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8 Tim Chevalier

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SAN FRANCISCO

11 TIM CHEVALIER,
12 Plaintiff,
13 vs.

14 GOOGLE, INC, AND DOES 1 THROUGH
15 20, INCLUSIVE,
16 Defendant.

FILED
Superior Court of California
County of San Francisco

FEB 21 2018 *RL*

CLERK OF THE COURT

BY: *[Signature]*
Deputy Clerk

BOWMAN LIU

Case No. CGC-18-564473

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

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1 Plaintiff Tim Chevalier complains and alleges as follows:

2 INTRODUCTION

3 1. Plaintiff Tim Chevalier is an accomplished software developer and computer
4 scientist who joined Defendant Google, Inc. as a Site Reliability Engineer in December 2015.
5 Throughout his life, Chevalier has engaged in political activism, advocating for civil rights for
6 transgender people, women, disabled people, and racial and sexual minorities. When he became
7 a Googler,¹ he continued to engage in political activism, by participating in protests, signing
8 petitions, and engaging in political discourse with his coworkers.

9 2. At the time Google employed Chevalier, its technical workforce and leadership
10 were overwhelmingly white, abled, straight, cisgender, and male, and its workplace culture
11 reflected their views. In contrast to most Googlers, Chevalier identifies as disabled, queer, and
12 transgender. Chevalier soon recognized that Google’s workplace structure and culture were
13 discriminatory toward minorities. In particular, Google’s internal social networking platforms
14 were widely used to belittle and harass women, people of color, LGBTQ employees, and other
15 underrepresented groups. Chevalier pushed back on the online bullying he and others were
16 experiencing, using the same internal messaging systems to try to educate his employer and
17 coworkers on how to change Google’s working conditions to be inclusive and supportive of
18 underrepresented minorities, such as himself.

19 3. Chevalier’s supervisors were critical of Chevalier’s political participation and
20 dismissive of his attempts to change Google’s culture. Ultimately, Google fired Chevalier.
21 Human Resources explicitly told Chevalier that Google was ending his employment because of
22 his political statements in opposition to the discrimination, harassment, and white supremacy he
23 saw being expressed on Google’s internal messaging systems.

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28 ¹ “Googler” is a term used by Google to refer to its employees.

PARTIES

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2 4. Plaintiff is a resident of the County of Alameda in the State of California. He was
3 a Google employee from December 2015 through November 2017, and worked at Google’s San
4 Francisco Office.

5 5. Defendant Google, Inc. is a corporation, incorporated under the laws of Delaware.
6 At all times relevant to the complaint, Google had an office and was doing business in the City
7 and County of San Francisco.

8 6. The true names and capacities of Defendants named herein as Does 1 through 20,
9 inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiff, who
10 therefore sues said Defendants by fictitious names pursuant to California Code of Civil Procedure
11 § 474. Plaintiff will amend this Complaint to show such true names and capacities of Does 1
12 through 20, inclusive, when they have been determined.

13 7. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
14 was, at all times herein mentioned, an agent and/or representative of the remaining Defendants
15 and was acting within the course and scope of such relationship and/or was a joint employer of
16 Plaintiff along with the remaining Defendants. Plaintiff is further informed and believes that
17 each of the Defendants herein consented to, ratified, and authorized the acts alleged herein to
18 each of the remaining Defendants.

JURISDICTION AND VENUE

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20 8. Venue is proper in this judicial district pursuant to California Code of Civil
21 Procedure § 395.5 and California Government Code § 12965. Defendants reside in and/or
22 transact business in the City and County of San Francisco, and are within the jurisdiction of this
23 Court for purposes of service of process. For purposes of Section 395.5, liability arises where the
24 injury occurs. The obligations and liability complained of herein arose in the City and County of
25 San Francisco; and Plaintiff suffered injury in the City and County of San Francisco.

26 9. Moreover, under Section 12965, an action may be brought in any county “in
27 which the unlawful practice is alleged to have been committed” or “in the county in which [the
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1 Plaintiff] would have worked.” The unlawful practices were committed in San Francisco, where
2 Plaintiff was employed and suffered injury.

3 **PROCEDURAL ALLEGATIONS**

4 10. On February 13, 2018, Plaintiff filed a complaint with the Department of Fair
5 Employment & Housing against Google for discrimination, harassment, retaliation, and wrongful
6 termination. Plaintiff obtained a Right-to-Sue notice the same day.

7 **FACTS COMMON TO ALL CAUSES OF ACTION**

8 11. Plaintiff Tim Chevalier is an accomplished software developer and computer
9 scientist. Chevalier has a Bachelor of Science from Wellesley College in Computer Science and
10 Mathematics, and has a Masters in Computer Science from Berkeley. He completed significant
11 work toward a Doctorate in Computer Science at Portland State University. He also has
12 extensive work experience at Mozilla, AlephCloud Systems, Inc., and Heroku.

13 12. Chevalier joined Google as a Site Reliability Engineer in December 2015.

14 13. Chevalier chose to work at Google because it professed to be an inclusive
15 workplace. Google advertises itself to prospective candidates as a company that “celebrates”
16 difference. Chevalier was optimistic that he could build his career at Google.

17 14. In 2015—the year Google hired Chevalier—Google had a homogeneous
18 workforce, overwhelmingly composed of white, cisgender men. Specifically, the technical
19 workforce was 82% men, and its ethnic breakdown was 59% White, 35% Asian, and 6% Black,
20 Hispanic, Native American, Pacific Islander, or multi-racial. Similarly, its leadership was
21 composed of over 78% men, and its ethnic breakdown was 72% White, 23% Asian, and 5%
22 Black, Hispanic, Native American, Pacific Islander, or multi-racial. Google’s culture and
23 working conditions reflected the needs, beliefs, and politics of the majority of its workforce—
24 white, cisgender men.

25 15. Multiple facets of Chevalier’s identity did not conform to the typical Google
26 employee. Chevalier is a transgender, queer man. His sex was identified as female at birth, and
27 he transitioned in 2007. Chevalier is also disabled by complex post-traumatic stress disorder and
28

1 circadian rhythm sleep disorder. Throughout Chevalier’s life, he has experienced harassment and
2 discrimination in work, academic, and public settings.

3 16. Chevalier openly identified himself as transgender, disabled, and queer in his
4 communications with his coworkers and supervisors.

5 **Google Encourages Its Employees to Communicate Through Multiple Internal Social**
6 **Networking Platforms**

7 17. Google encourages its employees to communicate through email and Google’s
8 internal networking messaging systems Dory, Google+, and Memegen.

9 18. TGIF is a weekly all-hands meeting. At this meeting, anyone in Mountain View
10 can ask a question of Google’s executives. People in remote offices can submit questions via
11 Dory, a tool that allows people to ask questions electronically. Googlers can vote these questions
12 up or down to increase or decrease the chances that they will be asked. Other Googlers can
13 comment on the questions and each other’s comments. These comments are called Dory threads.
14 Attendance at the TGIF meeting is strongly encouraged.

15 19. Google also encourages employees to post information in a blog format on
16 Google+. If a Google employee were to stop reading and posting on Google+, they would be
17 disadvantaged professionally. Googlers are encouraged to use Google+ to network with their
18 colleagues. Networking is essential to Googlers’ career development. Google expects its
19 employees to move between teams throughout their careers. By periodically changing teams,
20 Googlers are able to develop their skills and seek new opportunities and promotions. If an
21 employee is unable to develop a network of contacts throughout the company, these opportunities
22 will not be available to them. Additionally, networking enables employees to facilitate cross-
23 team collaboration, which Google requires for promotion to its upper levels. Furthermore,
24 Googlers stay informed about business developments by reading internal Google+ posts.

25 20. Employees also use the Memegen tool to create memes—text superimposed on
26 images to create a humorous, ironic, or sarcastic result. Once these memes are posted, Googlers
27 may vote on the memes and the most popular entries rise to the top of the page. Googlers’
28 routine use of Memegen includes satirizing Google, the internet, and society.

1 21. In or around 2016, there was an initiative amongst Googlers called
2 “Memegender,” which sought to increase representation of women in the images Google
3 provides for meme templates and in among meme authors. At TGIF meetings, executives spoke
4 favorably of employee participation in Memegen.

5 22. All Googlers may see posts on Dory, the internal Google+, and Memegen;
6 however, they are not viewable to people outside of Google’s intranet.

7 **Chevalier Objected to Discriminatory Comments and Harassment**

8 23. Throughout Chevalier’s employment, Googlers frequently posted discriminatory
9 and harassing comments on internal social forums. Google cultivated such harassment by
10 providing multiple platforms for employee communication that allowed employees to casually
11 comment on their coworkers’ posts. These tools were often used to criticize underrepresented
12 minorities who shared perspectives not held by their overwhelmingly white, male, cisgender
13 peers. Chevalier responded by calling out discrimination and harassment for what it was and
14 asking his peers to reflect on perspectives different from their own.

15 24. On Google’s social forums, Googlers openly questioned the engineering and
16 leadership competence of racial minorities and women. For example, in May 2016, one Googler
17 posted this question to Dory: “if we have fewer Black and Latin@ people here, doesn’t that mean
18 they’re not as good?” Other Googlers suggested that by encouraging the hiring of
19 underrepresented minorities, Google was lowering the qualifications to work at Google.

20 25. This ongoing debate became public when Googler James Damore wrote a memo,
21 in which he argued that Google’s efforts to increase diversity in tech were misguided in part
22 because of the biological differences between men and women. Specifically, he said
23 “[d]ifferences in distributions of traits between men and women may in part explain why we
24 don’t have 50% representation of women in tech and leadership.” Damore also argued that
25 politically conservative beliefs were marginalized at Google. External websites published this
26 memo and it went viral. As a result, Googlers’ internal debate about gender and race became a
27 significant part of the national political discourse about workplace discrimination.

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1 26. Google itself did not intervene to prevent discrimination and harassment of
2 minorities on its social forums. Instead, it allowed Googlers, for example, to call their coworkers
3 immoral because of their sexual orientation and to question their qualifications because of their
4 gender, sex, and race. In the absence of a response from Google, Google’s minority employees
5 defended themselves by responding to these comments and supporting each other through emails
6 and posts on Dory, Google+, and Memegen.

7 27. Throughout Chevalier’s employment, he regularly opposed discriminatory
8 arguments that women and minorities were less competent at jobs in tech and leadership roles
9 than cisgender, white men. For example, in a Google+ post in September 2016, Chevalier
10 explained, “In a culture where it’s common to respond to diversity initiatives with ‘we can’t
11 lower the bar’, implying a baseline assumption that women, non-binary people, and men of color
12 are incompetent, it’s equally important that we don’t do the reverse: that we don’t insist on white
13 male competence even in the face of clear evidence to the contrary.”

14 28. Similarly, Googlers questioned the acceptance of LGBTQ people. Chevalier
15 opposed such statements and explained why sexual minorities, like himself, found such
16 statements harmful and harassing. For example, in June 2016, Chevalier responded to a Dory
17 thread, in which a colleague called homosexuality “immoral” by noting that such comments
18 create a permission structure for violence and discrimination. He noted that this comment was
19 made weeks after a mass shooting, which targeted gay men, at the Pulse Nightclub in Orlando.
20 Chevalier explained that these comments negatively affected the working conditions at Google:
21 “[i]t shows that we still have a lot of work to do when it comes to making Google a place where
22 people are included based on their willingness to cooperate with each other, rather than on
23 arbitrary personal characteristics.”

24 29. Chevalier also advised his colleagues on how to protect themselves from internet
25 harassment at the hands of other Googlers. For example, in December 2016, he wrote a Google+
26 post warning that Googlers were leaking intra-Google communications to alt-right and white
27 supremacist websites and providing resources on preventing online harassment.

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1 30. Chevalier also reported his colleagues' discriminatory comments and harassing
2 conduct to Human Resources. For example, in June of 2016, Chevalier reported to Human
3 Resources that fellow Googler Manual Amador posted a link on Dory to a website hosting an
4 online harassment campaign that targeted Chevalier for being transgender.

5 31. Additionally, Chevalier objected to linguistic techniques frequently used to silence
6 speakers with minority viewpoints.

7 32. When subject to discriminatory comments and harassment, Chevalier reported the
8 conduct to Human Resources and Google's management. On information and belief, Google did
9 not take any steps to intervene and prevent further discriminatory comments and harassment.

10 **Chevalier Identified Structural Discrimination at Google**

11 33. Because Chevalier is a member of multiple minority groups that were
12 underrepresented in Google's workforce, he recognized that its policies discriminated against him
13 and other minorities. Because Google's policies disadvantaged him, he needed to advocate for
14 changes to enable him to be effective in his job. In a Google+ post, he explained why this form
15 of political advocacy was necessary:

16 I don't advocate for diversity and inclusion because it's fun or because I would rather do
17 that than think about distributed systems. 100% of the time I spend on defending my
18 right to be here and the rights of women, people in gender and sexual minorities, people
19 of color, and disabled people to be here is time I would rather spend thinking about hard
20 intellectual problems in engineering or science. Nevertheless, I do it because if I didn't, I
21 would be spending no time on engineering, because I would be quitting the tech industry
22 to work as a copyeditor.

21 34. For example, Chevalier explained to his supervisors that Google's culture of "ask
22 for forgiveness, not for permission" disadvantages people with PTSD (a group that is
23 disproportionately likely to contain people in underrepresented groups), like himself.

24 35. Through Chevalier's Google+ posts, he explained to his colleagues that many
25 minorities feel excluded by their colleagues in tech jobs:

26 In tech, being different is a career liability. Being a good engineer depends largely on
27 tacit knowledge acquisition, which is a fancy way to say the stuff that people tell you at
28 coffee breaks that isn't formally documented anywhere. In other words, it depends on
people liking you and wanting to talk to you. The more ways in which you're different,
the harder it is to form the kinds of social bonds that are essential for learning things that

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aren't written down anywhere, and thus, the harder it is to do your job. Moreover, persisting in the face of this social exclusion is a second full-time job, even though those of us who are different in various ways have the same number of hours in the week to play around with as do people who fit in more.

36. Chevalier also advocated on Google+ for policies that would allow minority voices to be heard. For example, he opposed a proposed change to Dory that would have allowed Googlers to post anonymously. He proposed a countervailing policy to counteract what he perceived to be the silencing of minority voices:

The premise of the question is that valuable questions could be asked which are currently not being asked because of anonymity. In my experience and that of many others, any questions that acknowledge Google has problems with diversity or empathy or that suggest we should resist repressive political regimes get downvoted into oblivion. Before removing the requirement to be accountable for your words, why not try weighting downvotes much less highly and doing an experiment to see what the result on the question ranking is?

37. He also advocated on Google+ for less emphasis to be placed on past job performance during the hiring process because doing so disadvantages persons who have been the victims of past workplace discrimination:

This is why interview processes that are heavily based on past job experience reproduce bias even if the people who implement those processes are unbiased: people's past job experience reflects their experience being treated with and without bias. We like to think about individual success and 'cognitive ability', but the difficult truth is that a person's track record tends to have more to do with their environment than their raw cognitive power (whatever that is). I'm glad Google spends more time assessing problem-solving ability directly than studying a person's past record, in general, but that doesn't mean we can't improve.

Google Retaliated Against Chevalier

38. In August 2016, Peter Dahl became the acting manager of Chevalier's team, the App Engine Storage SRE team.

39. On September 7, Dahl and Chevalier had their first one on one meeting. During this meeting, Dahl criticized Chevalier for engaging in too much "social activism."

40. The Google Recognition Team encouraged employees to give fellow employees "peer bonuses." Any employee can recommend that another employee receive a peer bonus. The

1 recipient's manager must then review the recommendation and approve or deny the bonus. If the
2 manager approves the peer bonus, then the recipient receives a token amount of money and a
3 certificate that others can view. Chevalier had received nine peer bonuses for "social activism."
4 Dahl brought up these bonuses and cautioned, "That wasn't what we hired you for."

5 41. On September 14, Dahl met with Chevalier and commented again on Chevalier's
6 "social activism." He implied that, at Google, one has to earn the right to be politically engaged,
7 by saying, "it's okay, but you have to be a good engineer."

8 42. Dahl's comments revealed that he falsely assumed that "good engineers" do not
9 advocate for diversity and that "good engineers" do not have a personal stake in inclusion and
10 diversity because they are cisgender, heterosexual, abled, white men.

11 43. On December 8, Dahl gave a presentation to Chevalier's team about preparing for
12 performance reviews. He commented, "If you spend 50% of your time on community work,
13 that's a problem." Chevalier believed that Dahl directed this comment at him.

14 44. In February 2017, Vasilios Hoffman became the manager of Chevalier's team.

15 45. In March 2017, Dahl emailed Chevalier to critique his "etiquette" and "tone" on
16 Dory and Google+. Dahl focused on Dory threads in which Chevalier explained that people
17 sometimes label others' arguments as "groupthink" to dismiss their arguments and avoid
18 engaging in a debate. Similarly, Chevalier explained that people assert that their arguments are
19 superior by describing themselves as the voice of reason. Chevalier's posts explained that people
20 in the majority often deploy these linguistic tactics against minorities to silence them and
21 discount their views. Chevalier recognized that Dahl intended this warning to curtail his political
22 speech.

23 46. Chevalier reported to Human Resources that he was subject to discrimination
24 because of his gender and disabilities. The Human Resources representative responded that he
25 should consider leaving Google and that working at Google was not for everyone.

26 47. Chevalier submitted a request to transfer to a new team, but Google denied it.

27 48. In August, while Chevalier was on medical leave, Human Resources
28 representative Maria Insalaco emailed to request a meeting and explained, "concerns have been

1 raised about recent posts you’ve made on internal forums.” She also notified him that his access
2 to his work Google accounts would be frozen pending an investigation.

3 49. On September 22, 2017, Chevalier and Insalaco had a call to discuss an email he
4 sent a colleague, Memegens he posted, and Google+ posts. These posts applied politically liberal
5 views to the ongoing political debates between Googlers.

6 50. Insalaco criticized an email in which Chevalier addressed Damore’s memo, which
7 was dominating the national political discourse at the time. Specifically, he characterized
8 Damore’s memo as saying that people who are biologically female are “biologically unsuited” to
9 technical jobs, and described this view as “misogynistic.” He also responded to the claim that
10 Google marginalized conservative political beliefs by drawing a distinction between the
11 experience of a female who is called biologically inferior and the experience of a conservative
12 who is criticized for calling females biologically inferior.

13 51. In this email, Chevalier linked to a blog post in which he claimed that society
14 teaches “white boys” to expect privilege and to feel threatened when they do not receive it.
15 Insalaco objected that the term “white boys” could be perceived as a generalization about race
16 and gender. Chevalier explained that general terms are necessary to talk about structural
17 misogyny and racism. He also values them as a rhetorical device to convey his point succinctly.
18 Without these terms, he would have to weaken his claims by qualifying every statement about a
19 class of people with a statement like, “some (but not all) white men.”

20 52. The Memegens Chevalier posted were satirical commentary on active political
21 debates within Google. One of Chevalier’s memes, responded to a meme that trivialized and
22 dismissed a Black employee’s concerns about experiencing racism at work, which Chevalier
23 believed created a hostile work environment.

24 53. Another satirized the popular understanding that Trump won the 2016 presidential
25 election because white men felt disenfranchised during Obama’s presidency. This directly
26 responded to memes posted by other Googlers that centered on conservatives’ feelings about the
27 2016 election. Chevalier’s post was intended to convey that minority groups’ expression of fear
28 in response to the election is not a form of discrimination against conservatives.

1 54. Insalaco also objected to a Google+ post in which Chevalier criticized
2 Republicans for “affiliating [themselves] with people carrying torches and yelling, ‘you will not
3 replace us’” at the rally in Charlottesville, Virginia.

4 55. Finally, Insalaco criticized a post Chevalier made in response to a Dory question,
5 which asked Google’s executives to make a public statement saying, “conservatives and
6 Republicans are welcome” at Google. Chevalier responded that if Republicans “don’t feel
7 comfortable with Google policies, [they are] welcome to leave.” He explained that he meant that
8 being Republican did not exempt them from following Google’s code of conduct and working
9 towards its stated mission

10 56. On information and belief, Human Resources investigated Chevalier’s posts
11 because the harassing bullies to whom his posts responded reported him to Human Resources.

12 57. Through Chevalier’s conversations with his manager and Human Resources, he
13 learned that Google defines appropriate workplace speech by the standard of what someone with
14 a cisgender, heterosexual, white, male, upper-middle-class background would say. In truth,
15 Google’s promise to allow its employees to freely speak their minds only applies to people who
16 represent the majority viewpoint and use the majority’s rhetoric.

17 58. Approximately six weeks after Insalaco and Chevalier’s call, Google notified
18 Chevalier that it was terminating his employment because of the political posts that Insalaco
19 identified during their September 22, 2017 call.

20 **FIRST CAUSE OF ACTION**

21 **(Retaliation In Violation of Lab. Code, § 1101)**

22 59. Plaintiff hereby incorporates by reference Paragraphs 1 through 58 of this
23 Complaint as if fully set forth herein, and for a cause of action alleges as follows:

24 60. Labor Code section 1101 prohibits employers from making, adopting, or enforcing
25 any rule, regulation, or policy that forbids or prevents employees from engaging or participating
26 in politics, or controls or directs, or tending to control or direct the political activities or
27 affiliations of employees.

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1 61. Upon an employer’s violation of section 1101, the employee has a private right of
 2 action for damages for injuries caused by the employer’s violation. (Lab. Code, § 1105;
 3 *Lockheed Aircraft Corp. v. Superior Court of Los Angeles County* (1946) 28 Cal.2d 481, 486.)

4 62. Chevalier engaged in protected political activity, including engaging in protests,
 5 organizing events, circulating and signing petitions, and actively engaging in political discussions
 6 on Dory threads, Google+, and Memegen. Through these actions, Chevalier promoted the civil
 7 rights of minorities working at Google and opposed the politics of the Trump Administration.

8 63. Chevalier’s supervisors discouraged Chevalier from organizing and participating
 9 in events like Transconf, a business conference for transgender Googlers, saying he was spending
 10 too much time on political activities. Further, his supervisors and Human Resource
 11 representatives discouraged him from engaging in political speech on Google’s social forums.
 12 And Google ultimately terminated Chevalier’s employment because of his specific political
 13 statements he made on Google’s social forums.

14 64. As a direct, foreseeable and proximate result of Defendant’s unlawful actions,
 15 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
 16 benefits and has incurred other economic losses.

17 65. As a further direct, foreseeable and proximate result of Defendant’s actions,
 18 Plaintiff has suffered emotional distress, humiliation, shame and embarrassment all to Plaintiff’s
 19 damage in an amount to be proven at time of trial.

20 66. Defendant committed the acts herein despicably, maliciously, fraudulently, and
 21 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
 22 amounting to malice, and in conscious disregard of the rights of Plaintiff. Plaintiff is thus entitled
 23 to recover punitive damages from Defendant in an amount according to proof.

24 **SECOND CAUSE OF ACTION**

25 **(Retaliation In Violation of Lab. Code, § 1102)**

26 67. Plaintiff hereby incorporates by reference Paragraphs 1 through 66 of this
 27 Complaint as if fully set forth herein, and for a cause of action alleges as follows:

28 ///

1 68. Labor Code section 1102 prohibits employers from using the of threat of discharge
2 or loss of employment to coerce or influence or attempt to coerce or influence its employees to
3 adopt or follow or refrain from adopting or following any particular course or line of political
4 action or political activity.

5 69. Upon an employer’s violation of section 1102, the employee has a private right of
6 action for damages for injuries caused by the employer’s violation. (Lab. Code, § 1105;
7 *Lockheed Aircraft Corp. v. Superior Court of Los Angeles County* (1946) 28 Cal.2d 481, 486.)

8 70. Chevalier engaged in protected political activity, including engaging in protests,
9 organizing events, circulating and signing petitions, and actively engaging in political discussions
10 on Dory threads, Google+, and Memegen. Through these actions, Chevalier promoted the civil
11 rights of minorities at Google and opposed the politics of the Trump Administration.

12 71. Chevalier’s supervisors discouraged Chevalier from organizing and participating
13 in events like Transconf saying he was spending too much time on political activities. Further,
14 his supervisors and Human Resource representatives discouraged him from engaging in political
15 speech on Google’s social forums. And Google ultimately terminated Chevalier’s employment
16 because of his specific political statements he made on Google’s social forums.

17 72. As a direct, foreseeable and proximate result of Defendant’s unlawful actions,
18 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
19 benefits and has incurred other economic losses.

20 73. As a further direct, foreseeable and proximate result of Defendant’s actions,
21 Plaintiff has suffered emotional distress, humiliation, shame and embarrassment all to Plaintiff’s
22 damage in an amount to be proven at time of trial.

23 74. Defendant committed the acts herein despicably, maliciously, fraudulently, and
24 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
25 amounting to malice, and in conscious disregard of the rights of Plaintiff. Plaintiff is thus entitled
26 to recover punitive damages from Defendant in an amount according to proof.

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1 **THIRD CAUSE OF ACTION**

2 **(Retaliation in Violation of FEHA, Gov. Code, § 12940(h))**

3 75. Plaintiff hereby incorporates by reference Paragraphs 1 through 74 of this
4 Complaint as if fully set forth herein, and for a cause of action alleges as follows:

5 76. As stated above, Defendant is subject to the Fair Employment and Housing Act
6 (FEHA) because it regularly employs five or more persons. Government Code section 12940(h)
7 makes it an unlawful employment practice for an employer to discriminate against any person
8 because the person has opposed any practices forbidden under the FEHA.

9 77. As described herein, Chevalier opposed and protested discriminatory comments
10 and harassment based on sex, gender, sexual orientation, disability, and race. In response,
11 Defendant, through its managing employees, terminated his employment.

12 78. As a direct, foreseeable and proximate result of Defendant's unlawful actions,
13 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
14 benefits and has incurred other economic losses.

15 79. As a further direct, foreseeable and proximate result of Defendant's actions,
16 Plaintiff has suffered emotional distress, humiliation, shame and embarrassment all to Plaintiff's
17 damage in an amount to be proven at time of trial.

18 80. Defendant committed the acts herein despicably, maliciously, fraudulently, and
19 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
20 amounting to malice, and in conscious disregard of the rights of Plaintiff. Plaintiff is thus entitled
21 to recover punitive damages from Defendant in an amount according to proof.

22 **FOURTH CAUSE OF ACTION**

23 **(Hostile Work Environment in Violation of Gov. Code, § 12940(j)(1))**

24 81. Plaintiff hereby incorporates by reference Paragraphs 1 through 80 of this
25 Complaint as if fully set forth herein, and for a cause of action alleges as follows:

26 82. At all times mentioned, Defendant was subject to FEHA. Government Code
27 section 12940(j)(1) makes the harassment of an employee because of their sex, gender, gender
28 identity, gender expression, or sexual orientation unlawful if the entity, or its agents or

1 supervisors, knew or should have known of this conduct and failed to take immediate and
2 appropriate corrective action.

3 83. Chevalier was the target of harassment. Googlers attacked him for expressing his
4 identity and viewpoint as a transgender man, and one Googler posted a link to Dory of a website
5 containing an online harassment campaign targeting Chevalier because he is transgender.
6 Googlers also expressed views that Chevalier’s sexual orientation is “immoral” and that people
7 of the sex Chevalier was assigned at birth (female) are intellectually inferior.

8 84. Google facilitated this conduct by providing Dory, Google+, and Memegen as
9 platforms throughout which harassing commentary was pervasive.

10 85. A reasonable person would have recognized the environment created by Google to
11 be hostile and abusive.

12 86. The hostile environment created by Google’s conduct was so severe and pervasive
13 that it altered Chevalier’s working conditions.

14 87. Chevalier reported this harassment to Google through his superiors and the
15 Human Resources Department and made clear that the harassing comments were unwelcome.

16 88. After Chevalier reported this harassment to Google, he continued to experience
17 harassment.

18 89. On information and belief, Google failed to take corrective action.

19 90. Google’s conduct was a substantial factor in causing Plaintiff harm.

20 91. As a direct, foreseeable and proximate result of Defendant’s unlawful actions,
21 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
22 benefits and has incurred other economic losses.

23 92. As a further direct, foreseeable and proximate result of Defendant’s actions,
24 Plaintiff has suffered emotional distress, humiliation, shame and embarrassment all to Plaintiff’s
25 damage in an amount to be proven at time of trial.

26 93. Defendant committed the acts herein despicably, maliciously, fraudulently, and
27 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
28 amounting to malice, and in conscious disregard of Plaintiff’s rights to be free from

1 discrimination. Plaintiff is thus entitled to recover punitive damages from Defendant in an
2 amount according to proof.

3 **FIFTH CAUSE OF ACTION**

4 **(Failure to Take All Reasonable Steps to Prevent Discrimination and Harassment from**
5 **Occurring in Violation of Gov. Code, § 12940(k))**

6 94. Plaintiff hereby incorporates by reference Paragraphs 1 through 93 of this
7 Complaint as if fully set forth herein, and for a cause of action alleges as follows:

8 95. At all times mentioned, Defendant was subject to FEHA. Plaintiff was a member
9 of a group protected by that statute, in particular Government Code section 12940(k), prohibiting
10 failure to take all steps to prevent discrimination and harassment from occurring.

11 96. On information and belief, Google failed to conduct any meaningful investigation
12 into Plaintiffs' complaints of coworkers' discrimination and harassment against women and
13 sexual and racial minorities and failed to take all reasonable steps to prevent discrimination and
14 harassment from occurring in violation of Government Code section 12940(k).

15 97. As a direct, foreseeable and proximate result of Defendant's unlawful actions,
16 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
17 benefits and has incurred other economic losses.

18 98. As a further direct, foreseeable and proximate result of Defendant's actions,
19 Plaintiff has suffered emotional distress, humiliation, shame and embarrassment all to Plaintiff's
20 damage in an amount to be proven at time of trial.

21 99. Defendant committed the acts herein despicably, maliciously, fraudulently, and
22 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
23 amounting to malice, and in conscious disregard of Plaintiff's rights to be free from
24 discrimination. Plaintiff is thus entitled to recover punitive damages from Defendant in an
25 amount according to proof.

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SIXTH CAUSE OF ACTION

(Retaliation In Violation of Lab. Code, § 1102.5)

100. Plaintiff hereby incorporates by reference Paragraphs 1 through 99 of this Complaint as if fully set forth herein, and for a cause of action alleges as follows:

101. Labor Code section 1102.5 prohibits retaliation against an employee for disclosing information to a person with authority over the employee or who has authority to investigate, discover, or correct the issue, where the employee has reasonable cause to believe that the information discloses a violation of a state or federal statute, or a violation or noncompliance with a local, state, or federal rule or regulation. Labor Code section 1102.5 further prohibits retaliation against an employee for refusing to participate in an activity that would result in such a violation.

102. On numerous occasions, as detailed above, Chevalier objected to discriminatory and harassing conduct directed at women, sexual and racial minorities, and himself.

103. He told his supervisors, members of Google’s management team, and Google’s Human Resources department that he regularly objected to the discriminatory and harassing conduct of his fellow Googlers through Dory threads, Google+, and Memegen.

104. Chevalier was retaliated against and wrongfully discharged on account of the disclosures he made and concerns he raised.

105. As a direct, foreseeable and proximate result of Defendant’s unlawful actions, Plaintiff has suffered and continues to suffer losses in earnings, equity and other employment benefits and has incurred other economic losses.

106. As a direct, foreseeable and proximate result of Defendant’s unlawful actions, Plaintiff has suffered emotional distress, humiliation, shame and embarrassment, all to Plaintiff’s damage in an amount to be proven at trial.

107. Defendant committed the acts herein despicably, maliciously, fraudulently and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of the rights of Plaintiff. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

SEVENTH CAUSE OF ACTION

(Wrongful Termination in Violation of Public Policy)

108. Plaintiff hereby incorporates by reference Paragraphs 1 through 107 of this Complaint as if fully set forth herein, and for a cause of action alleges as follows:

109. It is, and at all times relevant to this action has been, the law and fundamental public policy of the state of California that an employer may not retaliate against an employee for raising, opposing, or refusing to participate in conduct or activities that he reasonably believes to be a violation of state or federal laws or regulations. This public policy is embodied in statutes including, but not limited to Labor Code sections 1101, 1102, 1102.5 and Government Code section 12940.

110. In terminating Plaintiff's employment, Defendant violated the fundamental, substantial, and well-established public policies embodied in these statutes.

111. As a direct, foreseeable and proximate result of Defendant's unlawful actions, Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment benefits and has incurred other economic losses.

112. As a further direct, foreseeable and proximate result of Defendant's actions, Plaintiff has suffered emotional distress, humiliation, shame and embarrassment all to Plaintiff's damage in an amount to be proven at time of trial.

113. Defendant committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of the rights of Plaintiff. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:


- 1. For compensatory damages, including but not limited to, lost back pay (including, but not limited to, salary and bonus wages), equity, and fringe benefits and future lost earnings, equity, and fringe benefits, emotional distress; with legal interest, according to proof as allowed by law;

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2. For injunctive relief, including reinstatement and a prohibition on further discrimination or retaliation;
3. For punitive damages as allowed by law;
4. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's fees, including those available under FEHA, Labor Code section 1102.5, and Code of Civil Procedure section 1021.5;
5. For prejudgment interest and post-judgment interest as allowed by law; and,
6. For an award of such other and further relief as the Court deems just and proper.

DATED: February 21, 2018

Respectfully submitted,
RUDY, EXELROD, ZIEFF & LOWE, LLP

By: 
DAVID A. LOWE
Attorneys for Plaintiff