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8 Attorneys for Plaintiffs JUSTINA JONG,
9 AMINA SALGADO and ZAINAB BORI on
10 behalf of themselves and all others similarly
11 situated

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SAN FRANCISCO

14 JUSTINA JONG, AMINA SALGADO and
15 ZAINAB BORI individually and on behalf of
16 all others similarly situated,

17 Plaintiffs,

18 v.

19 APPLE INC.,

20 Defendant.

Case No.: CGC-24-615363

**FIRST AMENDED CLASS ACTION
COMPLAINT**

1. Violation of California Equal Pay Act, as amended (Labor Code §§ 1197.5, 1194.5)
2. Violations of the Fair Employment and Housing Act, as amended (Government Code § 12900 *et seq.*) (Disparate Impact)
3. Violations of the Fair Employment and Housing Act, as amended (Government Code § 12900 *et seq.*) (Disparate Treatment)
4. Unfair and Unlawful Business Practices (Bus. & Prof. Code § 17200 *et seq.*)
5. Failure to Pay All Wages Due to Discharged and Quitting Employees (Labor Code §§ 201-203, 1194.5)
6. Declaratory Judgment (C.C.P. § 1060 *et seq.*)
7. Penalties under the Labor Code Private Attorneys General Act (Labor Code §§ 2698-2699.5)
8. Hostile work environment for Plaintiff Jong
9. Failure to accommodate disability for Plaintiff Jong

Judge: Hon. Ethan P. Schulman
Department: 304

[Caption continues on next page]

10. Failure to engage in the good faith interactive process for accommodation of disability for Plaintiff Jong
11. Discrimination on the basis of race in violation of the Fair Employment and Housing Act (Gov. Code § 12900 *et seq.*) on behalf of Plaintiff Bori
12. Retaliation/Wrongful Discharge in violation of the Fair Employment and Housing Act (Gov. Code § 12900 *et seq.*) on behalf of Plaintiff Bori

JURY TRIAL DEMANDED

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28 AMINA SALGADO and ZAINAB BORI
on behalf of themselves and all others similarly
situated

1 Plaintiffs Justina Jong, Amina Salgado, and Zainab Bori (collectively “Plaintiffs”),
2 individually and on behalf of all others similarly situated, allege as follows:

3 **INTRODUCTION**

4 1. Plaintiffs bring this class action on behalf of themselves and on behalf of a class
5 defined as all women employed by Defendant Apple Inc. (“Apple” or “Defendant”) in California
6 at any time during the time period beginning four years prior to the filing of this Complaint
7 through the date of trial in this action (“Class Period”) in its Engineering, Marketing, and
8 AppleCare divisions (“Covered Positions”).

9 2. Throughout the Class Period and throughout California, Apple has discriminated
10 against its female employees by systematically paying them lower wage rates than Apple pays
11 to male employees performing substantially similar work under similar working conditions, in
12 violation of the California Equal Pay Act, Cal. Labor Code § 1197.5, as amended. Apple’s
13 failure to pay women and men equal wages for performing substantially similar work is not
14 justified by any lawful reason.

15 3. Prior to the Fall of 2017, Apple asked job applicants for information about their
16 prior pay and used that information to set starting salaries and salary levels at Apple. That policy
17 or practice led to women being paid less than men for substantially similar work because it
18 perpetuates historical compensation disparities adverse to women. Apple knew or should have
19 known of this pay disparity, yet took no action to remedy the inequality. Apple’s failure to pay
20 female employees the same wage rates paid to male employees for substantially similar work was
21 willful.

22 4. Since at least January 2018, Apple has asked job applicants to provide their pay
23 expectations and used that information to set starting salaries and salary levels at Apple. Pay
24 expectations are highly correlated with prior pay; studies show that persons asked for pay
25 expectations generally provide a number slightly higher than the pay at their current or last job.
26 Apple’s policy or practice of collecting information about pay expectations and using that
27 information to set starting salary and salary levels has had the effect of perpetuating past pay
28 disparities and paying women less than men performing substantially similar work.

PARTIES

1
2 10. Plaintiff Justina Jong is a woman who has been employed by Apple in California
3 from approximately June 2013 through the present. Since joining Apple, Ms. Jong has held various
4 roles within Apple’s Retail and Marketing division’s Worldwide Developer Relations/App Review
5 team, including as a Sales Specialist, Mobile Technician, Language Specialist, Team Lead, and
6 Customer/Technical Training Instructor. Ms. Jong, who is bilingual in English and Mandarin, has
7 successfully performed her work in these roles, including leading cross-functional teams that
8 improve the App Review experience for global app developers. When Ms. Jong was hired by
9 Apple, Apple had a policy of asking new hires about their prior salary. Apple offered Ms. Jong
10 essentially the same base salary that she had received at her prior job. Ms. Jong has been paid less
11 at Apple than men performing substantially similar work. While at work at Apple, Ms. Jong saw
12 the Form W-2 that a male colleague left on an office printer; that document showed that her male
13 colleague was making over \$10,000 more than she was, even though they shared the same job
14 position and level and performed substantially similar work. Ms. Jong was also sexually harassed
15 by a co-worker at Apple, forced to work in a hostile work environment next to the co-worker who
16 had harassed her, and denied accommodations to be transferred to other teams. Ms. Jong works in
17 Apple’s Sunnyvale office.

18 11. Plaintiff Amina Salgado is a woman who has been employed by Apple since 2012
19 and has worked for Apple as an Area Manager in the AppleCare division, the Early Careers
20 Program, the Career Services Programs, and Investigation Operations. She is currently working on
21 a temporary assignment with the People Team as a Development Manager for the AppleCare
22 division. Ms. Salgado was paid less than men performing substantially similar work while
23 employed by Apple, about which she complained to Apple a number of times. Apple conducted an
24 internal investigation after one of those complaints, but did not raise Ms. Salgado’s compensation.
25 After Ms. Salgado complained again that she was paid less than men performing substantially
26 similar work, Apple retained a third-party firm to conduct an investigation. The third party’s
27 investigation concluded that, in fact, Ms. Salgado was paid less than men performing substantially
28 similar work. That investigation concluded that male comparators performing substantially similar

1 work were paid more than Ms. Salgado. As a result of the third-party investigation, in late 2023,
2 Apple increased Ms. Salgado's compensation prospectively, but failed and refused to pay Ms.
3 Salgado back pay for the years during which she was paid less than men performing substantially
4 similar work. Ms. Salgado works remotely for Apple in the Sacramento area, near its Elk Grove
5 office.

6 12. Plaintiff Zainab Bori is a woman who was employed by Apple in Cupertino,
7 California as an Engineering Program Manager in Apple's Engineering division from June 2021
8 through May 2024. When Apple hired Ms. Bori in June 2021, Apple asked Ms. Bori, in violation
9 of California law, about her compensation at her then-current employer, Cisco. Apple also asked
10 Ms. Bori about her pay expectations. Ms. Bori provided a pay expectations figure that took into
11 account the higher cost of living in California than in North Carolina (where she worked for Cisco)
12 and the fact that she earned overtime while at Cisco, and gave a pay expectations number
13 somewhat higher than her base salary at Cisco. Apple assigned Ms. Bori a starting salary that was
14 close to her base salary at Cisco, taking into account the higher cost of living in California and the
15 fact that Ms. Bori had worked overtime while at Cisco. The starting salary Apple assigned to Ms.
16 Bori was slightly lower than the figure Ms. Bori had given to Apple as what she expected to be
17 paid. Apple assigned Ms. Bori to salary level ITC3, even though she had seven years of experience
18 as in engineering program management. Around the same time Apple assigned Ms. Bori to ICT3,
19 Apple assigned men with less experience than Ms. Bori into higher salary levels, such as ICT4,
20 based on their higher prior pay and higher pay expectations. When Ms. Bori learned that she in fact
21 met the job requirements for ICT4, she asked Apple to promote her to that salary level, but that
22 request was denied. While Ms. Bori worked as an Engineering Program Manager at Apple, at least
23 two men on her team who had the same job position and level – Mr. D___ and Mr. K___ were
24 paid substantially more than she was for performing substantially similar work. Apple paid those
25 two male colleagues both higher base salaries than Ms. Bori and far more RSUs than Ms. Bori.

26 13. Defendant Apple Inc. is a corporation that develops and sells computer and phone-
27 related products and services. Apple's headquarters are located at One Apple Parkway in
28 Cupertino, California 95014. Apple also maintains a corporate office building at 235 Second Street

1 in San Francisco, California 94105. Apple employs over 90,000 people, including over 12,000
2 women in its Engineering, Marketing, and AppleCare divisions.

3 **FACTUAL ALLEGATIONS**

4 14. Throughout the Class Period and throughout California, Apple has maintained and
5 continues to maintain a centrally determined and uniformly applied policy and/or practice of
6 paying its female employees in Covered Positions less than male employees for substantially
7 similar work, when viewed as a composite of skill, effort, and responsibility, and performed under
8 similar working conditions. Additionally, upon information and belief, Apple systematically paid
9 women lower compensation than men with similar education and experience and assigned women
10 to lower salary levels based (through the Fall of 2017) on women's lower prior pay and later (after
11 the Fall of 2017) women's lower pay expectations (which studies establish are highly correlated
12 with prior pay).

13 15. Throughout the Class Period, all compensation decisions concerning Apple's
14 California employees have been and continue to be subject to approval by Apple's central
15 administrative officers based in its headquarters in Cupertino and its corporate offices in San
16 Francisco. These officers have maintained centralized control over employees' terms and
17 conditions of employment, including, without limitation, hiring, job and location assignment,
18 career progression, promotion, and compensation policies, practices, and procedures. Salary
19 increases are dictated by payroll budgets established by executives in Apple's Cupertino and San
20 Francisco offices and must be approved by central management.

21 16. Throughout the Class Period, Apple's compensation policies and practices have
22 been and continue to be centrally determined and applied in the same manner to all of Apple's
23 employees who report to California offices, whether they work in person or remotely. Officers
24 based in Apple's San Francisco and Cupertino offices maintained these compensation policies or
25 practices that entrenched a wage gap between male and female Apple employees performing
26 substantially similar work.

1 17. Regardless of the California offices to which they report, and whether employees
2 work remotely or in person, Apple employees with the same job titles employed in its Engineering,
3 Marketing, and AppleCare divisions have performed, from the beginning of the Class Period
4 through the present, substantially similar work, when viewed as a composite of skill, effort, and
5 responsibility, and performed under similar working conditions. Throughout the Class Period,
6 Apple has paid women in the Covered Positions, including the three named Plaintiffs, less than
7 men in the same job position and level, even though under Apple’s job classification system
8 persons in the same job positions and level performed substantially similar work.

9 18. Apple’s reliance on prior pay and pay expectations to set starting salaries and salary
10 levels caused it to unlawfully fail to pay women equal compensation to men for substantially
11 similar work. Upon information and belief, until late 2017, Apple relied on prior salary (i.e., pay at
12 jobs before an employee started to work for Apple) to set salaries for new hires and to determine
13 the compensation level into which to place each new hire. Apple’s use of prior compensation to set
14 starting compensation for its employees perpetuated historic pay disparities between men and
15 women and resulted in men receiving higher starting salaries than women, even when those men
16 and women are hired into the same job position and level and perform substantially similar work.

17 19. Since at least January 2018, Apple has asked job applicants to provide their pay
18 expectations. Pay expectations are highly correlated with prior pay; studies show that persons
19 asked for pay expectations generally provide an amount slightly higher than the pay at their current
20 or last job position. Apple’s policy or practice of collecting information about pay expectations and
21 using that information to set starting salaries had a disparate impact on women, both because it
22 resulted in women being assigned to lower salary levels than men with similar education,
23 experience, and skills and because it resulted in women being assigned lower salaries and
24 receiving lower compensation than men in the same job positions and levels performing
25 substantially similar work.

26 20. Raises at Apple perpetuate and widen the gender pay gap because they are based on a
27 percentage of the employees’ existing Apple base salary—so the longer a woman works at Apple,
28

1 the larger the gap in compensation she receives compared to similarly situated men, even men
2 performing substantially equal or similar work in the same job position.

3 21. Apple's performance evaluation system is biased against women because for scored
4 categories such as teamwork and leadership, men are rewarded and women are penalized for the
5 same behaviors. Because performance evaluation scores have a relationship to bonuses, RSUs, and
6 pay increases at Apple, Apple's biased performance evaluation system has had a disparate impact
7 on women.

8 22. Apple has a policy or practice of selecting individuals who Apple has identified as
9 having "talent" and compensating those persons more highly than other employees. Apple's
10 practice of selecting persons with "talent" is biased against women and has a disparate impact on
11 women, causing them to be paid less than men with similar skills, experience, responsibility, and
12 performance.

13 23. Apple is required to maintain records of the wage rates, job classifications, and other
14 terms and conditions of employment of all employees throughout California as well as employees
15 who work remotely from out of state for whom decisions about their pay are made in California.
16 Accordingly, at all relevant times, Apple has known or should have known of the substantial pay
17 disparities between its female employees in Covered Positions and male employees in Covered
18 Positions performing substantially similar work, yet Apple has taken no action to equalize men and
19 women's pay for equal or substantially similar work. Apple's failure to pay female employees the
20 same compensation paid to male employees for equal or substantially similar work has been and is
21 willful.

22 24. As a result of Apple's unlawful pay policies and/or practices, Plaintiffs and
23 putative Class Members have been denied compensation legally owed to them for work
24 performed during the Class Period and are entitled to wages and other compensation due,
25 interest thereon, and liquidated damages. In addition to damages, Plaintiffs also seek declaratory
26 and injunctive relief.

27 **CLASS ACTION ALLEGATIONS**

1 25. Plaintiffs bring their first, second, third, fourth, and sixth causes of action on behalf
2 of themselves and on behalf of the following proposed class (“Class”):

3 All women employed by Apple in California in its Engineering, AppleCare, and Marketing
4 divisions at any time during the time period between June 13, 2020, through the date of
5 trial in this action.

6 26. Plaintiffs bring their fifth cause of action on behalf of a subclass of class members
7 who separated from Apple during the time period between June 13, 2020 through the date of trial
8 in this action.

9 27. This action is appropriately suited for a class action because:

10 a. The proposed Class is numerous and ascertainable. The proposed Class
11 includes more than 12,000 current and former female Apple employees in California. Joinder of all
12 Class Members would be impractical.

13 b. This action involves questions of law and fact common to Plaintiffs and all
14 Class Members which predominate over any individual issues, including but not limited to: (a)
15 whether Apple has had a systemic policy and/or practice, from the beginning of the Class Period
16 through the present, of paying its female employees at wage rates lower than those paid to its male
17 employees performing substantially similar work, when viewed as a composite of skill, effort, and
18 responsibility, and performed under similar conditions; (b) whether Apple’s systemic policy and/or
19 practice of paying its female employees at wage rates lower than those paid to their male
20 counterparts violates the California Equal Pay Act, as amended, Cal. Labor Code § 1197.5; (c)
21 whether Apple’s systemic policy and/or practice of paying its female employees at wage rates
22 lower than those paid to their male counterparts was willful; (d) whether Apple had a policy or
23 practice of using prior pay and later pay expectations to set starting salary and starting salary level;
24 (e) whether Apple’s policy and practice of using prior pay and later pay expectations to set starting
25 salary and starting salary level had a disparate impact on women; (f) whether Apple’s performance
26 evaluation system is biased against women and has disparate impact on women; and (g) whether
27 Apple’s policy or practice of paying more compensation to persons whom it selects as having
28 particular “talent” is biased against women and has a disparate impact on women. These common

1 questions of law and fact predominate over any questions affecting only individual Class Members
2 in this action.

3 c. Plaintiffs Jong, Salgado, and Bori's claims are typical of putative Class
4 Members' claims because they are women who were employed by Apple in California during the
5 Class Period in one or more of the Covered Positions, and, on information and belief, were paid
6 less than male employees for substantially similar work. They worked at Apple when Apple had a
7 policy or practice of using prior pay and later pay expectations to set starting salaries. They were
8 subject to Apple's performance evaluation system. They were impacted by Apple's policy of
9 paying more compensation to certain employees identified as having "talent," and none of them
10 were so identified.

11 d. Plaintiffs Jong, Salgado, and Bori are able to fairly and adequately protect
12 the interests of all members of the class because it is in Plaintiffs' best interests to prosecute the
13 claims alleged herein to obtain full compensation due to the Class for all work performed, and to
14 obtain injunctive relief to protect the Class from further discriminatory wage rates going forward.
15 Plaintiffs have selected counsel who have the requisite resources and ability to prosecute this case
16 as a class action and are experienced labor and employment attorneys who have successfully
17 litigated other cases involving similar issues, including in class actions.

18 e. This suit is properly maintained as a class action under C.C.P. § 382 because
19 Apple has implemented an unlawful wage rate scheme that is generally applicable to the Class and
20 has adopted policies or practices that have a disparate impact on women, making it appropriate to
21 issue final injunctive relief and corresponding declaratory relief with respect to the Class as a
22 whole. This suit is also properly maintained as a class action because the common questions of law
23 and fact predominate over any questions affecting only individual members of the class. For all
24 these and other reasons, a class action is superior to other available methods for the fair and
25 efficient adjudication of the controversy set forth herein.

26 **FIRST CAUSE OF ACTION**
27 **Violations of the California Equal Pay Act, as amended**
28 **Cal. Labor Code §§ 1197.5, 1194.5**
(Brought by All Plaintiffs on Behalf of Themselves and the Proposed Class)

1 34. Plaintiffs hereby re-allege and incorporate by reference all allegations in each and
2 every preceding paragraph as if fully set forth herein.

3 35. Prior to the Fall of 2017, Apple asked job applicants for information about their
4 prior pay and used that information to set starting salaries and salary levels at Apple. That policy
5 or practice had a disparate impact on women because it perpetuates historical compensation
6 disparities adverse to women.

7 36. Since at least January 2018, Apple has asked job applicants to provide their pay
8 expectations. Pay expectations are highly correlated with prior pay; studies show that persons
9 asked for pay expectations generally provide a number slightly higher than the pay at their current
10 or last job position. Apple’s policy and practice of collecting information about pay expectations
11 and using that information to set starting salary and salary level has had a disparate impact on
12 women.

13 37. Apple’s performance evaluation system is biased against women. Because
14 performance evaluation scores have a relationship to bonuses, RSUs, and pay increases at Apple,
15 Apple’s biased performance evaluation system has had a disparate impact on women.

16 38. Apple has a policy or practice of selecting individuals who have “talent” and
17 compensating those persons more highly than other employees. Apple’s practice of selecting
18 persons with “talent” is biased against women and has a disparate impact on women, causing them
19 to be paid less than men with similar skills, experience, responsibility, and performance.

20 39. As a result of Apple’s discriminatory and unlawful pay policies and/or practices,
21 Plaintiffs and Class Members have been denied fair wages for all work performed during the
22 Class Period and are entitled to wages due, interest thereon, and liquidated damages, plus
23 interest. In addition to damages, Plaintiffs also seek declaratory and injunctive relief enjoining
24 Apple from continuing to pay women less than men for substantially similar work.

25 40. Plaintiffs Jong, Salgado, Bori, and Class Members have filed charges of
26 discrimination with the California Civil Rights Department and have all received Right to Sue
27 letters from the California Civil Rights Department.

1 significant period of time, and in a systematic manner, to the detriment of Plaintiffs and Class
2 Members.

3 47. Apple's acts and omissions, as alleged herein, violate the California Equal Pay Act,
4 as amended, Labor Code § 1197.5, the California Fair Employment and Housing Act, and
5 California Labor Code §§ 201, 202, and 203, and therefore constitute unlawful business practices
6 prohibited by Business & Professions Code § 17200 *et seq.*

7 48. Apple's acts and omissions, as alleged herein, constitute unfair and unlawful
8 business practices prohibited by Business & Professions Code § 17200 *et seq.* Apple's business
9 practices of (a) paying women less than men for substantially similar work, (b) adopting and
10 implementing compensation policies and practices that have a disparate impact on women, and (c)
11 failing to timely pay female employees who are discharged or who quit all wages earned and due
12 causes harm to Plaintiffs and Class Members that outweighs any reason Apple may have for doing
13 so. Apple's business practices as alleged herein are also immoral, unethical, oppressive,
14 unscrupulous, and offensive to the established public policies of ensuring women and men are paid
15 equally for performing substantially similar work, as reflected in both the California Equal Pay
16 Act, Cal. Labor Code § 1197.5, and the federal Equal Pay Act, 29 U.S.C. § 206(d), and of ensuring
17 women are not discriminated against in the workplace, as reflected in both the California Fair
18 Employment and Housing Act, Cal. Gov't Code § 12940 *et seq.*, and Title VII of the Civil Rights
19 Act of 1964, 42 U.S.C. § 2000e *et seq.*

20 49. As a result of its unlawful and/or unfair business practices, Apple has reaped and
21 continues to reap unfair and illegal profits at the expense of Plaintiffs and Class Members.
22 Accordingly, Apple should be disgorged of its illegal profits, and Plaintiffs and Class Members are
23 entitled to restitution with interest on such ill-gotten profits in an amount according to proof at the
24 time of trial.

25 50. Apple's unlawful and/or unfair business practices entitle Plaintiffs and Class
26 Members to preliminary and permanent injunctive relief and other equitable relief available under
27 law for violations of the Unfair Competition Law.

28 **FIFTH CAUSE OF ACTION**

Failure to Pay All Wages Due to Discharged and Quitting Employees
Cal. Labor Code §§ 201-203, 1194.5
(On Behalf of Plaintiff Bori and Members of the Plaintiff Class who Separated from Apple
During the Class Period)

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3 51. Plaintiffs hereby re-allege and incorporate by reference all allegations in each and
4 every preceding paragraph as if fully set forth herein.

5 52. Pursuant to California Labor Code §§ 201, 202, and 203, Apple is required to pay
6 all earned and unpaid wages to an employee who is discharged or quits. California Labor Code §
7 201 mandates that if an employer discharges an employee, the employee's wages accrued and
8 unpaid at the time of discharge are due and payable immediately. California Labor Code § 202
9 mandates that if an employee quits, the employee's wages accrued and unpaid at the time of
10 quitting are due and payable no later than 72 hours after the employee quits his or her employment,
11 unless the employee provided at least 72 hours of notice of his or her intention to quit, in which
12 case the wages are due immediately at the time of quitting. Plaintiff Bori and Class Members who
13 separated from Apple during the Class Period were entitled to be paid the wages that they would
14 have been paid had they been paid the same wages and compensation as men performing
15 substantially similar work. Plaintiff Bori and Class Members who separated from Apple during the
16 Class Period were not paid all wages due when they separated from Apple.

17 53. California Labor Code § 203 provides that if an employer willfully fails to pay in
18 accordance with California Labor Code §§ 201 and 202 any wages of an employee who is
19 discharged or who quits, the employer is liable for waiting time penalties in the form of continued
20 compensation to the employee at the same rate for up to 30 workdays.

21 54. By paying Class Members lower wages than wages paid to their male counterparts
22 for performing substantially similar work, Apple has willfully failed and continues to fail, in
23 violation of Labor Code §§ 201 and 202, respectively, to pay all accrued wages due to Class
24 Members who have been discharged or who have quit during the class period.

25 55. As a result of Apple's unlawful actions and omissions, former employee Class
26 Members who separated from Apple during the class period are entitled to all available statutory
27
28

1 penalties, including the waiting time penalties provided in California Labor Code § 203, together
2 with interest thereon, as well as other available remedies.

3 **SIXTH CAUSE OF ACTION**

4 **Declaratory Judgment**
5 **Cal. C.C.P. § 1060 *et seq.***

6 **(Brought by All Plaintiffs on Behalf of Themselves and the Proposed Class)**

7 56. Plaintiffs hereby re-allege and incorporate by reference all allegations in each and
8 every preceding paragraph as if fully set forth herein.

9 57. An actual controversy has arisen and now exists between the parties relating to
10 the legal rights and duties of the parties as set forth above, for which Plaintiffs desire a declaration
11 of rights and other relief available pursuant to the California Declaratory Judgment Act, C.C.P. §
12 1060 *et seq.*

13 58. A declaratory judgment is necessary and proper in that Plaintiffs contend that Apple
14 has committed and continues to commit the violations set forth above and, on information and
15 belief, Apple will deny that it has done so and/or will continue to commit such acts.

16 **SEVENTH CAUSE OF ACTION**

17 **Representative Action for Civil Penalties**
18 **Cal. Labor Code §§ 2698-2699.5**

19 **(Brought by Plaintiffs Jong and Salgado on Behalf of Themselves, All Similarly Aggrieved**
20 **Current and Former Apple Employees, and the State)**

21 59. Plaintiffs hereby re-allege and incorporate by reference all allegations in each and
22 every preceding paragraph as if fully set forth herein.

23 60. Plaintiffs Jong and Salgado are each an “aggrieved employee” within the meaning
24 of California Labor Code § 2699(c), and are each a proper representative to bring a civil action on
25 behalf of herself and other current and former employees of Apple pursuant to the procedures
26 specified in California Labor Code § 2699.3, because Plaintiffs Jong and Salgado were employed
27 by Apple and the alleged violations of California Labor Code §§ 201-203 and 1197.5 were
28 committed by Apple against them.

61. Pursuant to the California Private Attorneys General Act of 2004 (“PAGA”), Labor
Code §§ 2698-2699.5, Plaintiffs seek to recover civil penalties in the amount of \$100 for each

1 aggrieved employee per pay period for the initial violation, and \$200 for each aggrieved employee
2 per pay period for each subsequent violation of California Labor Code § 1197.5 as alleged herein.

3 62. Plaintiffs are also entitled to an award of reasonable attorneys' fees and costs
4 pursuant to California Labor Code § 2699(g)(1).

5 63. Pursuant to California Labor Code § 2699.3, Plaintiffs Jong and Salgado gave
6 written notice by online filing with the California Labor and Workforce Development Agency
7 ("LWDA") and by certified mail to Apple of the specific provisions of the California Labor Code
8 alleged to have been violated, including the facts and theories to support the alleged violations.
9 More than sixty-five (65) calendar days have passed since the postmark date of the Plaintiffs'
10 notice letter, and the LWDA has not provided notice to the Plaintiffs that it intends to investigate
11 the alleged violations. Plaintiffs have therefore complied with the prerequisites set forth in
12 California Labor Code § 2699.3 for commencing a representative action under PAGA.

13
14 **EIGHTH CAUSE OF ACTION**

15 **Cal. Gov. Code §§ 12940 *et seq.***

16 **Fair Employment and Housing Act**

17 **(Sexual Harassment, Hostile Work Environment on Behalf of Plaintiff Jong)**

18 64. From 2015 through 2022, Ms. Jong was sexually harassed and subjected to a hostile
19 environment that unreasonably interfered with her work performance.

20 65. When Ms. Jong joined Apple, Blaine Weilert, a senior member of the Talent
21 Development Team, was responsible for training Ms. Jong and other new hires. After being trained
22 by Mr. Weilert, Ms. Jong began working with him to train other new hires.

23 66. Throughout their time working together, Mr. Weilert would stare at Ms. Jong's
24 body and touch her arms and shoulder. He also made a sexually charged comment to her. Mr.
25 Weilert's sexually charged behaviors towards other colleagues were known in the office. Some of
26 Mr. Weilert's sexually charged behaviors towards Ms. Jong were observed by other colleagues as
27 well.

28 67. On or about January 11, 2019, Mr. Weilert touched Ms. Jong's body in a sexually
suggestive manner without her consent.

1 68. On or about January 11, 2019, Ms. Jong submitted an internal sexual harassment
2 complaint against Mr. Weilert to Terry Barwegan, then a Manager with the Talent Development
3 team. Approximately two weeks after reporting the incident, Mike Gillaspie, Human Resources
4 Representative, informed Ms. Jong that the investigation had concluded. Mr. Gillaspie claimed that
5 Mr. Weilert had admitted to the actions, displayed remorse for the behavior, and was being
6 disciplined accordingly.

7 69. Nevertheless, Ms. Jong was required to continue to work with Mr. Weilert, which
8 caused her profound emotional distress and mental anguish, including anxiety, depression,
9 insomnia, and PTSD. Ms. Jong expressed disappointment in Mr. Gillaspie's decision, declined to
10 continue to work with Mr. Weilert, and explained that this was extremely distressing for her
11 because Mr. Weilert sexually harassed her many times, and she had been sexually assaulted and
12 harassed multiple times by others in her life. Mr. Gillaspie asked Ms. Jong to be fair to Mr. Weilert
13 and asked her to talk to someone else about her struggles, implying that she should see a medical
14 professional.

15 70. Ms. Jong became aware that Mr. Weilert regularly commented on the attractiveness
16 of female employees and often harassed others. She observed Mr. Weilert rubbing a female
17 colleague's hands. Some colleagues told her about how Mr. Weilert harassed them and made
18 sexually charged comments about other colleagues. Ms. Jong and one of the colleagues filed
19 complaints against Mr. Weilert to Mr. Gillaspie. Ms. Jong continued to object to working with Mr.
20 Weilert. Nevertheless, these complaints did not change Mr. Gillaspie's decision to make Ms. Jong
21 continue to work alongside Mr. Weilert.

22 71. On or about March 4, 2019, Ms. Jong went on medical leave due to PTSD and
23 extreme distress caused by the toxic workplace.

24 72. On or about March 4, 2019, to try to escape working with Mr. Weilert, she was
25 forced to transfer from the Talent Development Team to the Content and Communication Team,
26 where she had to take on tasks that she was not hired or trained for and continue to work with
27 Blaine Weilert on different projects.

1 73. As set forth below, Apple’s leadership ratified the actions of Mr. Weilert, by
2 promoting him, pressuring Ms. Jong to work with and sit next to him, by questioning Ms. Jong’s
3 commitment to her job when she raised concerns about continuing to work with Mr. Weilert, and
4 by denying Ms. Jong’s requests for accommodations.

5 74. In August 2019, Blaine Weilert was promoted to manager of the Talent
6 Development team. Ms. Jong continued to suffer from emotional distress and mental anguish,
7 including anxiety, depression, insomnia, and PTSD.

8 75. On or about March 23, 2022, David Foote, a Worldwide Developer Relations/App
9 Review Support Manager at Apple, announced that Blaine Weilert would be sitting adjacent to Ms.
10 Jong in Apple’s offices. Working alongside someone who had sexually harassed Ms. Jong and
11 touched her against her will created a hostile work environment and interfered with her ability to
12 do her work. Ms. Jong immediately emailed Mr. Foote pleading and requesting not to sit directly
13 next to Mr. Weilert. She explained how the situation exacerbated her disability due to previously
14 being sexually harassed by Mr. Weilert.

15 76. In a video call on or about March 24, 2022, Mr. Foote questioned Ms. Jong’s
16 willingness to perform her job and collaborate with Mr. Weilert and the team. He also advised her
17 to be “professional, respectful, and collaborative” in working with him and alongside Mr. Weilert.
18 Although Ms. Jong desperately explained her struggles with Mr. Weilert, and her past trauma, and
19 she asked if she “needs to quit to survive”, Mr. Foote advised her to “move forward from this,” and
20 asked if she talked to someone else about this, implying that she should see a medical professional.

21 77. On or about March 25, 2022, Mr. Foote responded to Ms. Jong’s email and stated
22 that he would get back to her regarding her request to not sit directly next to Mr. Weilert.

23 78. On March 28, 2022, Ms. Jong was forced to take a medical leave of absence due to
24 the ongoing hostile work environment. After that time, Apple refused to grant Ms. Jong’s and her
25 doctor’s multiple requests to transfer to a different team away from Mr. Weilert, the managers, and
26 human resources representatives who supported and promoted Mr. Weilert while refusing to
27 protect or accommodate Ms. Jong.

1 in seating assignment, explaining that sitting next to her sexual harasser would exacerbate her
2 disability. Apple denied this request for a reasonable accommodation.

3 86. On March 28, 2022, Ms. Jong was forced to take a medical leave of absence. After
4 that time, Apple refused to grant Ms. Jong’s and her doctor’s multiple requests to transfer to a
5 different team. Instead of granting the accommodation request, Apple assigned Ms. Jong a
6 recruiter and asked her to search, apply, interview, and compete for job openings at the company if
7 she wanted to leave her role and the toxic work environment.

8 87. When Mr. Weilert left Ms. Jong’s old team in May 2023, Ms. Jong rejoined Apple
9 from medical leave and returned to her prior team in October 2023, but continued to suffer from
10 PTSD from having been sexually harassed, and having had her medical conditions disregarded
11 when working on that team.

12
13 **TENTH CAUSE OF ACTION**
14 **Cal. Gov. Code §§ 12940(n)**
15 **Fair Employment and Housing Act**
16 **(Failure to Engage in a Timely, Good Faith, Interactive Process on Behalf of Plaintiff Jong)**

17 88. Plaintiffs reallege and incorporate by reference all preceding paragraphs as alleged
18 above as if fully set forth herein.

19 89. Employers are required to “engage in a timely, good faith, interactive process with
20 the employee or applicant to determine effective reasonable accommodations, if any, in response
21 to a request for reasonable accommodation by an employee or applicant with a known physical or
22 mental disability or known medical condition.” Cal. Gov’t Code § 12940(n).

23 90. After Ms. Jong’s sexual harasser was assigned to sit next to her, she emailed Mr.
24 Foote, requesting a change in seating assignment, explaining that sitting next to her sexual harasser
25 would exacerbate her disability. Apple did not timely grant this request. Nor did Apple engage in a
26 timely interactive process with Ms. Jong to determine alternative, effective reasonable
27 accommodations.

28 91. During Ms. Jong’s leave, she requested to be transferred to a different team. Apple
denied Ms. Jong’s request without engaging in a good-faith interactive process.

1
2 **ELEVENTH CAUSE OF ACTION**
3 **Cal. Gov. Code §§ 12900, etc.**
4 **Fair Employment and Housing Act**
5 **(Race Discrimination on Behalf of Plaintiff Bori)**

6 92. Plaintiff Bori realleges and incorporates all preceding paragraphs.

7 93. Ms. Bori received performance reviews and mid-year assessments of at least
8 “meeting expectations” during her employment at Apple from June 2021 until early 2024.

9 94. In Spring 2024, Ms. Bori was assigned to report to a new manager. That manager
10 had a history of negative interactions with African American employees. Ms. Bori is African
11 American.

12 95. At Ms. Bori’s mid-year assessment in late March/early April 2024, Ms. Bori’s new
13 manager made negative comments about Ms. Bori’s work, and claimed that the comments were
14 based on statements made by persons with whom Ms. Bori had worked. Ms. Bori asked those
15 persons whether they had made those statements, and those persons told Ms. Bori that her manager
16 had misconstrued and mischaracterized their statements.

17 96. The negative mid-year assessment from Ms. Bori’s new manager adversely affected
18 the terms and conditions of Ms. Bori’s employment at Apple.

19 **TWELFTH CAUSE OF ACTION**
20 **Cal. Gov. Code §§ 12900, etc.**
21 **Fair Employment and Housing Act**
22 **(Retaliation/Wrongful Termination on Behalf of Plaintiff Bori)**

23 97. Plaintiff Bori realleges and incorporates all preceding paragraphs.

24 98. In April 2024, shortly after her negative mid-year assessment, and after learning
25 that the negative comments in the assessment were not based in fact, Ms. Bori submitted
26 complaints to Apple’s People Team and Employee Resources Department about the race
27 discrimination she had suffered from her new manager during her mid-year assessment, and the
28 race and gender discrimination from her engineering director and his manager.

99. In May 2024, within one month of Ms. Bori making those complaints of
discrimination by her new manager, Apple terminated Ms. Bori. Apple’s termination of Ms. Bori

1 was in response to, and in retaliation for, Ms. Bori having complained about suffering race
2 discrimination at the hands of her new manager, and race and gender discrimination from her
3 engineering director and his manager.

4 100. Apple terminated Ms. Bori in May 2024 without putting her on a performance
5 improvement plan, even though Apple typically puts employees with more than one year of
6 experience on a performance improvement plan before terminating them.

7 101. Apple's actions in terminating Ms. Bori in retaliation for her complaint of race
8 discrimination were fraudulent, malicious, and oppressive.

9 102. As a result of Apple's wrongful termination and retaliation, Ms. Bori has suffered
10 loss of compensation and suffered emotional distress.

11
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated,
14 respectfully pray for relief against Apple as follows:

15 103. For an order certifying this action as a class action;

16 104. For an order appointing Plaintiffs Jong, Salgado, and Bori as Class Representatives,
17 and appointing Plaintiffs' counsel as Class Counsel;

18 105. For all wages due pursuant to California Labor Code § 1197.5(h) in an amount to be
19 ascertained at trial;

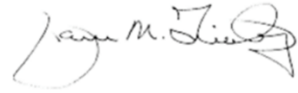
20 106. For liquidated damages pursuant to California Labor Code § 1197.5(h);

21 107. For prejudgment interest on unpaid wages at a rate of 10% per annum pursuant to
22 California Labor Code §1197.5(h) and California Civil Code §§ 3287-3288, and/or any other
23 applicable provision providing for prejudgment interest;

24 108. For damages and injunctive relief available to Plaintiffs and Class Members under
25 Government Code §12900;

26 109. For punitive damages on claims for which punitive damages are available;
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By: _____
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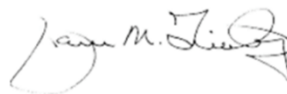
1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs Justina Jong, Amina Salgado and Zainab Bori on behalf of themselves and all
3 others similarly situated, hereby demand a jury trial with respect to all issues triable of right by
4 jury.

5 Respectfully submitted,

6 Dated: September 3, 2024

7 JAMES M. FINBERG
8 EVE CERVANTEZ
9 TALIA STENDER
10 Altshuler Berzon LLP



11 By: _____
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