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6  
7 **SUPERIOR COURT OF CALIFORNIA**  
8 **IN AND FOR THE COUNTY OF SANTA CLARA**  
9 (Unlimited Jurisdiction)

LAW OFFICE OF CALVIN CHANG  
980 – 9<sup>th</sup> Street, 16<sup>th</sup> Floor  
Santa Clara, California 95814

11 JESSE HONG, an individual,  
12  
13 Plaintiff,

13 v.

14 HUAWEI DEVICE USA Inc., a Texas  
15 corporation; HUAWEI TECHNOLOGIES  
16 USA Inc., a Texas corporation; FUTUREWEI  
17 TECHNOLOGIES, INC., a Texas  
18 corporation; SHIAO YANG CHEN, an  
individual; and DOES 1 through 20,  
inclusive,

19 Defendants.  
20  
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22  
23  
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27

Case No. 18CV330693

**PLAINTIFF’S COMPLAINT FOR:**

- 1) **WHISTLEBLOWER RETALIATION**  
(Cal. Lab. Code § 1102.5, et seq.);
- 2) **HARASSMENT, ASSOCIATION,**  
**NATIONAL ORIGIN/ANCESTRY**  
(Cal. Gov. Code § 12940(h));
- 3) **DISCRIMINATION, ASSOCIATION,**  
**NATIONAL ORIGIN/ANCESTRY**  
(Cal. Gov. Code § 12940(a));
- 4) **RETALIATION**  
(Cal. Gov. Code § 12940(h));
- 5) **FAILURE TO PREVENT DISCRIMINATION**  
(Cal. Gov. Code § 12940(k));
- 6) **BANE CIVIL RIGHTS ACT**  
(Cal. Civil Code § 52.1, et seq.);
- 7) **UNFAIR COMPETITION**  
(Bus & Prof. Code § 17200, et seq.);

**JURY TRIAL DEMANDED**

1  
2 1. This is a whistleblower retaliation case. Plaintiff was employed as a Senior  
3 Architect for Huawei’s subsidiaries in California. Plaintiff’s refused to participate in,  
4 complained, and reported Huawei’s continuing engagement in enterprise espionage. Plaintiff  
5 also refused Huawei’s direction that he infiltrate Facebook under an assumed U.S. company  
6 name. Plaintiff was aware that Huawei would pass the information onto the parent company in  
7 China. Huawei fed the information gathered from U.S. competitors’ and transmitted the  
8 information to product development, strategies teams and executives in China. Plaintiff also  
9 reported the illegal acts to the Huawei’s Human Resources department. Shortly thereafter,  
10 Plaintiff was “laid off” in retaliation for his complaints.

11 **JURISDICTION AND VENUE**

12 2. Pursuant to the California Constitution jurisdiction is proper in the Superior Court  
13 of California, County of Santa Clara, in the State of California. The jurisdiction of this Court is  
14 proper for the relief sought herein, and the amount demanded by Plaintiff exceeds the  
15 jurisdictional minimum of this Court.

16 3. Venue as to each Defendant is proper in this judicial district, pursuant to the code  
17 of Civil Procedure section 395, et seq. Actions and/or omissions leading to liability in this case  
18 occurred in the County of Santa Clara. Defendant operates, and/or maintains Plaintiff’s  
19 personnel records of Plaintiff in the County of Santa Clara.

20 **PARTIES**

21 4. Plaintiff JESSE HONG (“Plaintiff”) is an individual residing in the County of  
22 Santa Clara, in California. During all relevant times, Plaintiff was employed by Corporate  
23 Defendants in Santa Clara, County of Santa Clara, California.

24 5. Defendant HUAWEI DEVICE USA INC. is a Texas corporation; which does  
25 business in Santa Clara, County of Santa Clara, State of California. (Hereinafter, “Huawei  
26 Device”).

27 6. Defendant HUAWEI TECHNOLOGIES USA INC. is a Texas corporation; which  
28 does business in Santa Clara, County of Santa Clara, State of California. (Hereinafter, “Huawei  
Technologies”).



1 Department of Fair Employment and Housing (“DFEH”) on June 3, 2018, when he filed against  
2 all Defendants, his complaints for Harassment, Discrimination, Retaliation, Failure to Prevent  
3 Discrimination. On June 3, 2018, the DFEH issued Plaintiff a Right-to-Sue Notice, (DFEH  
4 Number 201806-02471403). The Complaints were served on Defendants. Pursuant to  
5 Plaintiff’s Right-to-Sue Letter, Plaintiff has one year from the date of the DFEH Right-to-Sue  
6 Letter to file a complaint..

7 **FACTUAL ALLEGATIONS**

8 14. During relevant times Plaintiff Jesse Hong was employed by corporate  
9 defendants. The parent company of corporate defendants is Huawei, a Chinese conglomerate  
10 that owns the corporate defendants and is one of the largest corporations by revenue in China  
11 with USD \$93B annual revenue. Huawei has been identified by U.S. intelligence officials as a  
12 national security risk because of its alleged ties to the Chinese government.

13 15. On or about May 2014, Plaintiff began his employment as a Principal Architect at  
14 Futurewei Technologies, Inc., 2330 Central Expressway, Santa Clara, CA 95050. He was  
15 previously employed by contract for six months.

16 16. Beginning in November 2013, Plaintiff was assigned to the Software Business  
17 Unit.

18 17. In or about July 2015, Plaintiff’s co-worker, Peng, left Manager Sean Chen's team  
19 after complaining to Human Resources (“HR”) about harassment.

20 18. In or about July 2015, Plaintiff joined the Wireless BU under Chen.

21 19. In or about January 2016, Plaintiff’s co-worker, Tom, left Chen's team,  
22 complaining to HR about workplace harassment. Plaintiff assisted Chen to hire two other  
23 employees, Sam and Ming, who were then perceived by Chen to be associated with Plaintiff.

24 20. In or about March 2016, Joseph, a contractor, was terminated from Chen's team,  
25 and also complained to HR about harassment.

26 21. During all relevant times throughout Plaintiff’s employment, Chen repeatedly  
27 engaged in a pattern of workplace misconduct, including threatening behavior, shouting  
28 extremely loud with erratic arm gestures, making discriminatory personal attacks (including  
making senseless references of employees’ family members) and racial slurs, and a wide

1 spectrum of hostility (including but not limited to micro-scrutinizing bathroom use, commenting  
2 that having hair means not working hard). The unwelcome conduct was pervasive and  
3 continuous and created a hostile work environment that interfered with Plaintiff’s work.

4 22. In April 2016, Plaintiff received a “B” (meeting expectation) on his 2015  
5 performance rating. The other two teammates also were rated with “B.” Their project was rated  
6 with “A.”

7 23. In April 2017, Plaintiff received an improved “B+” (sometimes exceeding  
8 expectation) on his 2016 performance rating. The other two teammates also received a B+.  
9 Again, their project was rated “A”.

10 24. In April 2017, Sean Chen repeatedly shouted at Sam for months. Sam was  
11 emotional and shedding tears in meetings.

12 25. In June 2017, Plaintiff objected to and opposed Chen’s racial harassment against  
13 him and against Sam. Plaintiff spoke up against the harassment by Chen, which included  
14 comments like, “You Indians never deliver,” and other abuses by Chen. Chen began shouting at  
15 Plaintiff for a period of several weeks. Chen was also aware that Plaintiff was suffering from  
16 emotional distress from Chen’s harassment.

17 26. In August 2017, Miguel Dajer, Senior Vice President for USA Wireless R&D,  
18 praised Plaintiff for a project he completed.

19 27. In August 2017, Plaintiff observed that Sam used confidential materials from  
20 other companies.

21 28. In August 2017, Plaintiff received a “C” rating at his half-year review from Chen.  
22 Yet Plaintiff had received no notice or communication, notes, or individual performance plan.  
23 Plaintiff perceived this to be retaliation for opposing Chen’s harassment.

24 29. On November 1, 2017, Facebook hosted the TIP Summit, at Facebook  
25 headquarters in Menlo Park, California. The Summit was attended by U.S. startups (mostly  
26 Huawei's competitors). Facebook denied Huawei and its U.S. subsidiaries’ (Corporate  
27 Defendants) request to attend Facebook’s closed-door private meetings with U.S. companies. In  
28 order to circumvent the exclusion of Huawei, the corporate defendants through Chen, instructed  
Plaintiff, Sam, and Ming to register using fake U.S. company names.

1           30. Plaintiff believed such conduct was illegal and fraudulent and he refused to  
2 engage in such conduct. Huawei then directed Chen and Sam to use a front U.S. company name  
3 to register and infiltrate into the meeting that Facebook had banned it from attending. Plaintiff  
4 believed that theft of trade secrets and/or transfer of such secrets to Huawei in China, was illegal  
5 and constituted misconduct against official company training and policies.

6           31. During all relevant times, in addition to refusing to participate in an illegal order,  
7 Plaintiff reported this misconduct to at least the companies' HR Department.

8           32. Huawei also generated a TIP Summit report, including TIP competitors'  
9 integration plans, and transferred that information to product teams in China (which may violate  
10 US export laws.] Sam has used his consulting work with IOpipe, CloudGenix, and Galactic Fog  
11 to obtain confidential information. Sam presented that information to the BU, and used the  
12 documents with Chen and Ming behind closed door, excluding Plaintiff – who had objected to  
13 such practices.

14           33. In November 2017, Plaintiff sought to remove himself from the hostile work  
15 environment and because of his legitimate concern that he would be subject to further retaliation  
16 for his refusal to join the conspiracy to engage in unlawful practices. He requested to transfer to  
17 Software BU and spoke to Futurewei President Jim Zhu. Yet in December 2017, Plaintiff's  
18 transfer request was denied without explanation.

19           34. In February 2018, Plaintiff observed Chen and Sam in possession of competitors'  
20 confidential information. Plaintiff raised his observations with Ming.

21           35. In February 2018, Plaintiff prepared a Machine Learning presentation by himself,  
22 for Chen to present to Senior Vice President Miguel Dajer. The content was approved glowingly  
23 by Chen. Indeed, Machine Learning was the team's 2018 goal and only Sam and Plaintiff had  
24 expertise in the subject. Indeed, this is yet another reason, the company did not legitimate reason  
25 "lay off" Plaintiff.

26           36. In February 2018, Plaintiff also raised concerns to Ming about Sam having  
27 external consulting work and using confidential materials from other competitor companies,  
28 including IOpipe, CloudGenix, Galactic Fog. Plaintiff was being cut out from team's technical  
discussions.

1           37.     During relevant times, Chen continued to retaliate further by threatening Plaintiff.  
2 Chen made threatening facial expressions and arm gestures, and would repeatedly threaten  
3 Plaintiff’s employment with statements including, but not limited to: “If you don't agree on  
4 this, then you quit right now;” “I will put HR on the phone now, and you are terminated;” “I will  
5 call security in, and you are escorted;” “Your pay ends today;” “You don't have to come in  
6 tomorrow. I will pay you till end of next Friday;” “I want your resignation letter;” Plaintiff  
7 refused to resign his employment.

8           38.     In February 2018, Plaintiff forwarded Futurewei guidelines to Chen for attending  
9 the ONS Summit on March 26, 2018. Chen emailed back, stating he would not follow the rules  
10 and would take full responsibility.

11           39.     On March 12, 2018, Wireless BU Executive Assistant, Tracy, sent an email  
12 message asking if anyone possessed any competitor’s confidential information. This was the  
13 extent of the Huawei’s response to Plaintiff’s complaint that corporate defendants were  
14 misappropriating confidential documents from US companies.

15           40.     Instead, on March 15, 2018, Plaintiff was informed he was being “laid off”, and  
16 received a layoff severance package from Chen with SVP Miguel Dajer and Alice (they both are  
17 based in NJ) on the phone. The severance package required Plaintiff's consent to a waive his  
18 claims, and to receive seven weeks of salary, plus potential two-month COBRA premium  
19 reimbursement; all amounting to less than his accrued bonus which would have been payable the  
20 following month.

21           41.     On March 15, 2018, before close of business, Plaintiff escalated his retaliation  
22 complaint to HR Vice President Mary Monfared, and President Jim Zhu. Monfared said she was  
23 not aware of the complaints or harassment reports against Chen, but promised to investigate.

24           42.     On March 18, 2018, Plaintiff sent second email to Mary Monfared and Jim Zhu,  
25 detailing his achievements (16 of 25 deliverables in 2017 were solely delivered by Plaintiff  
26 alone, and 3+ more partially contributed) and conflict timelines. Plaintiff hoped he could show  
27 them that the layoff was not for any legitimate reason.

28           43.     On March 20, 2018, HR Investigator, D. Ray, called Plaintiff about his  
complaints. On March 27, 2018, D. Ray completed the complaint investigation and sent it to HR

1 VP, Mary Monfared. The report was not disclosed to Plaintiff. Plaintiff believes it is likely, that  
2 the employees who engaged in misconduct were not terminated.

3 44. Plaintiff was stripped of his 2017 annual bonus payable in April 2018 and  
4 terminated on or about March 30, 2018.

5 45. As a result of Defendant’s unlawful employment practices, Plaintiff has been  
6 denied wages and benefits, and suffered harm to his career.

7 46. As a direct result of the Defendant’s unlawful conduct, Plaintiff has also suffered  
8 severe emotional distress and physical symptoms such as anxiety, worry, humiliation, anguish,  
9 embarrassment, and loss of self-esteem, sleep disruption, hunger, among other conditions.

10 47. As set forth by the factual allegations, and further set forth below, the conduct  
11 listed above was malicious, fraudulent, and/or oppressive, and done with a willful and conscious  
12 disregard for Plaintiff’s rights and for the deleterious consequences of Defendants’ actions.

13 **FIRST CAUSE OF ACTION**

14 **(WHISTLEBLOWER RETALIATION)**

15 **(Cal. Labor Code § 1102.5 (a), (b), (c), *et seq.*)**

16 **(Against Corporate Defendants)**

17 48. The allegations set forth in this complaint are hereby re-alleged and incorporated  
18 by reference.

19 49. As alleged herein, defendants and each of them, and/or their managerial  
20 employees/agents/employees knew or reasonably should have known, that employees of  
21 Defendants, individually and together in varying combinations, were engaging in the conduct set  
22 forth above.

23 50. Labor Code section 1102.5, subd. (a), prohibits an employer from making,  
24 adopting, or enforcing any rule, regulation, or policy preventing an employee from disclosing  
25 information to a government or law enforcement agency, to a person with authority over the  
26 employee, or to another employee who has authority to investigate, discover, or correct the  
27 violation or noncompliance, where the employee has reasonable cause to believe that the  
28 information discloses a violation of state or federal statute, or a violation or noncompliance with  
a state or federal rule or regulation.



1           51. Labor Code section 1102.5, subd. (b), provides that an employer, or any person  
2 acting on behalf of the employer, shall not retaliate against an employee for disclosing  
3 information, or because the employer believes that the employee disclosed or may disclose  
4 information, to a government or law enforcement agency, to a person with authority over the  
5 employee or another employee who has the authority to investigate, discover, or correct the  
6 violation or noncompliance, or for providing information to, or testifying before, any public body  
7 conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe  
8 that the information discloses a violation of state or federal statute, or a violation of or  
9 noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing  
10 the information is part of the employee's job duties.

11           52. Labor Code section 1102.5, subd. (c), provides that an employer, or any person  
12 acting on behalf of the employer, shall not retaliate against an employee for refusing to  
13 participate in an activity that would result in a violation of state or federal statute, or a violation  
14 of or noncompliance with a local, state, or federal rule or regulation.

15           53. As alleged above, Defendants violated Labor Code section 1102.5, et seq., when  
16 it imposed and enforced a rule prohibiting disclosure of violations by ignoring complaints,  
17 preventing Plaintiff from testifying, and by terminating Plaintiff in retaliation for his refusal to  
18 engaging in unlawful conduct and disclosing such conduct to managers and human resources.  
19 By his repeated complaints, Defendants believed that Plaintiff would and/or did report regulatory  
20 violations including but not limited to Theft of Trade Secrets, 18 U.S. Code §1383 et seq., and  
21 related Economic Espionage violations, that he reasonably believed to be unlawful conduct and  
22 practices by Defendants, which violated state regulations identified above; opposed violations;  
23 and refused to agree to refrain from doing so. Plaintiff was terminated for these reasons.

24           54. Plaintiff is informed and believes that Defendant believed Plaintiff had and would  
25 further disclose, report or testify to a government agency, Defendant's violations of state or  
26 federal statute, or violations or noncompliance with a state or federal rule or regulation. By  
27 taking each action alleged herein, Defendants violated Labor Code section 1102.5, et seq.

28           55. Defendants' discharge of Plaintiff's employment was motivated by unlawful  
retaliatory animus because Plaintiff protected activity in part, for disclosing and repeatedly

1 complaining about engagement in non-compliant, unlawful practices.

2 56. Plaintiffs protected conduct was a contributing factor for Defendants imposition  
3 of adverse employment actions discrimination against Plaintiff.

4 57. As a proximate result of Defendant’s actions, and in addition to other damages,  
5 Plaintiff is entitled to any penalties available under the Labor Code.

6 58. Defendant’s actions were willful, malicious, fraudulent and oppressive, and were  
7 committed with the wrongful intent to injure Plaintiffs and in conscious disregard of Plaintiff’s  
8 rights, which entitles Plaintiff to exemplary damages.

9 59. As a direct and foreseeable result of the aforesaid acts of said Defendants,  
10 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at the  
11 time of trial. Plaintiff claims such amount as damages together with pre-judgment interest  
12 pursuant to Civil Code section 3287 and/or any other provision of law providing for pre-  
13 judgment interest.

14 60. Because of the aforesaid acts of Defendants, Plaintiff claims general damages for  
15 mental and emotional distress and aggravation in an amount to be proven at the time of trial.

16 **SECOND CAUSE OF ACTION**

17 **(HARASSMENT, ASSOCIATION, NATIONAL ORIGIN, ANCESTRY)**

18 **(Cal. Govt. Code § 12940(j)(1) *et. seq.*)**

19 **(Against All Defendants)**

20 61. Plaintiff hereby incorporates by reference the foregoing paragraphs, as though  
21 fully set forth herein.

22 62. Defendants are employers in the state of California, as defined in the California  
23 Fair Employment and Housing Act (“FEHA”). Defendants, and each of them, acted as agents,  
24 directly or indirectly, with each other Defendant violating the FEHA and were therefore also  
25 employers, or individuals subject to the FEHA, in the state of California, as defined in the  
26 FEHA.

27 63. Under California Government Code §12940(j)(1), it is an unlawful for an  
28 employer or person to harass an employee because of that person’s National Origin and  
Ancestry, or because of association or perceived association with such a person.

1           64. Defendants harassed Plaintiff because of his association or perceived association  
2 with a person because of National Origin and Ancestry in violation of the FEHA.

3           65. In engaging in the foregoing conduct, Defendants had knowledge of, aided,  
4 abetted, incited, participated in, coerced and/or compelled unlawful employment practices in  
5 violation of the FEHA.

6           66. Defendants violated the FEHA when it subjected Plaintiff, to unwelcome conduct  
7 of a hostile nature, including a broad range of conduct by Defendant Chen ranging from creation  
8 of a work environment that is hostile or abusive because of his association and perceived  
9 association with persons because of their National Origin and Ancestry; and expressly or  
10 impliedly conditioning employment benefits on submission to or tolerance of unwelcome  
11 conduct. Such a hostile environment was created when plaintiff was subjected to unwelcome  
12 conduct and furthered by permitting said conduct and conditions to occur and subjecting Plaintiff  
13 to a hostile work environment based on either severe and/or pervasive acts of unwelcome and  
14 offensive harassment. These conditions interfered with Plaintiff's working conditions.

15           67. As a direct and foreseeable result of the aforesaid acts of said Defendants,  
16 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at the  
17 time of trial. Plaintiff claims such amount as damages together with pre-judgment interest  
18 pursuant to Civil Code section 3287 and/or any other provision of law providing for pre-  
19 judgment interest.

20           68. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages  
21 for mental and emotional distress and aggravation in an amount to be proven at the time of trial.

22           69. The above described acts of Defendants, by and through their managing agents,  
23 officers or directors, were engaged in with a deliberate, cold, callous, fraudulent and intentional  
24 manner to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff and his  
25 rights. The Defendant's conduct described herein was engaged in by managing agents for the  
26 Defendant and/or ratified by managing agents. Such acts were despicable, and constitute malice,  
27 fraud and/or oppression within the meaning of Civil Code section 3294. Plaintiff requests an  
28 assessment of punitive damages against Defendants, in an amount to be proven at time of trial.

70. Plaintiff will also seek and is entitled to recover attorney's fees and costs,

1 including expert witness fees, pursuant to Government Code section 12965(b), et seq.

2 **THIRD CAUSE OF ACTION**

3 **(DISCRIMINATION, ASSOCIATION, NATIONAL ORIGIN, ANCESTRY)**

4 **(Cal. Govt. Code § 12940(a) et. seq.)**

5 **(Against Corporate Defendants)**

6 71. Plaintiff hereby incorporates by reference the foregoing paragraphs, as though  
7 fully set forth herein.

8 72. Defendants are employers in the state of California, as defined in the California  
9 Fair Employment and Housing Act (“FEHA”). Defendants, and each of them, acted as agents,  
10 directly or indirectly, of each other Defendant, violating the FEHA and were therefore also  
11 employers, or individuals subject to the FEHA, in the state of California, as defined in the  
12 FEHA.

13 73. Pursuant to California Government Code section 12940 subd. (a), it is an unlawful  
14 for an employer to discriminate against a person in compensation or in terms of conditions or  
15 privileges of employment, because of that person’s Association with or Perception of  
16 Association with a Person’s National Origin or Ancestry..

17 74. In engaging in the foregoing conduct, Defendants violated the FEHA by  
18 subjecting Plaintiff to discrimination because he is male; denying him wages and benefits that he  
19 was entitled to under state law based on its unlawful practice of aiding or abetting harassment;  
20 imposing disparate treatment based on Association with or Perception of Association with a  
21 Person’s National Origin or Ancestry. in terms or conditions of employment.

22 75. In engaging in the foregoing conduct, Defendants had knowledge of, aided,  
23 abetted, incited, participated in, coerced and/or compelled unlawful employment practices in  
24 violation of the FEHA.

25 76. As a direct and foreseeable result of the aforesaid acts of said Defendants,  
26 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at the  
27 time of trial. Plaintiff claims such amount as damages together with pre-judgment interest  
28 pursuant to Civil Code section 3287 and/or any other provision of law providing for pre-  
judgment interest.

1 77. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages  
2 for mental and emotional distress and aggravation in an amount to be proven at the time of trial.

3 78. The above described acts of Defendants, by and through their managing agents,  
4 officers or directors, were engaged in with a deliberate, cold, callous, fraudulent and intentional  
5 manner to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff and his  
6 rights. The Defendant’s conduct described herein was engaged in by managing agents for the  
7 Defendant and/or ratified by managing agents. Such acts were despicable, and constitute malice,  
8 fraud and/or oppression within the meaning of Civil Code section 3294. Plaintiff requests an  
9 assessment of punitive damages against Defendants, in an amount to be proven at time of trial.

10 79. Plaintiff will also seek and is entitled to recover attorney’s fees and costs,  
11 including expert witness fees, pursuant to Government Code section 12965, subd., (b), et seq

12 **FOURTH CAUSE OF ACTION**

13 **(RETALIATION)**

14 **(Cal. Govt. Code § 12940(h))**

15 **(Against Corporate Defendants)**

16 80. Plaintiff refers to and herein incorporates each above paragraph inclusively.

17 81. Defendant is an employer in the state of California, as defined in the California  
18 Fair Employment and Housing Act (“FEHA”). Defendants, and each of them, acted as agents,  
19 directly or indirectly, of Defendants violating the FEHA and were therefore also employers in  
20 the State of California, as defined in the FEHA.

21 82. Government Code section 12940 subd. (h), provides that it is unlawful for any  
22 employer, or person to discharge, expel, or otherwise discriminate against any person because  
23 the person has opposed any practices forbidden under this part or because the person has filed a  
24 complaint, testified, or assisted in any proceeding under this part. It is also unlawful to  
25 discriminate against a person for requesting a reasonable accommodation for National Origin and  
26 Ancestry.

27 83. Defendant has an unlawful policy or practice of terminating employees for  
28 opposing, complaining about violations of the FEHA, or participating in proceedings under the  
FEHA.

1 84. Defendants subjected Plaintiff to adverse employment actions and other  
2 discriminatory actions because he engaged in protected activity within the meaning of the FEHA.

3 85. Plaintiff's protected conduct was a substantial motivating reason for the  
4 Defendants' adverse employment actions against her.

5 86. As a direct and foreseeable result of the aforesaid acts of said Defendants,  
6 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at the  
7 time of trial.

8 87. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages  
9 for mental and emotional distress and aggravation in an amount to be proven at the time of trial.

10 88. As a result of the aforesaid acts of Defendants, Plaintiff will be required to  
11 employ physicians and psychologists to examine, treat her, and will incur additional medical  
12 expenses in an amount to be proven at the time of trial.

13 89. The above described acts of Defendants, by and through their managing agents,  
14 officers or directors, were engaged in with a deliberate, cold, callous, fraudulent and intentional  
15 manner to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff and his  
16 rights. The Defendant's conduct described herein was engaged in by managing agents for the  
17 Defendant and/or ratified by managing agents. Such acts were despicable, and constitute malice,  
18 fraud and/or oppression within the meaning of Civil Code section 3294. Plaintiff requests an  
19 assessment of punitive damages against Defendants, in an amount to be proven at time of trial.

20 90. Plaintiff will also seek and is entitled to recover attorney's fees and costs,  
21 including expert witness fees, pursuant to Gov. Code section 12965 subd. (b), et seq.

22 **FIFTH CAUSE OF ACTION**

23 **(FAILURE TO PREVENT DISCRIMINATION)**

24 **(Cal. Govt. Code § 12940(k))**

25 **(Against Corporate Defendants)**

26 91. Plaintiff refers to and herein incorporates each above paragraph inclusively.

27 92. Defendants is an employer in the state of California, as defined in the California  
28 Fair Employment and Housing Act ("FEHA"). Defendants, and each of them, acted as agents,  
directly or indirectly, of Defendants violating the FEHA and were therefore also employers in

1 the state of California, as defined in the FEHA.

2 93. Defendants failed to take all reasonable steps necessary to prevent harassment,  
3 discrimination and retaliation from occurring. Defendant does not have appropriate policies,  
4 procedures, practices, guidelines, rules, and/or trainings, commitment, or intention, regarding the  
5 prevention of discrimination, harassment, or retaliation in the workplace.

6 94. In engaging in the foregoing conduct, Defendants aided, abetted, incited,  
7 participated in, coerced and/or compelled unlawful employment practices in violation of the  
8 FEHA.

9 95. As a direct and foreseeable result of the aforesaid acts of said Defendants,  
10 Plaintiff has lost and will continue to lose income and benefits in an amount to be proven at the  
11 time of trial.

12 96. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages  
13 for mental and emotional distress and aggravation in an amount to be proven at the time of trial.

14 97. The above described acts of Defendants, by and through their managing agents,  
15 officers or directors, were engaged in with a deliberate, cold, callous, fraudulent and intentional  
16 manner to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff and his  
17 rights. The Defendant's conduct described herein was engaged in by managing agents for the  
18 Defendant and/or ratified by managing agents. Such acts were despicable, and constitute malice,  
19 fraud and/or oppression within the meaning of Civil Code section 3294. Plaintiff requests an  
20 assessment of punitive damages against Defendants, in an amount to be proven at time of trial.

21 98. Plaintiff will also seek and is entitled to recover attorney's fees and costs,  
22 including expert witness fees, pursuant to Gov. Code section 12965(b), et seq.

23 **SIXTH CAUSE OF ACTION**

24 **(BANE CIVIL RIGHTS ACT)**

25 **(Cal. Govt. Code § 52.1, et. seq.)**

26 **(Against Corporate Defendants)**

27 99. Plaintiff hereby incorporates by reference the foregoing paragraphs, as though  
28 fully set forth herein.

100. During all relevant times, Defendants Chen and Corporate Defendants

1 engaged in unlawful conduct that threatened and interfered with Plaintiff’s statutory and  
2 constitutional rights to under the California Constitution, property and employment, protected  
3 rights under the California Fair Employment and Housing Act and California Labor Code, as  
4 defined in the Bane Civil Rights Act (“Bane Act”).

5 101. California Civil Code section 52.1, subd. (a), prohibits a person or persons,  
6 whether or not acting under color of law, interferes by threat, intimidation, or coercion, or  
7 attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any  
8 individual or individuals of rights secured by the Constitution or laws of the United States, or of  
9 the rights secured by the Constitution or laws of this state.

10 102. Defendants, and each of them, owed a duty and legal obligation to refrain from  
11 interfering with Plaintiff’s rights under the Fair Employment and Housing Act guaranteed to all  
12 persons, regardless of their actual or perceived protected basis. Defendants, and each of them,  
13 acted as agents, directly or indirectly, of Defendants violating Plaintiff’s statutory and  
14 constitutional rights and were therefore also entities liable under the Bane Act.

15 103. In engaging in the foregoing conduct, Defendants aided, abetted, incited, and  
16 participated in, coerced and/or compelled unlawful acts in violation of the Bane Act

17 104. As a direct and foreseeable result of the aforesaid acts of said Defendants,  
18 Plaintiff has been made to incur expenses and lost benefits she was entitled in an amount to be  
19 proven at the time of trial. Plaintiff claims such amount as damages together with pre-judgment  
20 interest pursuant to Civil Code section 3287 and/or any other provision of law providing for pre-  
21 judgment interest.

22 105. As a result of the aforesaid acts of Defendants, Plaintiff claims general damages,  
23 lost wages and earnings, for mental and emotional distress and aggravation in an amount to be  
24 proven at the time of trial.

25 106. The above described acts of Defendants, by and through their managing agents,  
26 officers or directors, were engaged in with a deliberate, cold, callous, fraudulent and intentional  
27 manner in order to injure and damage Plaintiff and/or with a conscious disregard of Plaintiff and  
28 his rights. Such acts were despicable, and constitute malice, fraud and/or oppression within the  
meaning of Civil Code section 3294. Plaintiff requests an assessment of punitive damages



1 against Defendants, in an amount to be proven at time of trial.

2 107. Pursuant to Civil Code section 52.1, subsection (a), Plaintiff is entitled to a civil  
3 penalty of \$25,000 for each of Defendants’ violations of the Bane Act.

4 108. Plaintiff will also seek and is entitled to recover attorney’s fees pursuant to Civil  
5 Code section 52.1, subd. (h), *et seq.*

6 **SEVENTH CAUSE OF ACTION**

7 **(UNFAIR COMPETITION)**

8 **(Cal. Business & Professions Code § 17200, *et seq.*)**

9 **(Against Corporate Defendants)**

10 109. The allegations set forth in this complaint are hereby re-alleged and  
11 incorporated by reference.

12 110. As alleged herein, the business practices of Corporate Defendants constitute  
13 unlawful, unfair or fraudulent business practices and offend public policy in that they violate the  
14 provisions of Labor Code, Government Code, and United States Codes and other statutes set  
15 forth herein.

16 111. Corporate Defendants is subject to suit under Business and Professions Code  
17 section 17201, and 17200 *et seq.*

18 112. Defendants develop and produce technology produces to business and consumers  
19 in California.

20 113. Plaintiff is informed and believes that during the relevant times so stated in this  
21 complaint, Defendants have intentionally and unlawfully failed to comply with California Labor  
22 Code, Fair Employment and Housing Act, and United States Codes.

23 114. During all relevant times that by Defendants unlawful conduct, it participated and  
24 benefited from violation of California statutes and US Codes – unlawfully and unfairly engaging  
25 in the aforementioned conduct making expensive, burdensome, and unfair for consumers, the  
26 State, and litigants, including Plaintiff.

27 115. Plaintiff is informed and believes that during the relevant times so stated in this  
28 complaint, Defendants have intentionally, unfairly, and unlawfully violated California  
Government Code, California Labor Code section 1102.5, *et seq.*, and wrongfully terminated his

1 employment in violation of public policy, when it terminated Plaintiff’s employment.

2 116. Defendants’ acts constitute a continuing and ongoing unfair and unlawful activity  
3 prohibited by Business and Professions Code sections 17200, et seq., and justify the issuance of  
4 an injunction, restitution and other equitable relief pursuant to Business and Professions Code  
5 section 17203.

6 117. As set forth below, Plaintiff is informed and believes that by refusing to comply  
7 with California statutes set forth in this complaint, Defendants have engaged in business within  
8 the State of California to sell its services at less than cost as set forth and defined in Business and  
9 Professions Code section 17029 for the purpose of injuring competitors and/or gaining unfair  
10 advantage, and impairing Plaintiff and the public’s ability to bring actions to enforce the above  
11 stated laws without undue expense, in violation of Business and Professions Code sections 17200  
12 et seq., as set forth above.

13 118. The victims of these unfair, fraudulent and/or illegal business practices include,  
14 but are not limited to, the Plaintiff, but applies to any competitor and/or claimant seeking redress  
15 for violations of California law. Plaintiff is informed and believes and thereon alleges that  
16 Corporate Defendants performed the above-mentioned acts with the intent of gaining an unfair  
17 competitive advantage and thereby injuring Plaintiff, competitors, and the general public.

18 119. As a proximate result of Defendant’s actions, Plaintiff has suffered and continues  
19 to suffer damages in the form of expenses and costs to bring this action against Corporate  
20 Defendants in an amount according to proof, and/or seeks restitution for such damages.

21 120. Plaintiffs request attorneys' fees and costs pursuant to Business and Professions  
22 Code, §§17200 et seq., and Civ. Code §1021.5.

23 **PRAYER**

24 Plaintiff prays for judgment against defendants as follows:

- 25 1. For special, general, and compensatory damages, including but not limited to lost wages,  
26 benefits, and front pay, in an amount of no less than \$5,000,000.00, or according to proof  
27 at trial;
- 28 2. For statutory attorney’s fees and costs pursuant to Government Code §12965(b), Civil  
Code §§ 52.1(h), 1021.5, and pursuant all applicable statutory provisions;

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3. For penalties, attorneys’ fees and costs, and injunctive relief.;
4. For prejudgment and post-judgment interest pursuant to Civil Code §§ 3287 and/or 3288; or any applicable provision of law;
5. For punitive damages against Defendants as recoverable by law, in an amount no less than \$100,000,000.00;
6. For civil penalties of ten thousand dollars (\$10,000) for each violation, pursuant to Labor Code section 1102.5(f), to be assessed against Corporate Defendants.
7. For costs of suit;
8. For injunctive relief enjoining Defendants from engaging in further violations.
9. For all other relief the Court deems appropriate and just.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial by jury on all issues that are so triable in the Complaint.

Dated: June 26, 2018

LAW OFFICE OF CALVIN CHANG



By: \_\_\_\_\_,  
Calvin Chang, Esq.  
Attorneys for Plaintiff JESSE HONG