As a direct and proximate result of the unfair, unlawful, and/or fraudulent business
14 practices alleged herein, Plaintiff has been denied due process and has suffered, and continues to
15 suffer, from the discriminatory practice of Defendants. Plaintiff is informed and believes and thereon
16 alleges that, through the acts described in this complaint, the Defendants have deceived the public by
17 illegally depriving Plaintiff and others from being subjected to hiring quotas based on their race and
18 gender.

19 104. WHEREFORE, Plaintiff prays for judgment as more fully set forth below.

20 **REQUEST FOR RELIEF**

21 WHEREFORE, Plaintiff requests judgment against Defendants as follows:

22 1. For general, special, actual, and compensatory damages against Defendants in an amount
23 to be determined at trial;

24 2. For punitive damages in an amount to be determined at trial sufficient to punish, penalize
25 and/or deter Defendants and others from engaging in the conduct described herein;

26 3. For back and front pay and other benefits Plaintiff would have been afforded but-for
27 Defendants' unlawful conduct;

1 Defendants' unlawful conduct;

2 4. For costs and expenses of this litigation;

3 5. For reasonable attorneys' fees pursuant to California Government Code § 12965 and
4 other applicable statutes.

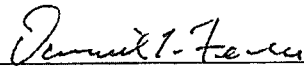
5 6. For pre and post-judgment interest on all damages and other relief awarded herein from
6 all entities against whom such relief may be properly awarded;

7 7. For a temporary and permanent injunction prohibiting Defendants from implementing,
8 using, distributing, and training its employees to use their discriminatory profiling,

9 8. For such other and further relief as the Court deems just and proper.

10
11 DATED: January 24, 2018

Law Offices of Daniel Feder

12
13 By: 

14 Daniel Feder

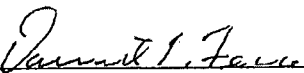
15 Attorneys for Plaintiff

16
17 **DEMAND FOR JURY TRIAL**

18 Plaintiff Arne Wilberg hereby demand a trial by jury for each and every claim for which he
19 has a right to jury trial.

20
21 DATED: January 24, 2018

Law Offices of Daniel Feder

22
23 By: 

24 Daniel Feder

25 Attorneys for Plaintiff

EXHIBIT 1

April 27th 2017 YouTube Tech Staffing Team Agenda

The screenshot shows a Google Docs interface. The title bar reads "Bi-weekly SWE Staffing Agenda". The menu bar includes "File", "Edit", "View", "Insert", "Format", "Tools", "Table", "Add-ons", and "Help". The toolbar shows various editing tools. The document content is mostly blank, with the text "Recurring topics:" visible at the top. A "1 of 11" page indicator is in the bottom right corner.

4/27

- Cha and team join
 - At: Allison to share GB resources with Cha and team
- Team wins
- Best practices
- Experience changes
- Goodburger updates
 - Next steps
 - HM Meeting

■ Beginning of Q3 - we hire for 2018 - all diverse

