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Electronically
FILED
by Superior Court of California, County of San Mateo
ON 7/8/2022
By /s/ Marcela Enriquez
Deputy Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

22-CIV-02775

JANE DOE,[1] an individual,

Plaintiff,

v.

ALTO EXPERIENCE INC., a Delaware Corporation; and **DOES** 1 through 10, inclusive,

Defendants.

CASE NO.:

Unlimited Jurisdiction

COMPLAINT FOR:

1) **SEXUAL HARASSMENT**
2) **FAILURE TO PREVENT SEXUAL HARASSMENT**
3) **FAILURE TO PROVIDE A RESAONABLE ACCOMODATION**
4) **FAILURE TO ENGAGE IN A TIMELY, GOOD FAITH INTERACTIVE PROCESS**
5) **FEHA RETALIATION**
6) **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

JURY TRIAL DEMANDED

[1] Because of the nature of the allegations herein, plaintiff is identified by a pseudonym in order to preserve her confidentiality and to avoid any potential opprobrium, pursuant to applicable law, including, without limitation, *Starbucks Corp. v. Superior Court*, 168 Cal. App. 4th 1436 (2008).

Plaintiff **JANE DOE** ("**PLAINTIFF**") brings this action, by and through counsel, for damages against Defendants **ALTO EXPERIENCE INC. ("ALTO")**, and **DOES** 1 through 10, inclusive (collectively, "**DEFENDANTS**"), and each of them. **PLAINTIFF** hereby complains of **DEFENDANTS**, and/or each of them, named hereinabove as follows:

INTRODUCTION

1. **ALTO'S** Vice President of Operations Dana Donato repeatedly sexually harassed former **ALTO** employee **PLAINTIFF**. Among other things, Mr. Donato told **PLAINTIFF**: "I'm going to f**k you hard on the desk." Numerous other **ALTO** employees also sexually harassed **PLAINTIFF**. **ALTO** failed to prevent this sexual harassment.

2. **PLAINTIFF** alerted **ALTO** of a mental health disability she developed as a result of the sexual harassment she endured and stated her need for an accommodation. **ALTO** failed to provide a reasonable accommodation and did not engage in a timely, good faith interactive process.

3. After **PLAINTIFF** reported the sexual harassment multiple times, **ALTO** failed to protect her and did not conduct an adequate investigation. Instead, **ALTO** retaliated against **PLAINTIFF** by terminating her employment just three days after her last report of misconduct.

4. As a result of **ALTO'S** illegal conduct, **PLAINTIFF** is not only out of a job, but also, she has suffered severe emotional distress and pain and suffering.

JURISDICTION AND VENUE

5. Jurisdiction is proper because **PLAINTIFF** worked for **ALTO** in the State of California, County of San Mateo, and **ALTO** wrongfully terminated **PLAINTIFF'S** employment in the State of California, County of San Mateo. Significant relief is being sought against **DEFENDANTS** whose violations of California employment laws form a significant basis for **PLAINTIFF'S** claims.

6. Venue is proper because **PLAINTIFF** performed work for **ALTO** in the County of San Mateo and a substantial portion of the transactions and occurrences related to this action

occurred in this County, including, without limitation, the wrongful discharge of **PLAINTIFF**. Civ. Proc. Code § 395.

7. Prior to the filing of this action, **PLAINTIFF** exhausted her administrative remedies. She filed her complaint with the California Department of Fair Employment and Housing ("DFEH") alleging that the acts of **DEFENDANTS** constituted multiple violations of California's Fair Employment and Housing Act ("FEHA"), Government Code section 12900 *et. seq,* and obtained a "right to sue" letter from DFEH against **ALTO** on or around July 7, 2022. She subsequently brought this action on a timely basis.

PARTIES

8. Plaintiff **JANE DOE (PLAINTIFF)** is a natural person who at all times relevant to this claim was a resident of San Mateo County. **PLAINTIFF** is of female sex and gender.

9. **PLAINTIFF** is informed and believes, and thereon alleges, that Defendant **ALTO EXPERIENCE INC. (ALTO)** is, and at all times relevant to this claim, was, a Delaware corporation doing business in San Mateo County, State of California, organized and existing under the laws of the State of Delaware, with its principal place of business located at 900 Dragon Street, Suite 100, Dallas, Texas 75207. **ALTO** is a rideshare company that designs and develops mobile applications which manage and operate a fleet of sports utility vehicles. **ALTO** employed **PLAINTIFF** in Belmont, California, County of San Mateo.

10. The true names and capacities, whether individual, corporate, associate or otherwise of Defendants DOES 1 through DOES 10, inclusive, are unknown to **PLAINTIFF** who therefore sues said Defendants by such fictious names pursuant to Code of Civil Procedure section 474. **PLAINTIFF** further alleges that each of said fictitious Defendants are in some manner responsible for the acts and occurrences hereinafter set forth. **PLAINTIFF** will amend this Complaint to show their true names and capacities when the same are ascertained, as well as the manner in which each fictitious Defendant is responsible.

11. **PLAINTIFF** is informed and believes, and thereon alleges, that each Defendant named in this Complaint, and each Doe Defendant, form a single enterprise and were joint employers of **PLAINTIFF**. **PLAINTIFF** is further informed and believes, and thereon alleges, that each said Defendant is in some matter responsible for the wrongs and damages alleged below, and in so acting was functioning, at all relevant times, as the agent, servant, partner, alter ego and/or employee of the other Defendants, and in doing the actions described below, was acting within the course and scope of his, her or its authority as such agent, servant, partner and/or employee with the permission and consent of each of the other Defendants. All acts herein alleged were approved of and ratified by each and every other Defendant. Each Defendant, including, without limitation, **ALTO**, is vicariously liable for the acts of all Defendants.

FACTS

EMPLOYMENT

12. **PLAINTIFF** has had an excellent professional career for over a decade. After graduating from college with a Bachelor of Arts degree in English and philosophy, she worked in education for numerous years, where she gained experience training tutors and other new employees. Then, **PLAINTIFF** decided to pursue a Master of Science degree in human resources management, which she completed in 2021.

13. Ever since **PLAINTIFF** decided to take her talents to **ALTO** in or around November 2021 as Training Specialist in Belmont, California, she demonstrated that she continuously goes above and beyond.

14. For example, **PLAINTIFF** successfully led a Washington D.C. training orientation and was instrumental in **ALTO'S** onboarding efforts in Washington D.C. and Silicon Valley. **PLAINTIFF** also generously extended her stay in Washington D.C. twice to accommodate **ALTO'S** needs after it terminated an employee, Brittany Byrd. **PLAINTIFF** was never on a performance improvement plan and did not receive substantial negative feedback. Suffice it to say, **PLAINTIFF'S** performance at **ALTO** was excellent.

SEXUAL HARASSMENT

15. **ALTO'S** workplace culture fostered sexual harassment. Unfortunately, **PLAINTIFF** was a victim of this culture throughout her time at **ALTO**.

16. As early as **PLAINTIFF'S** initial training in Dallas, Texas on or about November 17, 2021, **PLAINTIFF** experienced sexual harassment from Juan Carlos, a Driver Trainer at **ALTO**. For example, as Mr. Carlos exited a vehicle he and **PLAINTIFF** were riding, he stated "Do you want to come too?" in a sexually provocative tone. He also touched **PLAINTIFF'S** ankle in a sexually harassing manner and said, "I can put it back there," which appeared to be a sexual joke concerning where he could put his penis.

17. **PLAINTIFF** reported this incident to Asahel Ryan. **ALTO** failed to take appropriate action to keep **PLAINTIFF** safe. There was inadequate follow up.

18. Next, during a training on or about December 20, 2021 in and around Washington D.C., **PLAINTIFF** was supposed to lead orientation training and help with **ALTO'S** onboarding efforts. It is during this trip that she interacted with Mr. Donato, **ALTO'S** Vice President of Operations.

19. **PLAINTIFF** first grew nervous of Mr. Donato when he sexually harassed another **ALTO** employee. **PLAINTIFF** overheard Mr. Donato tell her supervisor, Casey Huerta, in a flirtatious tone that he apparently wanted an explicit version of a flirty song. Ms. Huerta replied, "don't be gross." Mr. Donato later said, "your personality is infectious." Hearing this type of sexual talk in the workplace made **PLAINTIFF** extremely uncomfortable.

20. Little did she know, **PLAINTIFF** would become Mr. Donato's next sexual harassment victim. Just a few days after December 20, 2021, Mr. Donato sat in the office directly behind **PLAINTIFF'S** cubicle. That day, everyone in the office had to connect to a phone's hot spot for internet access. As **PLAINTIFF** stretched out her body, Mr. Donato said to her, "it's a hotspot," implying that he thought she was hot. Later, he told her, "You're driving me crazy" in a sexual manner. Then, when **PLAINTIFF** was slumped over her desk, Mr. Donato stated, "I'm going to f**k you hard on the desk."

21. **PLAINTIFF** was paralyzed. She felt humiliated and marginalized, unsure what to do.

22. The next day, after **PLAINTIFF** did not accept Mr. Donato's advances, Mr. Donato told **PLAINTIFF** that she "looks terrible," clearly in an effort to further manipulate her into acquiescence.

23. Over the final few days of **PLAINTIFF'S** East Coast trip, she heard many more sexual comments throughout **ALTO'S** staff that made her feel uncomfortable. For example, one employee said "she's hot" and "I jerked off three days ago." Another made a herpes joke about a "third one coming up." A third employee discussed "needing time for a third" about adding another sexual partner. These remarks, while not necessarily all directed at **PLAINTIFF**, further marginalized her as an outsider to this type of sexual conversation so unacceptable in the workplace.

24. **PLAINTIFF** returned home after the trip and felt severe anxiety and emotional distress. She could not sleep or spend quality time with her loved ones. She endured extreme anxiety and depression, and sought mental health treatment. For the next two months, **PLAINTIFF** stirred over whether to tell someone about the harassment she suffered at the hands of a Vice President at **ALTO**. She worried complaining would impact her job and she was right.

REPORTING MISCONDUCT AND RETALIATION

25. In addition to the report **PLAINTIFF** already made about Juan Carlos, **PLAINTIFF** was finally brave enough to report her more recent experiences of sexual harassment. On or around February 19, 2022, **PLAINTIFF** told her supervisor, Ms. Huerta, about the sexual harassment she endured from Mr. Donato. She explained what was said and how it caused her to experience mental distress. Ms. Huerta acknowledged that she heard this information but did not explain what she would do with it or whether there would be any follow up. **PLAINTIFF** was disappointed by this response.

26. On or about March 2, 2022, over a week and half after **PLAINTIFF'S** complaint, Kevin Callahan from HR reached out to **PLAINTIFF** by email and alluded to an "investigation." **PLAINTIFF** had not heard about any investigation until that day.

27. Notably, Mr. Callahan reports directly to Mr. Donato, so any "investigation" would inevitably have been guided and overseen by Mr. Donato, the alleged perpetrator. On information and belief, **PLAINTFF'S** complaint was not kept confidential as to her perpetrator.

28. Mr. Callahan asked **PLAINTIFF** for her statement and explained that he, for some reason, "really need[ed] it within the next 48 hours." He did not explain the process or otherwise make **PLAINTIFF** feel safe. Nonetheless, **PLAINTIFF** responded that she would put together some notes. Mr. Callahan did not reply.

29. After thinking over the fact that Mr. Callahan reports directly to Mr. Donato, **PLAINTIFF** wrote to Mr. Callahan again stating that she did not feel comfortable sharing her notes. She looked forward to a conversation with **ALTO** leadership about what **ALTO** planned to do to address her complaints. Yet Mr. Callahan did not respond.

30. On or about March 11, 2022, after not receiving any response from Mr. Callahan, **PLAINTIFF** again wrote to Mr. Callahan explaining again that she was sexually harassed by Mr. Donato. She also stated in writing that she had developed a mental health disability and inquired about the disability benefit plan and the possibility of taking a disability leave. Mr. Callahan did not reply.

31. Just three days later, on or about March 14, 2022, **PLAINTIFF** received an email and mailing from Mr. Callahan stating that she had been terminated. The termination letter all but admitted that **PLAINTIFF** was terminated because of her reports of misconduct.

FIRST CAUSE OF ACTION

Sexual Harassment – Hostile Work Environment

*(Against **ALTO** and Does 1-10)*

32. **PLAINTIFF** re-alleges and incorporates by reference each and every allegation set forth above and below.

33. FEHA prohibits harassment based on sex and gender. Gov. Code § 12940(a). It prohibits hostile work environment sexual harassment, whereby an employer created a hostile environment for an employee because of that employee's sex.

34. As more fully set forth above, **DEFENDANTS**, including, without limitation, **ALTO,** sexually harassed **PLAINTIFF** based on her female sex and gender. They made sexual jokes in her direction and an **ALTO** Vice President said he wanted to have sexual intercourse with her on a desk. This conduct amounts of hostile work environment sexual harassment. The harassing conduct was severe and pervasive.

35. **DEFENDANTS**, including, without limitation, **ALTO**, are employers within the meaning of FEHA.

36. **PLAINTIFF** was an employee of **ALTO**.

37. A reasonable woman in **PLAINTIFF'S** circumstances would consider the work environment to be hostile or abusive.

38. **PLAINTIFF** considered the work environment to be hostile or abusive.

39. **PLAINTIFF** was harmed.

40. The harassing conduct was a substantial factor in causing **PLAINTIFF** harm.

41. As a direct result of the unlawful employment practices of **DEFENDANTS** as alleged hereinabove, **PLAINTIFF** has suffered damages including, without limitation, lost income and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

42. **DEFENDANTS'** actions were fraudulent, malicious and oppressive, because, among other things, the conduct was carried out and ratified by members of **ALTO'S** leadership team without regard for **PLAINTIFF'S** safety. **PLAINTIFF** is entitled to recover punitive damages from **DEFENDANTS**, and each of them.

SECOND CAUSE OF ACTION

Failure to Prevent Sexual Harassment

*(Against **ALTO** and Does 1-10)*

43. **PLAINTIFF** re-alleges and incorporates by reference each and every allegation set forth above and below.

44. FEHA provides in pertinent part that employers must take all reasonable steps to prevent harassment. Gov. Code § 12940(k).

45. The actions and conduct of **DEFENDANTS**, as alleged hereinabove, constitute failure to prevent sexual harassment, in violation of FEHA.

46. **DEFENDANTS** failed to swiftly and thoroughly investigate a complaint of unlawful FEHA conduct.

47. **DEFENDANTS** failed to have a confidential complaint process that triggers a prompt and thorough investigation by personnel who are qualified to perform such an investigation.

48. The investigation, if there was one, lacked appropriate documentation and tracking.

49. There were inadequate remedial actions.

50. As a direct result of the unlawful employment practices of **DEFENDANTS** as alleged hereinabove, **PLAINTIFF** has suffered damages including, without limitation, lost income and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

51. Said **DEFENDANTS'** actions were fraudulent, malicious and oppressive, and **PLAINTIFF** is entitled to recover punitive damages from **DEFENDANTS**, and each of them.

THIRD CAUSE OF ACTION

Failure to Provide a Reasonable Accommodation

*(Against **ALTO** and Does 1-10)*

52. **PLAINTIFF** re-alleges and incorporates by reference each and every allegation set forth above and below.

53. FEHA provides in pertinent part that employers must make reasonable accommodation for employees' known physical or mental disabilities. Employers must engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations. Gov. Code. § 12940(m),(n).

54. The actions and conduct of **DEFENDANTS**, as alleged hereinabove, constitute failure to accommodate **PLAINTIFF'S** mental disability, in violation of FEHA. **PLAINTIFF** reported sufficient information to make known her mental disability and need for a reasonable accommodation.

55. **DEFENDANTS** took no action.

56. As a direct result of the unlawful employment practices of **DEFENDANTS** as alleged hereinabove, **PLAINTIFF** has suffered damages including, without limitation, lost income and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

57. Said **DEFENDANTS'** actions were fraudulent, malicious and oppressive, and **PLAINTIFF** is entitled to recover punitive damages from **DEFENDANTS**, and each of them.

FOURTH CAUSE OF ACTION

Failure to Engage in a Timely, Good Faith, Interactive Process

*(Against **ALTO** and Does 1-10)*

58. **PLAINTIFF** re-alleges and incorporates by reference each and every allegation set forth above and below.

59. FEHA provides in pertinent part that it is an unlawful practice for an employer not to engage in a timely, good faith, interactive process with an employee concerning a reasonable accommodation. Gov. Code. § 12940(n).

60. **DEFENDANTS** conduct, as alleged herein, constitutes failure to engage in the interactive process in violation of FEHA.

61. **DEFENDANTS** never engaged with **PLAINTIFF** about her disability despite being put on notice of such disability.

62. As a direct result of the unlawful employment practices of **DEFENDANTS** as alleged hereinabove, **PLAINTIFF** has suffered damages including, without limitation, lost income and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

63. Said **DEFENDANTS'** actions were fraudulent, malicious and oppressive, and **PLAINTIFF** is entitled to recover punitive damages from **DEFENDANTS**, and each of them.

FIFTH CAUSE OF ACTION

FEHA Retaliation

*(Against **ALTO** and Does 1-10)*

64. **PLAINTIFF** re-alleges and incorporates by reference each and every allegation set forth above and below.

65. FEHA prohibits retaliation against an employee who has opposed or reported any practice forbidden by FEHA. Gov. Code. § 12940(h).

66. **DEFENDANTS** retaliated against **PLAINTIFF** for reporting sexual harassment in violation of FEHA by terminating her employment.

67. A causal link existed between **PLAINTIFF'S** reporting and **DEFENDANT'S** termination of her employment, which occurred a mere three days after her final complaint.

68. As a direct result of the unlawful employment practices of **DEFENDANTS**, as alleged above, **PLAINTIFF** has suffered damages including, without limitation, lost income and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

69. Said **DEFENDANTS'** actions were fraudulent, malicious and oppressive, and **PLAINTIFF** is entitled to recover punitive damages from **DEFENDANTS**, and each of them.

SIXTH CAUSE OF ACTION

Wrongful Termination in Violation of Public Policy

*(Against **ALTO** and Does 1-10)*

70. **PLAINTIFF** re-alleges and incorporates by reference each and every allegation set forth above and below.

71. It is an unlawful employment practice and violation of public policy to retaliate against an employee for reporting, complaining, and/or opposing an employer's misconduct under FEHA.

72. As set forth above, **DEFENDANTS** terminated **PLAINTIFF** for reporting sexual harassment in violation of FEHA.

73. As a direct result of the unlawful termination of **DEFENDANTS**, as alleged above, **PLAINTIFF** has suffered damages including, without limitation, lost income and benefits, physical distress, emotional distress, pain and suffering, depression, anxiety, humiliation, and loss of reputation and other injuries in an amount to be proven at trial.

74. Said **DEFENDANTS'** actions were fraudulent, malicious and oppressive, and **PLAINTIFF** is entitled to recover punitive damages from **DEFENDANTS**, and each of them.

PRAYER FOR RELIEF

WHEREFORE, **PLAINTIFF** prays that this Court enter judgment in her favor on every claim and relief against **DEEFENDANTS** and each of them, as follows:

1. For compensatory damages;
2. For punitive damages;
3. For pre-judgment and post-judgment interest, at the legal rate;
4. For attorney's fees and costs, including but not limited to pursuant to FEHA;
5. For costs of suit; and
6. For all such other and further relief as the court may deem just, proper and equitable.

Dated: July 8, 2022

LAW OFFICE OF STEVEN CHIZEN

/s/ Steven Chizen
Steven Chizen

Attorney for Plaintiff Jane Doe

JURY DEMAND

PLAINTIFF JANE DOE demands trial by jury on all issues so triable.

Dated: July 8, 2022

LAW OFFICE OF STEVEN CHIZEN

/s/ Steven Chizen
Steven Chizen

Attorney for Plaintiff Jane Doe