

FILED BY FAX
ALAMEDA COUNTY

January 31, 2017

CLERK OF
THE SUPERIOR COURT
By Alicia Espinoza, Deputy

CASE NUMBER:
RG17847573

1 WORKMAN LAW FIRM, PC
2 Robin G. Workman (Bar #145810)
3 robin@workmanlawpc.com
4 177 Post Street, Suite 900
5 San Francisco, CA 94108
6 Telephone: (415) 782-3660
7 Facsimile: (415) 788-1028

8 *Attorneys for Plaintiff, Michelle Yoshioka on*
9 *behalf of herself and all other similarly situated*

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF ALAMEDA

12
13 MICHELLE YOSHIOKA, on behalf of herself and
14 all others similarly situated,

15 Plaintiff,

16 vs.

17 JOHNSON CONTROLS, INC., BOBBY BAINS
18 and Does 1 through 50, inclusive,

19 Defendants.

No.

COMPLAINT

Unlimited Civil Case
The Amount Demanded Exceeds
\$25,000

20 Plaintiff Michelle Yoshioka ("Yoshioka" or "Plaintiff"), hereby alleges as follows:

21 1. This action alleges Defendant Johnson Controls, Inc. (hereinafter "JCI") and
22 Defendant Bobby Bains (hereinafter "Bains"), collectively referred to as Defendants, engaged
23 in the following illegal activities: (1) JCI discriminated against Plaintiff on the basis of her sex
24 in violation of California Government Code section 12940(a) by engaging in a course of
25 conduct intentionally designed to discriminate against Plaintiff on the basis of her sex; (2)
26 Defendants harassed Plaintiff on the basis of her sex in violation of California Government
27 Code section 12940(j) by engaging in a course of conduct intentionally designed to harass
28 Plaintiff on the basis of her sex; (3) JCI failed to take all reasonable steps necessary to prevent

1 discrimination and harassment from occurring in the workplace in violation of California
2 Government Code section 12940(k); (3) JCI retaliated against Plaintiff in violation of
3 California Government Code section 12940(h) because Plaintiff made complaints about the
4 discriminatory and harassing actions of Defendants, by, including but not limited to
5 eliminating Plaintiff's position while she was on stress leave due to the intolerable
6 circumstances she suffered as a result of the discrimination, harassment, and retaliation, which
7 culminated in Plaintiff's work place becoming so intolerable, that she had no choice but to
8 resign, resulting in her constructive wrongful termination effective December 2, 2016; and (4)
9 JCI wrongfully terminated Plaintiff in retaliation for Plaintiff making complaints about the
10 discriminatory and harassing actions of Defendant, in violation of California Government Code
11 section 12940. Said discharge was unlawful and in violation of public policy, article I, section
12 8, of the California Constitution, and California Government Code section 12940 because said
13 discharge was in retaliation for Plaintiff complaining about discriminatory and harassing
14 actions.

15 2. Plaintiff is, and at all times herein mentioned was, a resident of the State of
16 California. Plaintiff worked for Defendant in the San Francisco Bay Area, reporting to a
17 physical office in Hayward, California throughout her employment.

18 3. JCI is, and at all relevant times was, doing business in the State of California
19 and is an employer under applicable Industrial Welfare Commission Orders. Bains is, and at
20 all times herein mentioned was, a resident of the State of California.

21 4. The names and capacities of defendants sued herein under California Code of
22 Civil Procedure section 474 as Does 1 through 50, inclusive, are presently not known to
23 Plaintiff, who therefore sues these defendants by such fictitious names. Plaintiff will seek to
24 amend this Complaint and include these Doe defendants' names and capacities when they are
25 ascertained. Each of the fictitiously named defendants is responsible in some manner for the
26 conduct alleged herein and for the injuries suffered by Plaintiff.

27 5. At all times mentioned in the causes of action alleged herein, each and every
28 Defendant was an agent and/or employee of each and every other Defendant. In doing the

1 things alleged in the causes of action stated herein, each and every Defendant was acting
2 within the course and scope of this agency or employment and was acting with the consent,
3 permission and authorization of each of the remaining Defendant. All actions of each
4 Defendant as alleged in the causes of action stated herein were ratified and approved by every
5 other Defendant or their officers or managing agents.

6 6. During her employment, Plaintiff was the subject of discriminatory and
7 harassing commentary and treatment by Bains, a manager employed by JCI, due to her sex.
8 Plaintiff also experienced and heard commentary in the workplace directed toward other
9 women by Bains that reflected bias against and discriminatory and harassing treatment toward
10 women in the workplace. In addition to the commentary, Bains took actions that were
11 discriminatory and harassing toward Plaintiff, and women in general, including, but not limited
12 to, refusing to work with women, refusing to acknowledge women in meetings, refusing to
13 include women on team emails, refusing to inform women of necessary information so that
14 they could do their job, and showing discriminatory and harassing materials at the workplace.

15 7. Plaintiff and other female employees complained about the discriminatory and
16 harassing actions Bains took toward Plaintiff and other women. JCI took no action to stop the
17 behavior until after Plaintiff's termination. When Plaintiff complained about Bains' behavior,
18 she was told that unless she found another position in the company, her employment would
19 terminate. After she reported Bains' behavior, Plaintiff was also subject to retaliation that
20 ultimately resulted in her work environment becoming so intolerable that her treating physician
21 recommended that she go out on stress leave. When Plaintiff was on leave due to the behavior
22 of Bains and JCI's failure to stop the behavior, JCI decided to eliminate Plaintiff's position.
23 Given JCI failed to take any action to stop the conduct of which Plaintiff complained, or
24 protect Plaintiff, and instead retaliated against Plaintiff, Plaintiff's workplace became
25 intolerable, resulting in her constructive wrongful termination in that she had no choice but to
26 resign.

27 8. After Plaintiff complained about the discriminatory and harassing treatment
28 toward Plaintiff and the other women, JCI eliminated Plaintiff's position, and Plaintiff was

1 terminated.

2 **FIRST CAUSE OF ACTION**

3 **(Sex Discrimination: Cal. Gov. Code §§ 12940(a))**

4 **(Against JCI only)**

5 9. Plaintiff incorporates by reference the allegations contained in the foregoing
6 paragraphs of this Complaint as if fully set forth herein.

7 10. At all times material hereto, Plaintiff was an employee covered by California
8 Government Code section 12940, prohibiting discrimination in employment based on sex.

9 11. JCI was, at all times material hereto, an employer within the meaning of
10 California Government Code section 12926(d), and as such, is barred from discriminating on
11 the basis of sex.

12 12. During her employment, Plaintiff alerted JCI of the discriminatory actions taken
13 and statements made by Bains regarding her sex. JCI took no action to respond to the
14 complaints.

15 13. JCI discriminated against Plaintiff on the basis of her sex in multiple violations
16 of California Government Code section 12940 by engaging in a course of conduct intentionally
17 designed to discriminate against Plaintiff on the basis of her sex. This conduct culminated in
18 JCI's elimination of Plaintiff's position and unlawful, discriminatory termination of Plaintiff
19 on or about December 2, 2016.

20 14. As a proximate result of JCI's discrimination, Plaintiff suffered and continues to
21 suffer substantial losses and in earnings, bonuses, deferred compensation and other
22 employment benefits, and has suffered and continues to suffer embarrassment, anger,
23 humiliation, frustration and other highly unpleasant mental anguish all in an amount according
24 to proof.

25 15. Plaintiff filed a timely charge of discrimination, harassment, retaliation and
26 wrongful termination with the Department of Fair Employment and Housing ("DFEH") and,
27 on or about December 9, 2016, received a timely notice of the right to sue in California
28 Superior Court pursuant to California Government Code section 12965(b), permitting Plaintiff

1 to bring this action. Therefore, Plaintiff exhausted all of her administrative remedies. Plaintiff
2 filed an amended charge of discrimination, harassment, retaliation and wrongful termination
3 with the DFEH on January 23, 2017, and received a timely notice of the right to sue.

4 16. JCI, in doing the acts and failing to do the acts as herein alleged, acted
5 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff,
6 and in conscious disregard of said Plaintiff's rights. In addition, JCI abused its position of
7 authority and ratified the discriminatory conduct of its employees. Plaintiff is thus entitled to
8 recover punitive damages from JCI, in an amount according to proof. As a result of JCI's
9 discriminatory acts as alleged herein, Plaintiff is entitled to an award of reasonable attorneys'
10 fees and costs of suit as provided by California Government Code section 12965(b).

11 SECOND CAUSE OF ACTION

12 (Sex Harassment: Cal. Gov. Code §§ 12940(j)) 13 (Against both Defendants, JCI and Bains)

14 17. Plaintiff incorporates by reference the allegations contained in the foregoing
15 paragraphs of this Complaint as if fully set forth herein.

16 18. At all times material hereto, Plaintiff was an employee covered by California
17 Government Code section 12940, prohibiting harassment in employment based on sex.

18 19. JCI was, at all times material hereto, an employer within the meaning of
19 California Government Code section 12926(d), and as such, is barred from discriminating on
20 the basis of sex.

21 20. During her employment, Bains engaged in harassing conduct toward Plaintiff,
22 and other women at JCI, due to their sex. Plaintiff complained regarding the harassing actions
23 taken and statements made by Bains regarding her sex and women in general. Until after
24 Plaintiff's termination, JCI took no action to respond to the complaints.

25 21. Defendants harassed Plaintiff on the basis of her sex in multiple violations of
26 California Government Code section 12940 by engaging in a course of conduct intentionally
27 designed to harass Plaintiff on the basis of her sex. This conduct culminated in JCI's
28 elimination of Plaintiff's position and unlawful, discriminatory termination of Plaintiff on or
about December 2, 2016.

1 eliminated her position, and made her working conditions so intolerable that she had no choice
2 but to resign, resulting in her constructive wrongful termination.

3 27. JCI discriminated against Plaintiff on the basis of her sex and in retaliation for
4 her complaints regarding the discriminatory and harassing practices against women that she
5 witnessed during her employment, in violation of California Government Code section
6 12940(h) by engaging in a course of conduct intentionally designed to discriminate against and
7 harass Plaintiff on the basis of her sex in retaliation for Plaintiff making complaints about the
8 discriminatory actions of Defendants, including but not limited to the conduct culminating in
9 JCI eliminating Plaintiff's position and engaging in conduct so intolerable that it resulted in her
10 constructive wrongful termination on or about December 2, 2016.

11 28. Plaintiff filed a timely charge of discrimination, harassment, retaliation and
12 wrongful termination with the Department of Fair Employment and Housing ("DFEH") and,
13 on or about December 9, 2016, received a timely notice of the right to sue in California
14 Superior Court pursuant to California Government Code section 12965(b), permitting Plaintiff
15 to bring this action. Therefore, Plaintiff exhausted all of her administrative remedies. Plaintiff
16 filed an amended charge of discrimination, harassment, retaliation and wrongful termination
17 with the DFEH on January 23, 2017, and received a timely notice of the right to sue.

18 29. The foregoing conduct caused Plaintiff to suffer severe emotional distress.
19 Plaintiff has suffered and continues to suffer pain, loss of sleep, discomfort, anxiety, anger,
20 frustration and other emotional distress, and will continue to suffer said emotional distress in
21 the future in an amount according to proof.

22 30. As a proximate result of Defendants' retaliation against Plaintiff, Plaintiff has
23 suffered and continues to suffer losses in earnings and other employment benefits and has
24 suffered and continues to suffer embarrassment, anger, humiliation, frustration and other
25 highly unpleasant mental anguish all to her damage in an amount according to proof.

26 31. JCI, in doing the acts and failing to do the acts as herein alleged, acted
27 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff,
28 and in conscious disregard of said Plaintiff's rights. In addition, JCI ratified the retaliatory

1 conduct of its employees. Plaintiff is thus entitled to recover punitive damages from JCI,
2 according to proof. As a result of JCI's retaliatory acts as alleged herein, Plaintiff is entitled to
3 an award of reasonable attorney's fees and costs of suit as provided by California Government
4 Code section 12965(b).

5 **FOURTH CAUSE OF ACTION**

6 **(Failure To Take Steps To Prevent Discrimination and Harassment:
7 Cal. Gov. Code §§ 12940(k))**

8 32. Plaintiff incorporates by reference the allegations contained in the foregoing
9 paragraphs as if fully set forth herein.

10 33. During her employment, Plaintiff alerted JCI to multiple incidents of harassing
11 and discriminatory practices committed by Bains toward herself and other women within the
12 company because of their sex. In addition, Plaintiff reported to JCI the retaliation she suffered
13 as a result of making complaints about Bains' behavior. Rather than addressing these
14 complaints, JCI eliminated Plaintiff's position and engaged in actions that caused her
15 employment circumstances to become so intolerable that she had no choice but to resign,
16 resulting in her constructive wrongful termination.

17 34. At all relevant times herein, JCI failed to take all reasonable steps necessary to
18 prevent discrimination, harassment, and retaliation from occurring, in violation of California
19 Government Code section 12940(k).

20 35. JCI discriminated and harassed Plaintiff on the basis of her sex and in retaliation
21 for her complaints regarding the discriminatory and harassing practices against women that she
22 witnessed during her employment, in violation of California Government Code section 12940
23 by engaging in a course of conduct intentionally designed to discriminate and harass Plaintiff
24 on the basis of her sex and in retaliation for Plaintiff making complaints about the
25 discriminatory and retaliatory actions of Defendants, including but not limited to the conduct
26 culminating in JCI's decision to eliminate Plaintiff's position and her constructive wrongful
27 termination that occurred on or about December 2, 2016. By engaging in this conduct, JCI
28 failed to take action to provide a workplace free of harassment and discrimination.

1 36. Plaintiff filed a timely charge of discrimination, harassment, retaliation and
 2 wrongful termination with the Department of Fair Employment and Housing (“DFEH”) and,
 3 on or about December 9, 2016, and received a timely notice of the right to sue in California
 4 Superior Court pursuant to California Government Code section 12965(b), permitting Plaintiff
 5 to bring this action. Therefore, Plaintiff exhausted all of her administrative remedies. Plaintiff
 6 filed an amended charge of discrimination, harassment, retaliation and wrongful termination
 7 with the DFEH on January 23, 2017, and received a timely notice of the right to sue.

8 37. The foregoing conduct caused Plaintiff to suffer severe emotional distress.
 9 Plaintiff has suffered and continues to suffer pain, loss of sleep, discomfort, anxiety, anger,
 10 frustration and other emotional distress, and will continue to suffer said emotional distress in
 11 the future in an amount according to proof.

12 38. As a proximate result of JCI’s failure to take action to prevent harassment ,
 13 discrimination and retaliation against Plaintiff, Plaintiff has suffered and continues to suffer
 14 losses in earnings and other employment benefits and has suffered and continues to suffer
 15 embarrassment, anger, humiliation, frustration and other highly unpleasant mental anguish all
 16 to her damage in an amount according to proof.

17 39. JCI, in doing the acts and failing to do the acts as herein alleged, acted
 18 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff,
 19 and in conscious disregard of said Plaintiff’s rights. In addition, JCI abused its position of
 20 authority and ratified the discriminatory, harassing, and retaliatory conduct of its employees.
 21 Plaintiff is thus entitled to recover punitive damages from JCI, according to proof. As a result
 22 of JCI’s failure to take actions to stop the discriminatory, harassing, and retaliatory acts as
 23 alleged herein, Plaintiff is entitled to an award of reasonable attorney’s fees and costs of suit as
 24 provided by California Government Code section 12965(b).

25 ///
 26 ///
 27 ///
 28 ///

FIFTH CAUSE OF ACTION

**(Wrongful Termination In Violation Of Public Policy -
Article I, section 8, of the California Constitution)**

1
2
3 40. Plaintiff incorporates by reference the allegations contained in the foregoing
4 paragraphs of this Complaint as if fully set forth herein.

5 41. On or about December 2, 2016, JCI eliminated Plaintiff's position. By
6 engaging in the harassing, discriminatory, and retaliatory actions alleged, and failing to provide
7 Plaintiff a workplace free of harassment and discrimination, JCI created a workplace that was
8 so intolerable that Plaintiff had no choice but to resign, resulting in her constructive wrongful
9 discharge. Said discharge was unlawful and in violation of public policy, article I, section 8, of
10 the California Constitution, and California Government Code section 12940 because said
11 discharge was in retaliation for Plaintiff's complaints about discrimination, harassment directed
12 toward her and other women in the workplace, due to their sex, and retaliation because of
13 Plaintiff's complaints about the discrimination, harassment, and retaliation because of her
14 complaints.

15 42. The foregoing conduct did in fact cause Plaintiff to suffer severe emotional
16 distress. Plaintiff has suffered and continues to suffer pain, loss of sleep, discomfort, anxiety,
17 anger, frustration and other emotional distress, and will continue to suffer said emotional
18 distress in the future in an amount according to proof.

19 43. As a proximate result of JCI's wrongful termination against Plaintiff, Plaintiff
20 has suffered and continues to suffer substantial losses incurred in earnings, bonuses, deferred
21 compensation and other employment benefits and has suffered and continues to suffer
22 embarrassment, anger, humiliation, frustration and other highly unpleasant mental anguish all
23 to her damage in an amount according to proof.

24 44. JCI, in doing the acts and failing to do the acts as herein alleged, acted
25 maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff,
26 and in conscious disregard of said Plaintiff's rights. In addition, JCI abused its position of
27 authority and ratified the discriminatory, harassing, and retaliatory conduct of its employees.
28 Plaintiff is thus entitled to recover punitive damages from JCI, according to proof.

