

1 ANDREW E. HILLIER (Bar No. 295779)
andrew@hdlawllp.com
2 FRANCIS A. DIGIACCO (Bar No. 265625)
frankie@hdlawllp.com
3 HILLIER DIGIACCO LLP
600 West Broadway, Suite 700
4 San Diego, CA 92101
Telephone: (619) 330-5120
5 Facsimile: (619) 839-3895

6 Attorneys for Plaintiff,
7 ANN MENASCHE

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
01/26/2023 at 11:30:37 AM
Clerk of the Superior Court
By Gabriel Lopez, Deputy Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO**

10 Case No: 37-2023-00003581-CU-WT-CTL

11 ANN MENASCHE, an Individual;

12 Plaintiff,

13 v.

14 DISABILITY RIGHTS CALIFORNIA, a
California Non-Profit Corporation; and
15 DOES 1 through 20, inclusive;

16 Defendants.

COMPLAINT FOR:

- 17 (1) **DISCRIMINATION (Cal. Gov. Code § 12940(a))**
- 18 (2) **HARASSMENT (Cal. Gov. Code § 12940(j))**
- 19 (3) **FAILURE TO PREVENT DISCRIMINATION AND HARASSMENT (Cal. Gov. Code § 12940(k))**
- 20 (4) **RETALIATION ((Cal. Gov. Code § 12940(h))**
- 21 (5) **RETALIATION (Cal. Lab. Code § 1102.5)**
- 22 (6) **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

23 **DEMAND FOR JURY TRIAL**

1 Plaintiff ANN MENASCHE (“Plaintiff” or “Ms. Menasche”) alleges as follows:

2 **THE PARTIES, JURISDICTION AND VENUE**

3 1. Plaintiff is an individual who, at all times relevant to this action, resided in the County
4 of San Diego, State of California.

5 2. Plaintiff is informed, believes and thereupon alleges that Defendant DISABILITY
6 RIGHTS CALIFORNIA (“DRC”) is a California non-profit corporation doing substantial business
7 in the County of San Diego, State of California.

8 3. Defendant DRC and Defendants DOES 1 through 20, inclusive, were at all times
9 herein mentioned: (a) conducting significant business in the County of San Diego, State of
10 California; and (b) Plaintiff’s employer as defined under Government Code §12926(c). At all times
11 relevant herein, Defendant DRC and Defendants DOES 1 through 20, inclusive, employed more
12 than five (5) employees.

13 4. The acts alleged herein arose in San Diego County, within the State of California.

14 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
15 associate or otherwise, of the defendants sued herein under fictitious names DOES 1 through 20,
16 inclusive, and for that reason sues said defendants, and each of them, by such fictitious names.
17 Plaintiff is informed, believes, and thereupon alleges that each of the Defendants DOES 1 through
18 20, inclusive, is and/or was in some manner responsible for, participated in, or contributed to the
19 matters and things of which Plaintiff complains herein, and in some fashion has legal responsibility
20 therefor. When Plaintiff ascertains the true names and capacities of the fictitiously named
21 Defendants DOES 1 through 20, inclusive, Plaintiff will seek leave to amend this Complaint to set
22 forth such facts. Defendant DRC and Defendants DOES 1 through 20 are collectively referred to
23 herein as “Defendants.”

24 6. Plaintiff is informed, believes, and thereupon alleges that each Defendant is, and at all
25 times relevant herein was, the agent of his, her or, its co-defendants, and in committing the acts
26 alleged herein, was acting within the scope of his, her, or its authority as such agent, and with the
27 knowledge, permission and consent of his, her, or its co-defendants.

28 ///

1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 7. Plaintiff timely submitted a complaint to the Department of Fair Employment and
3 Housing concerning all relevant claims herein and received a Right to Sue Letter. Plaintiff received
4 the Right to Sue Letter on August 28, 2022.

5 8. This action is brought less than one year following Plaintiff’s receipt of said letter.

6 **GENERAL ALLEGATIONS**

7 9. Plaintiff is a successful civil rights attorney and advocate for disenfranchised and
8 vulnerable populations. She has numerous favorable verdicts, judgments, and settlements to her
9 name. She has dedicated her professional life to helping those in need find justice in our legal
10 system.

11 10. Defendant DRC “work[s] to advance the rights of Californians with disabilities in
12 education, employment, housing, independence, health, and safety.” It engages in “litigation, legal
13 representation, advocacy services, investigations, [and] public policy...” It “provides information,
14 advice, referral, and community outreach” in the civil rights arena. According to its “Values”
15 statement, DRC allegedly “values all forms of human diversity. [It is allegedly] committed to a
16 culture of belonging where all people are welcome.”

17 11. Plaintiff provided approximately 20 years of dedicated service to Defendant DRC
18 between June 2002 and May 2022. Throughout her employment, Ms. Menasche consistently
19 received positive reviews of her work product. She earned awards, promotions, and other
20 recognitions of her success. Ms. Menasche cultivated a reputation in the local legal community for
21 fighting hard on behalf of her clients with disabilities. She is currently leading groundbreaking class
22 action litigation on behalf of unhoused individuals who shelter in their vehicles, challenging San
23 Diego’s policies criminalizing and ticketing unhoused individuals based on their homeless status.

24 12. Ms. Menasche is female and a lesbian. She identifies as gender non-conforming. She
25 is 72 years old. She was a leader in the struggle for marriage equality and has been at the center of
26 peace and social justice movements in San Diego for many decades. In her career, Ms. Menasche
27 has worked with a diverse group of clients and coworkers, comprising a variety of races, ethnicities,
28 disabilities, religions, political views, and gender identities and expressions. She has never harassed

1 or targeted any individual or group for mistreatment of any kind; rather, she has been a champion
2 of civil rights for oppressed and marginalized groups.

3 13. In 2021, Ms. Menasche’s supervisor with Defendant DRC strongly recommended her
4 for a promotion, declaring, “Ann is culturally competent and committed to identifying and
5 addressing intersectional issues at both client and staff levels.”

6 14. In recent years, DRC required all staff members to attend a series of Diversity
7 Trainings that appeared to (1) advocate for removing sex as a distinct protected class (substituting
8 sex for gender identity); and (2) redefine sexual orientation so it would no longer be a classification
9 of same sex attracted people. DRC adopted corporate policies in keeping with the tenets of these
10 Diversity Trainings. Any questioning of these ideas was defined as “bigotry” against transgender
11 persons. Indeed, Ms. Menasche was called “transphobic” by coworkers for asserting her lesbian
12 sexual orientation. On several occasions, Ms. Menasche expressed concerns about the institution of
13 these corporate policies to Human Resources. She requested clarification about whether she would
14 continue to be protected based on sex and sexual orientation. Although DRC’s HR representatives
15 assured her that sex would continue to be a protected characteristic, Ms. Menasche still experienced
16 hostility from her coworkers whenever she discussed sex as a concept or asserted her sexual
17 orientation.

18 15. On May 5, 2022, Defendant DRC issued a public statement in response to the leaked
19 draft opinion authored by Justice Alito in the U.S. Supreme Court case *Dobbs v. Jackson Women’s*
20 *Health Organization*. In its statement, Defendant DRC wrote: “Access to healthcare is a
21 fundamental human right, and overturning *Roe v. Wade* would risk the reproductive rights of
22 millions. The reversal would also disproportionately negatively impact the most vulnerable
23 populations including people with disabilities, people of color, people living in poverty, and those
24 without the means to travel.”

25 16. On May 5, 2022, Defendant DRC’s Executive Director sent an all-staff email
26 attaching the company’s public statement on *Dobbs*. The Executive Director stated that he
27 welcomed staff comment on the statement.

28 17. On May 6, 2022, Ms. Menasche replied to the all-staff email. She wrote, in full:

1 So glad DRC came up with a statement in defense of *Roe*! Thank
2 you! Access to safe, legal abortion is a life and death necessity for
3 women as a biological sex across the board, regardless of race,
4 economic class, gender identity, sexual orientation (even lesbians
5 can be raped) or anything else, and an absolute prerequisite for equal
6 female participation in our society.

7 Of course, the most vulnerable females, especially poor women,
8 women of color, women with disabilities, young girls, unhoused
9 women and girls, women and girls in prison, etc. will suffer the most
10 under draconian anti-abortion laws. Wealthy white women have
11 often managed to get abortions, even before *Roe*.

12 As a veteran of the feminist struggle for abortion rights that preceded
13 *Roe*, I never thought it would come to this. Yet, it is good to
14 remember that women won this right primarily through grassroots
15 organizing and peaceful mass protests in the streets, and that is the
16 way we are going to protect it.

17 Thanks again, DRC, for taking a stand!
18 Ann

19 18. Several DRC employees responded to Ms. Menasche's email. One coworker wrote
20 (in a reply-all email in the same chain): "And a big thank you to DRC for using gender-inclusive
21 language in the statement! Trans, intersex, and nonbinary people face enormous barriers to
22 accessing healthcare and medical services that are responsive to their needs, especially care related
23 to pregnancy and sexual health..."

24 19. Ms. Menasche replied-all, as well: "Of course, but the one thing all persons directly
25 affected by abortion restrictions have in common is they are all female. Only females can get
26 pregnant, only females need abortions."

27 20. One of Ms. Menasche's coworkers countered with another reply-all: "Not true. There
28 are many people whose gender is not female who can become pregnant and DRC's Allstaff email
list is no place to circulate statements that try to erase that."

29 21. Ms. Menasche tried to clarify any misconceptions of her original statement. She wrote
30 in reply to the listserv:

31 I didn't say gender, I said *sex*. If it is not appropriate to make
32 comments in support of a statement released by DRC on political
33 matters, it would be helpful to staff for this to be made clear ahead
34 of time. Of course, we are unlikely to have 100% agreement on
35 political issues within DRC, as [the Executive Director] respectfully

1 recognized when he released the DRC statement and welcomed
2 comment. There are probably people here who don't even support
3 *Roe* and while I vehemently disagree with them, I would never want
4 their job to be jeopardized because of this.

5 *Anyone who wishes to discuss further with me on this topic in a*
6 *tone of mutual respect, please email me privately and we can*
7 *arrange to discuss off the clock.* I will not engage further on this
8 list.

9 [Emphasis in the original.]

10 22. The preceding paragraphs include the entirety of Ms. Menasche's substantive
11 contributions to the all-staff email exchange. As is obvious from their plain language, Ms.
12 Menasche's emails were not critical of transgender individuals in anyway. She simply stated the
13 obvious: changes to abortion rights affect women as a biological sex (not gender) most significantly.

14 23. Even so, multiple coworkers penned emails to the All-Staff listserv critical of Ms.
15 Menasche's expressed opinions (though others sent private messages supporting her). Indeed,
16 retribution for her mention of sex as a protected characteristic was swift. For example, one of her
17 coworkers responded to Ms. Menasche's email (again, as a reply-all):

18 "Ann's language is a dog whistle for anti-trans politics (also referred
19 to as trans-exclusionary radical feminism, or "TERF"¹ ideology).
20 She argues that trans people are not who we say we are. This is [sic]
21 dangerous, deceitful lie, and this type of language results in serious
22 violence and stigma against trans people at all levels—legally,
23 socially, economically. Trans men and nonbinary people also need
24 abortions. Trans men and nonbinary people also need abortions.
25 Everyone should have the right to self-determination despite
26 whatever anti-trans labels hate-mongers, like Ann, throw at us... In
27 solitary [sic] with ALL people who need abortions and reproductive
28 care, especially trans & nonbinary people. I love us, and we deserve
better than this."

29 24. Following this exchange, Defendant DRC's Executive Director ordered the all-staff
30 communications to cease. He stated: "I know for some staff this feels uncomfortable, and some staff
31 are still learning about how to be trans-inclusive. I am hoping that we can all continue on that
32 journey, and treat each other with dignity and respect."

33 ¹ "TERF" (which stands for "Trans-Exclusionary Radical Feminist") is a slur intended to denigrate women as a sex
34 and lesbians. The term is associated with violent images and calls to violence against women. More information can
35 be found at www.terfisaslur.com.

1 25. At the time of this exchange, Ms. Menasche was a member of the DRC Civil Rights
2 Practice Group (“the Practice Group”). The Practice Group is the litigative arm of DRC focusing
3 on complex discrimination cases. The Practice Group includes attorneys, staff, and executives of
4 Defendant DRC.

5 26. On May 9, 2022 (the business day following the all-staff email exchange above)
6 members of the Practice Group met outside Ms. Menasche’s presence and wrote a letter to DRC
7 Staff. The letter called Ms. Menasche’s email communications (represented in their entirety above)
8 a “threat to civil rights.” The letter claimed that Ms. Menasche’s comments did “not reflect the Civil
9 Rights Practice Group’s values or mission.” It concluded: “We recognize our destinies and
10 liberation are intertwined and honor our responsibility to support our trans* colleagues.”

11 27. Also on May 9, following her receipt of the DRC Civil Rights Practice Group letter,
12 Ms. Menasche submitted a response. She sent an email to the Practice Group, which includes
13 members of the DRC executive team. In her email, Ms. Menasche defended herself and her
14 statements. She also complained that she was being targeted for harassment because of her sex and
15 sexual orientation, while advocating for the recognition of and continued support for those protected
16 classes:

17 “If sex is no longer recognized as a protected class, or to be deemed
18 to have no existence, not only are half the human race born female
19 unable to name or fight sex discrimination, but lesbian and gay
20 rights or the rights of same sex attracted people are made invisible
21 or effectively eliminated as well, and re-defined as transphobic
bigotry. This is merely reactionary homophobia in 21st century
respectable guise.

22 Sex denialism has nothing to do with the civil rights of anyone,
23 including the civil rights of people who identify as transgender. In
24 this extremist view, everything is deemed transphobic, including
supporting women’s rights as a sex, being lesbian or gay, and the
existence of biology itself.

25 I support gender non-conformity. I support the right of transgender
26 individuals (and indeed everyone) to dress as they like, groom
27 themselves as they like, call themselves however they like, love who
they love, and be free from job and housing discrimination and from
28 stigma and violence of any kind. But I don’t agree with the erasure
of sex as a protected class and biological reality. I think while sexism
still exists, the disappearance of sex as a protective class, or the

1 conflation of sex and gender, and the overriding of the former by the
2 latter is not in the interests of the female half of humanity who are
3 still subordinated, paid less, given less opportunity, in our male-
4 dominated society based on their sex.

5 I ask people who disagree with this targeting of me for my lesbian
6 identity, politics and opinions, whether you agree with me on the
7 substantive issues or not, to have the courage of your convictions,
8 and speak up.

9 I also request that... whoever... is behind this statement to think
10 twice about what kind of workplace [they are] creating, where any
11 diversity of opinion or difference in perspective is not tolerated, and
12 who else may be harmed in the future.

13 28. Ms. Menasche is informed and believes that on May 9 and May 10, one or more of
14 her coworkers submitted HR complaints against her relating to her comments in the May 6 all-staff
15 email exchange and to her outside political activity.

16 29. On May 11, 2022—five days after the all-staff email exchange and two days after Ms.
17 Menasche complained that she was being harassed on the basis of sex and sexual orientation—
18 Defendant DRC terminated Ms. Menasche’s employment. While DRC claimed that “ongoing
19 performance issues” were the reasons for the termination, it did not inform Ms. Menasche as to the
20 nature of those “issues”. It did not provide any details relating to those “issues”. It did not put into
21 place a performance improvement plan or any other progressive discipline strategy. Ms. Menasche
22 never received any warning about her conduct or performance. Rather, the company just fired her.
23 At the time Ms. Menasche was terminated for “performance issues,” she had nineteen years of
24 positive performance reviews in her employee file. She had a history of commendations from
25 executives and staff. She had recently (less than a year prior to her termination) been recommended
26 for a promotion by her direct supervisor based on strong work product and dedication to the
27 company’s clients and mission.

28 30. Ms. Menasche is informed and believes that the true motivations for her termination
had nothing to do with job performance. Rather, Defendant DRC was motivated by discriminatory
and retaliatory aims when it ended a two decades-long employment with a dedicated professional.
Ms. Menasche was terminated because of her sex and sexual orientation, as well as for her advocacy
for the continued protection of those groups. Defendant’s termination of Plaintiff was unlawful.

1 **FIRST CAUSE OF ACTION**

2 **(Discrimination Under Cal. Gov. C. § 12940(a) Against All Defendants)**

3 31. Plaintiff incorporates by reference each and every allegation in all previous
4 paragraphs of this Complaint as if fully set forth herein.

5 32. Under Cal. Gov. C. § 12940(a), it is unlawful “[f]or an employer, because of
6 the...sex... [or] sexual orientation... of any person, to refuse to employ the person... or to
7 discriminate against the person in compensation or in terms, conditions, or privileges of
8 employment.” If an employer would not have discharged an employee but for that individual’s sex,
9 the statute’s causation standard is met, and liability may attach.

10 33. Defendant employed Plaintiff from approximately June 2002 until May 11, 2022.

11 34. Defendant terminated Plaintiff’s employment “because of” sex and sexual orientation.
12 During the May 6, 2022, all-staff email exchange and in her May 9 response letter, Plaintiff
13 recognized and asserted her rights as part of the female biological sex and as a lesbian. Defendant,
14 however, through its policies and procedures, refused to recognize women as a biological sex or as
15 a protected class. In terminating Plaintiff’s employment, Defendant DRC was motivated by
16 Plaintiff’s assertion of her classification as a woman and as a lesbian. Further, the termination was
17 a direct ratification of Plaintiff’s coworkers’ use of a slur against Plaintiff based on her sex. All of
18 this is discrimination “because of” sex and sexual orientation. Defendant DRC would not have
19 terminated Plaintiff but for her sex.

20 35. As a legal and proximate result of the discrimination, Plaintiff suffered economic
21 damages including lost wages, salary, performance bonuses, retirement income, and certain other
22 benefits, including incidental and consequential losses. As a direct legal result of the above-
23 described discrimination, Plaintiff suffered emotional injury, mental distress, shock, humiliation,
24 loss of reputation, and worry of a lasting nature.

25 36. Defendants were aware of the probable legal consequences of their conduct and
26 willfully and deliberately failed to remedy or prevent against those consequences. This conduct was
27 ratified or supported by each defendant and/or each defendant’s managing agents. Defendants’
28

1 conduct constituted malice, oppression or fraud such that Plaintiff is entitled to punitive damages
2 under California Civil Code section 3294 in an amount to punish Defendants or to set an example.

3 **SECOND CAUSE OF ACTION**

4 **(Harassment Under Cal. Gov. C. § 12940(j) Against All Defendants)**

5 37. Plaintiff incorporates by reference each and every allegation in all previous
6 paragraphs of this Complaint as if fully set forth herein.

7 38. Under Cal. Gov. C. § 12940(j), it is unlawful “[f]or an employer... because of...sex...
8 [or] sexual orientation...to harass an employee... Harassment of an employee...shall be unlawful if
9 the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take
10 immediate and appropriate corrective action. An entity shall take all reasonable steps to prevent
11 harassment from occurring.”

12 39. Defendant employed Plaintiff from approximately June 2002 until May 11, 2022.

13 40. During her employment, Plaintiff was subjected to harassing conduct on the basis of
14 her sex and sexual orientation. Plaintiff was called a “radical feminist,” a term clearly aimed at her
15 sex. The slur used by Ms. Menasche’s coworker (“TERF”) is associated with the denigration of and
16 violence towards women and lesbians.

17 41. The harassing conduct was severe and/or pervasive. The conduct was severe, as Ms.
18 Menasche’s coworkers accosted her with derogatory language, hurtful epithets, and slurs. The
19 conduct was pervasive, as Defendant’s employees harassed Ms. Menasche because of her sex and
20 sexual orientation over a period of years.

21 42. A person in Plaintiff’s circumstances would have considered the work environment
22 to be hostile, intimidating, offensive, oppressive, and/or abusive. Ms. Menasche certainly did as she
23 complained about the mistreatment, specifically invoking the term “harassment” several times in
24 communications with the Practice Group.

25 43. The all-staff listserv (through which Ms. Menasche was harassed on the basis of her
26 sex and sexual orientation) includes all of Defendant DRC’s agents, supervisors, and executives.
27 Defendant DRC’s Executive Director was specifically aware of the harassing conduct exhibited in
28 the all-staff email exchange. He even replied to an email that contained harassing language aimed

1 at Ms. Menasche, including the use of a slur against her.

2 44. Defendant DRC did not take immediate and appropriate action to curtail the harassing
3 conduct. Likewise, Defendant DRC did not take all reasonable steps to prevent the harassment from
4 occurring. Rather, Defendant DRC ratified the conduct that created the hostile work environment
5 for Ms. Menasche by refusing to discipline the harassers and terminating Ms. Menasche's
6 employment.

7 45. As a legal and proximate result of the harassment, Plaintiff suffered economic
8 damages including lost wages, salary, performance bonuses, retirement income, and certain other
9 benefits, including incidental and consequential losses. As a direct legal result of the above-
10 described harassment, Plaintiff suffered emotional injury, mental distress, shock, humiliation, loss
11 of reputation, and worry of a lasting nature.

12 46. Defendants were aware of the probable legal consequences of their conduct and
13 willfully and deliberately failed to remedy or prevent against those consequences. This conduct was
14 ratified or supported by each defendant and/or each defendant's managing agents. Defendants'
15 conduct constituted malice, oppression or fraud such that Plaintiff is entitled to punitive damages
16 under California Civil Code section 3294 in an amount to punish Defendants or to set an example.

17 **THIRD CAUSE OF ACTION**

18 **(Failure to Prevent Discrimination and Harassment Under Cal. Gov. C. § 12940(k) Against**
19 **All Defendants)**

20 47. Plaintiff incorporates by reference each and every allegation in all previous
21 paragraphs of this Complaint as if fully set forth herein.

22 48. Under Cal. Gov. C. § 12940(k), it is unlawful "[f]or an employer... to fail to take all
23 reasonable steps necessary to prevent discrimination and harassment from occurring."

24 49. Defendant DRC employed Plaintiff from approximately June 2002 until May 11,
25 2022.

26 50. As described in detail above, Plaintiff was subjected to discrimination and harassment
27 during her employment with Defendant DRC.

28 51. Defendant DRC failed to take all steps necessary to prevent discrimination and

1 harassment. Plaintiff complained to Defendant DRC about the harassing behavior she had
2 experienced. Defendant DRC failed to take adequate remedial measures to curtail the harassment.
3 Defendant did not act to end the harassing activity or to deter future harassment. Instead, Defendant
4 ratified the harassing behavior by refusing to investigate it and terminating Ms. Menasche's
5 employment.

6 52. As a legal and proximate result of Defendant's failure to prevent discrimination and
7 harassment, Plaintiff suffered economic damages including lost wages, salary, performance
8 bonuses, retirement income, and certain other benefits, including incidental and consequential
9 losses. As a direct legal result of the above-described failure to prevent discrimination and
10 harassment, Plaintiff suffered emotional injury, mental distress, shock, humiliation, loss of
11 reputation, and worry of a lasting nature.

12 53. Defendants were aware of the probable legal consequences of their conduct and
13 willfully and deliberately failed to remedy or prevent against those consequences. This conduct was
14 ratified or supported by each defendant and/or each defendant's managing agents. Defendants'
15 conduct constituted malice, oppression or fraud such that Plaintiff is entitled to punitive damages
16 under California Civil Code section 3294 in an amount to punish Defendants or to set an example.

17 **FOURTH CAUSE OF ACTION**

18 **(Retaliation Under Cal. Gov. C. § 12940(h) Against All Defendants)**

19 54. Plaintiff incorporates by reference each and every allegation in all previous
20 paragraphs of this Complaint as if fully set forth herein.

21 55. The Fair Employment and Housing Act ("FEHA") protects employees from
22 retaliation motivated by their opposition to discrimination and harassment. Specifically, Cal. Gov.
23 Code § 12940(h) prohibits employers from discharging or otherwise discriminating against an
24 employee "because the person has opposed any practices forbidden" by the FEHA.

25 56. Defendant employed Plaintiff from approximately June 2002 until May 11, 2022.

26 57. Defendant terminated Plaintiff's employment.

27 58. On May 9, 2022, Plaintiff opposed practices forbidden by the FEHA when she
28 complained about discrimination and/or harassment on the basis of sex and sexual orientation. Two

1 days later, Defendants terminated her employment. Plaintiff is informed and believes that her
2 reporting of discrimination and/or harassment was a substantial motivating factor for the
3 termination.

4 59. As a legal and proximate result of the retaliation, Plaintiff suffered economic damages
5 including lost wages, salary, performance bonuses, retirement income, and certain other benefits,
6 including incidental and consequential losses. As a direct legal result of the above-described
7 retaliation, Plaintiff suffered emotional injury, mental distress, shock, humiliation, loss of
8 reputation, and worry of a lasting nature.

9 60. Defendants were aware of the probable legal consequences of their conduct and
10 willfully and deliberately failed to remedy or prevent against those consequences. This conduct was
11 ratified or supported by Defendants' managing agents. Defendants conduct constituted malice,
12 oppression or fraud such that Plaintiff is entitled to punitive damages under California Civil Code
13 section 3294 in an amount to punish Defendants or to set an example.

14 **FIFTH CAUSE OF ACTION**

15 **(Retaliation under Labor Code § 1102.5 Against All Defendants)**

16 61. Plaintiff incorporates by reference each and every allegation in all previous
17 paragraphs of this Complaint as if fully set forth herein.

18 62. Labor Code § 1102.5 prohibits retaliation against an employee who reports an
19 employer's illegal conduct to a supervisor or another employee who has authority to investigate.

20 63. Plaintiff disclosed behavior she reasonably believed to be illegal. Specifically,
21 Plaintiff reported discrimination and/or harassment, which are unlawful under Cal. Gov. C §
22 12940(a).

23 64. Shortly after Plaintiff's disclosures—and because of them—Defendants terminated
24 Ms. Menasche's employment. Plaintiff's disclosures of wrongdoing were contributing factors in
25 the adverse employment action.

26 65. As a legal and proximate result of the retaliation, Plaintiff suffered economic damages
27 including lost wages, salary, performance bonuses, retirement income, and certain other benefits,
28 including incidental and consequential losses. As a direct legal result of the above-described

1 retaliation, Plaintiff suffered emotional injury, mental distress, shock, humiliation, loss of
2 reputation, and worry of a lasting nature.

3 66. Defendants were aware of the probable legal consequences of their conduct and
4 willfully and deliberately failed to remedy or prevent against those consequences. This conduct was
5 ratified or supported by Defendants' managing agents. Defendants conduct constituted malice,
6 oppression or fraud such that Plaintiff is entitled to punitive damages under California Civil Code
7 section 3294 in an amount to punish Defendants or to set an example.

8 **SIXTH CAUSE OF ACTION**

9 **(Wrongful Termination in Violation of Public Policy Against All Defendants)**

10 67. Plaintiff incorporates by reference each and every allegation in all previous
11 paragraphs of this Complaint as if fully set forth herein.

12 68. Plaintiff's employment was terminated in violation of fundamental public policies of
13 the State of California including, without limitation, Cal. Gov. Code § 12940 and Cal. Labor Code
14 § 1102.5. These fundamental public policies inure to the benefit of the public, and not just the private
15 interests of the employer and employee.

16 69. As set forth above, Defendants' actions, including the termination of Plaintiff, were
17 wrongful and in violation of the fundamental principles of the public policy of the State of California
18 as reflected in its laws, objectives, and policies.

19 70. As a legal and proximate result of the wrongful termination, Plaintiff suffered
20 economic damages including lost wages, salary, performance bonuses, retirement income, and
21 certain other benefits, including incidental and consequential losses. As a direct legal result of the
22 above-described wrongful termination, Plaintiff suffered emotional injury, mental distress, shock,
23 humiliation, loss of reputation, and worry of a lasting nature.

24 71. Defendants were aware of the probable legal consequences of their conduct and
25 willfully and deliberately failed to remedy or prevent against those consequences. This conduct was
26 ratified or supported by Defendants' managing agents. Defendants conduct constituted malice,
27 oppression or fraud such that Plaintiff is entitled to punitive damages under California Civil Code
28 section 3294 in an amount to punish Defendants or to set an example.

1 **PRAYER FOR RELIEF**


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

- 3 1. For such general, special, and compensatory damages, as described above in amounts to
4 be proven at the time of trial, including but not limited to special and general damages
5 related to emotional distress, humiliation, degradation, anxiety, and worry;
- 6 2. For punitive and exemplary damages in amounts to be proven at the time of trial;
- 7 3. For attorneys' fees and costs pursuant to Code of Civil Procedure § 1021.5, Labor Code
8 § 1102.5 and Government Code § 12965, or as otherwise allowed by law and according
9 to proof;
- 10 4. For lost wages according to proof;
- 11 5. For costs of suit incurred herein;
- 12 6. For pre- and post-judgement interest at the maximum legal rate on all amounts claimed;
13 and
- 14 7. For other and further relief as the Court may deem just and proper.

15
16 Dated: January 26, 2023

Respectfully Submitted,

17
18
19 By:



Andrew E. Hillier
Attorney for Plaintiff,
ANN MENASCHE


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff ANN MENASCHE hereby demands a jury trial for the causes of action set forth herein.

Dated: January 26, 2023

Respectfully Submitted,

By: 

Andrew E. Hillier
Attorney for Plaintiff,
ANN MENASCHE