

**THE LOUIS D. BRANDEIS CENTER
FOR HUMAN RIGHTS UNDER LAW**

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**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
ALAMEDA COUNTY
UNLIMITED CIVIL JURISDICTION**

DR. Yael NATIV,

Plaintiff,

vs.

REGENTS OF THE UNIVERSITY OF
CALIFORNIA AND DOES 1-10,

Defendants.

Case No.

COMPLAINT FOR:

- 1. FEHA Discrimination**
- 2. FEHA Failure to Prevent**
- 3. Cal. Educ. Code § 66270
Discrimination**

1 **INTRODUCTION**

2 1. This lawsuit addresses the University of California, Berkeley’s (“Berkeley”)
3 unlawful discrimination against Plaintiff that Berkeley’s discrimination office itself found violated
4 the University’s Nondiscrimination Policy.

5 2. Plaintiff Dr. Yael “Yali” Nativ is a dance researcher and sociologist who teaches
6 dance in Israel. She previously served as a visiting professor at Berkeley. She was invited to
7 apply to return to Berkeley to again serve as a visiting professor, but that invitation was taken off
8 the table after October 7, 2023. Instead, Dr. Nativ’s application to return was denied expressly
9 because she is Israeli.

10 3. Berkeley’s discrimination office commenced an investigation on February 15,
11 2024, and on September 24, 2024, after a thorough, seven-month-long investigation, found in Dr.
12 Nativ’s favor that she was the victim of national origin discrimination in violation of Berkeley’s
13 Nondiscrimination Policy. Berkeley found that the rationales offered after the fact for denying Dr.
14 Nativ’s application were pretextual, and that the real reason for Dr. Nativ’s rejection is that she is
15 Israeli.

16 4. Discrimination against an applicant for employment on the basis of national origin
17 is prohibited by the California Fair Employment and Housing Act (“FEHA”), Cal. Gov. Code §
18 12940, and by the Equity in Higher Education Act, Cal. Educ. Code § 66270.

19 5. Despite numerous attempts at conciliation by Dr. Nativ, Berkeley has failed to take
20 any action to remedy the violation.

21 6. This case comes in the context of an alleged failure by Berkeley to address anti-
22 Semitism on its campus, as set forth in *The Louis D. Brandeis Center, Inc. v. Regents of the*
23 *University of California*, Case No. 3:23-cv-06133-JD (N.D. Cal.).

24 7. Dr. Nativ seeks this Court’s intervention to provide a remedy for the discrimination
25 she has suffered and injunctive relief to protect Dr. Nativ and other Israeli prospective employees
26 from discrimination based on their national origin.

JURISDICTION AND VENUE

8. Plaintiff Dr. Nativ is an Israeli citizen domiciled in Israel.

9. Defendant Regents of the University of California is a public agency with its principal place of business in Oakland, California. Berkeley is a University of California campus located in Berkeley, California.

10. The Court has original jurisdiction over this action, which asserts claims under California state law based on events that occurred in the state of California.

11. Venue is proper in this Court because Alameda County is the jurisdiction for both Oakland and Berkeley.

12. Prior to filing this action, Plaintiff exhausted all administrative requirements by timely filing a complaint with the California Civil Rights Department (“CRD”) alleging that Berkeley discriminated against her by denying her employment based on her national origin. Plaintiff received a “right to sue” letter from the CRD on August 18, 2025, and timely brought this action thereafter.

PARTIES

13. Plaintiff Dr. Nativ is a natural person and a citizen of Israel, domiciled in Israel, who was previously employed as a visiting professor at Berkeley.

14. Dr. Nativ has a Ph.D. in the Sociology of Education from the Hebrew University of Jerusalem; a Master of Arts in Creative Arts Education from San Francisco State University; and a Bachelor of Arts from the Sorbonne University in Paris, France. She is a published scholar, researcher, and educator in the field of dance, with a focus on sociological, anthropological, and cultural contexts. In Israel, Dr. Nativ has served as an Adjunct Senior Lecturer at the School for Society and Art at Ono Academic College and the School of Education at Wingate Levinsky Academic Center, Chairwoman of the Israeli Choreographers Association, and a Co-Founder and Board member of the Israeli Association for Dance Research.

15. Defendant Regents of the University of California is a public agency within the meaning of Cal. Gov't Code § 7920.525(a) and is empowered under the California Constitution,

1 Article IX, Section 9, to administer the University of California. The University of California is a
2 public university system founded by the California State Assembly and operated by the State of
3 California. Berkeley is a campus of the University of California.

4 16. Plaintiff is currently unaware of the true names and capacities of the Defendants
5 sued in this action by the fictitious names DOES 1 through 10, inclusive, and therefore sues those
6 Defendants by fictitious names. Plaintiff shall seek leave to amend the Complaint to allege the
7 true names and capacities of such fictitiously named Defendants when they are ascertained.

8 17. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
9 sued in this action acts and acted, in all respects pertinent to this action, as the agent of the other
10 Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and
11 that the acts of each Defendant are legally attributable to the other Defendants.

12 18. Plaintiff is informed and believes, and based thereon alleges, that each Defendant
13 sued in this action, including each Defendant sued by the fictitious names DOES 1 through 10,
14 inclusive, is directly or indirectly responsible in some manner for the occurrences, controversies
15 and damages alleged herein, in various capacities, including but not limited to serving as joint
16 employer, joint tortfeasor, single enterprise, alter ego, or agent of the other Defendants. Each
17 Defendant approved, participated in, controlled, or ratified the acts of all other Defendants.

18 **FACTUAL BACKGROUND**

19 **A. Berkeley Invited Dr. Nativ to Teach as a Visiting Professor.**

20 19. In January 2022, Dr. Nativ began her employment at Berkeley to teach a course on
21 Intersectional Perspectives on Contemporary Dance in Israel in Berkeley's Department of Theater,
22 Dance, and Performance Studies (the "TDPS Department"). She was on Berkeley's payroll as an
23 employee for the duration of the Spring semester, receiving salary payments from the University
24 every two weeks.

25 20. The course went well. Dr. Nativ initiated various events and collaborations over
26 the course of the semester. She was invited to give a lecture on dance in Israel to the students of
27 Dr. SanSan Kwan, then a regular faculty member in the TDPS Department and now the
28

1 Department's Chair. At the end of the semester, she was asked to take part in an event for donors
2 of Berkeley's Helen Diller Institute for Jewish Law and Israel Studies ("HDI").

3 21. Dr. Nativ was pleased with the success of the course and found her experience
4 teaching at Berkeley very fulfilling. She was thrilled when HDI invited her to apply for another
5 semester.

6 22. Both Dr. Kwan and Rebecca Golbert, the Executive Director of HDI who directly
7 oversees the Visiting Faculty and Scholars Program that brings Israeli faculty to teach at Berkeley
8 and was involved in selecting Dr. Nativ in 2022 and funding her course, expressed their hope that
9 Dr. Nativ would return and teach again at Berkeley.

10 **B. Shortly After the October 7, 2023, Hamas Attack on Israel, Berkeley Rejects Dr.**
11 **Nativ's Application to Return as a Visiting Professor Because She Is Israeli.**

12 23. HDI invited and encouraged Dr. Nativ to submit an application to return as a
13 visiting professor. Toward the end of the Spring 2022 semester, Dr. Kwan and Golbert spoke to
14 Dr. Nativ about their desire to host Dr. Nativ again in the future. Dr. Kwan again discussed this
15 with Dr. Nativ in March 2023, when Dr. Kwan traveled to Israel on an HDI-funded trip, during
16 which Dr. Nativ facilitated meetings with Israeli dance scholars and invited Dr. Kwan to give a
17 joint lecture with her about nationality and dance.

18 24. On July 27, 2023, Dr. Nativ received an email from HDI expressing gratitude for
19 her prior work as a visiting faculty member and encouraging her to reapply for the 2024-2025
20 academic year. Dr. Nativ was eager to return and teach again at what she considered to be one of
21 the most prestigious academic institutions in the world.

22 25. In August 2023, Dr. Nativ submitted her application materials to HDI, stating her
23 intention to teach the same dance course that she taught in 2022.

24 26. On November 9, 2023, a few weeks after Hamas' brutal October 7 attack on Israel,
25 Golbert emailed Dr. Kwan to inform her that Dr. Nativ had submitted her application, as
26 requested, to return to teach at Berkeley for the Fall 2024 semester. Golbert wrote that HDI
27 wanted to host Dr. Nativ again and hoped the TDPS Department felt the same way.
28

1 27. On November 17, Dr. Kwan responded that the TDPS Department would not host
2 Dr. Nativ again and that she would inform Dr. Nativ of the decision.

3 28. Upon information and belief, Golbert believed that the decision to reject Dr.
4 Nativ's application was because she is Israeli.

5 29. In response to Dr. Kwan's November 17 email, Golbert expressed her
6 disappointment in Dr. Kwan's decision and her belief that the decision not to hire Dr. Nativ was
7 misguided and related to the ideological divisions over Israel that Dr. Kwan was facing in her
8 department.

9 30. Dr. Kwan did not contest Golbert's characterization of the situation, writing back
10 that she was sorry and that she was in a difficult situation.

11 31. Later the same day, in a direct message on the messaging app WhatsApp, Golbert
12 wrote to Dr. Nativ about Dr. Kwan's decision. Golbert wrote that she was "not very happy with
13 [Dr. Kwan] at the moment" because "[s]he just declined [HDI's] request to host you as a visiting
14 professor in fall 2024." Golbert added that she was "so sorry about this response, which I struggle
15 to think is not politically tinged."

16 32. The next day, on November 18, 2023, Dr. Kwan notified Dr. Nativ that her
17 application was being denied because she is Israeli. In a direct message on WhatsApp, Dr. Kwan
18 wrote: "[M]y dept cannot host you for a class next fall. ... Things are very hot here right now and
19 many of our grad students are angry. I would be putting the dept and you in a terrible position if
20 you taught here." Dr. Kwan's WhatsApp message did not cite a single non-discriminatory basis
21 for the denial of Dr. Nativ's application.

22 33. Dr. Nativ was shocked and devastated. She responded: "I'm so sad and broken all
23 around, for everyone in all sides. Yet, the biggest disappointment and pain come from my/our
24 academic scholars and colleagues mostly in American universities. The level of ignorance, hate,
25 and the inability to make an effort for a complex discourse is astounding and appalling. This is
26 not how I was educated embracing ideas of power structures and critical reflection. I know you
27 are in a difficult position. Yet I hope, knowing how sharp you are and your high level of integrity,
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1 that you do make this effort with your students, colleagues and wherever you are.”

2 34. Dr. Nativ received no reply from Dr. Kwan.

3 **C. Berkeley Determines It Discriminated Against Dr. Nativ.**

4 35. On December 31, 2023, the Israeli newspaper Haaretz published an opinion piece
5 written by Dr. Nativ on its English-language website, titled “Berkeley Gave in to Fear and
6 Division When It Canceled My Invitation After October 7,” in which she criticized Berkeley’s
7 decision not to hire her because of her nationality.

8 36. Berkeley was quickly made aware of the article in the days that followed, including
9 in the form of complaint emails to the Office of the Chancellor from various concerned alumni. In
10 an email on January 10, 2024, Assistant Vice Chancellor Dan Mogulof from Berkeley’s Office of
11 Communications and Public Affairs responded to a complaint from two such alumni, in which he
12 stated that Berkeley had learned of Dr. Nativ’s allegations from her Haaretz article and wrote:

13 “These are serious allegations which, if substantiated, would be wholly inconsistent with
14 Berkeley’s values and practices. Consequently, campus administrators are now looking into the
15 matter.” Mogulof added that Berkeley “hope[d] to complete that fact-finding process in the next
16 week or so.” The University ultimately took nearly nine months to complete its investigation.

17 37. Berkeley’s Nondiscrimination Policy prohibits discrimination against “any person
18 employed [or] seeking employment” with the University “on the basis of,” inter alia, “race,
19 religion, color, citizenship, national or ethnic origin, ancestry, ... or veteran or military status.”
20 This policy “applies to all employment practices, including recruitment [and] selection” of
21 candidates.

22 38. On February 15, 2024, Berkeley’s Office for the Prevention of Harassment and
23 Discrimination (“OPHD”) notified Dr. Nativ that it had opened an investigation into whether Dr.
24 Kwan had discriminated against her for being Israeli.

25 39. On September 20, 2024, Dr. Nativ received an email from Elliot Yancor, a Civil
26 Rights and Whistleblower Project Analyst in OPHD, sharing OPHD’s Notice of Outcome of
27 Investigation and Report of Investigation (the “Investigation Report”). On September 24, 2024,
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1 after Dr. Nativ flagged a material error in the notice, Yancor sent Dr. Nativ an AMENDED Notice
2 of Outcome of Investigation (the “Notice of Outcome”).

3 40. The Notice of Outcome—issued by Kellie Brennan, Director of OPHD and
4 Berkeley’s Assistant Vice Chancellor of Civil Rights for Whistleblower & Clery Compliance—
5 concluded that Dr. Nativ’s claim that she was discriminated against based on her national origin
6 was substantiated by a preponderance of the evidence and constituted a violation of Berkeley’s
7 Nondiscrimination Policy.

8 41. The Notice of Outcome was accompanied by a 45-page Investigative Report
9 detailing testimonial and documentary evidence demonstrating the discrimination against Dr.
10 Nativ.

11 42. OPHD’s Investigation Report, and its correct conclusion that a violation of its
12 Nondiscrimination Policy occurred, painted a clear picture: Rather than taking steps to ensure a
13 non-hostile environment for Israelis on its campus and to perform its most essential function—
14 educating its students to be open to different perspectives and not to be bigoted—Berkeley
15 administrators caved to pressure from students and faculty and opted to participate in the
16 discrimination.

17 43. The Investigation Report made the following findings, *inter alia*, with regard to the
18 violation of Berkeley’s Nondiscrimination Policy:

- a. Dr. Nativ was a member of a protected class, Israeli national origin.
- b. Dr. Nativ—as a prior visiting faculty member who was invited to re-apply, did re-apply, and had her application denied—suffered an adverse action as an applicant for employment at Berkeley.
- c. Dr. Nativ met the application criteria for the position. It was undisputed that her prior employment at Berkeley was successful. Dr. Kwan encouraged Dr. Nativ’s interest in returning to teach and expressed hope in finding an opportunity for her to do so.
- d. Dr. Kwan’s after-the-fact nondiscriminatory rationale for not hosting Dr. Nativ again for Fall 2024 was “pretextual.”
- e. A preponderance of the evidence therefore demonstrated that Dr. Kwan discriminated against Dr. Nativ on the basis of national origin in violation of Berkeley’s Nondiscrimination Policy.

D. Berkeley Fails to Remedy its Discrimination.

44. The Notice of Outcome instructed Dr. Nativ that she had an opportunity to respond in writing to OPHD’s report and conclusion and to propose an outcome she felt would be appropriate to remedy the discrimination against her. The Notice further stated that OPHD was referring the case to Vice Provost Victoria Plaut, who would determine what actions would be appropriate to take and would notify Dr. Nativ by letter of the final outcome of her case.

45. One week later, on September 27, 2024, Dr. Nativ wrote to Vice Provost Plaut at the email address provided to describe steps that Dr. Nativ proposed Berkeley should take to remedy the discrimination that the University had committed against her. Dr. Nativ expressed her gratitude that Berkeley was (as she wrongly believed at the time) willing to redress its wrongdoing, and proposed thoughtful, reasonable, non-punitive measures: (1) an apology from Berkeley and the TDPS Department; (2) an invitation to return to teach again at Berkeley as a visiting professor; and (3) some allocation of resources to help faculty and students “reflect and manage extreme conflictual situations on campus and in the classroom, with special attention and

1 emphasis on issues of racism and antisemitism.”

2 46. On November 17, 2024, Dr. Nativ emailed Plaut, Yancor, and Investigations and
3 Deputy Title IX Officer Elizabeth Rome, requesting an update on her case and the remedies she
4 had proposed, noting that she had “not heard from anyone since our last correspondence” more
5 than three weeks prior. Another three weeks passed with continued radio silence.

6 47. On December 9, 2024, Dr. Nativ emailed Vice Provost Plaut again seeking an
7 update on the outcome of her case and reminding Plaut that she had been told to expect further
8 information.

9 48. Vice Provost Plaut finally responded another week later on December 17, 2024,
10 apologizing for the “delayed reply” but writing only that Dr. Nativ’s “matter is still currently
11 under review.”

12 49. Another two months passed. Dr. Nativ received no further communication from
13 Vice Provost Plaut—or any other Berkeley administrator—regarding their promise to remedy the
14 discrimination they had admitted to committing against Dr. Nativ. On February 17, 2025, Dr.
15 Nativ sent a further follow-up email to Plaut, Yancor, and Rome, inquiring once again about an
16 update in her case and asking for a “time frame as to when ... you expect the review process will
17 come to a decision.”

18 50. On March 25, 2025—after more than a month of further non-responsiveness—Vice
19 Provost Plaut replied curtly that she was “not able to provide a timeline right now.”

20 51. After another nearly two months of silence from Berkeley, Dr. Nativ sent yet
21 another email to the Vice Provost’s office on May 15, 2025, politely requesting an update on the
22 status of her case and the promise to remedy her discrimination. She received no reply.

23 52. To date, Berkeley has not informed Dr. Nativ of any action it has taken or plans to
24 take to remedy its discrimination against Dr. Nativ.

FIRST CAUSE OF ACTION
Fair Employment and Housing Act
Cal. Gov. Code § 12940(a)
National Origin Discrimination

53. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs.

54. The California Fair Employment and Housing Act (“FEHA”) provides, in relevant part, that “[i]t is an unlawful employment practice . . . [f]or an employer, because of the race, religious creed, color, national origin, [or] ancestry . . . of any person . . . to refuse to hire or employ the person or . . . to discriminate against the person in compensation or in terms, conditions, or privileges of employment.” Cal. Gov. Code § 12940(a).

55. FEHA prohibits discrimination against Israelis on the basis of national origin. Plaintiff’s status as an Israeli national brings her within FEHA’s protections.

56. Plaintiff was subjected to discrimination by Berkeley on the basis of her Israeli national origin. Plaintiff was treated differently by Berkeley because she is Israeli. By its actions, Berkeley intended to treat Plaintiff differently based on her Israeli identity as compared to similarly situated non-Israeli persons.

57. Berkeley refused to hire or employ Plaintiff as a visiting professor, thereby denying her the professional and financial benefits of that contract and opportunity, because of her Israeli identity.

58. Berkeley admitted it took such adverse action against Plaintiff when its Office for the Prevention of Harassment and Discrimination found in Plaintiff’s favor after investigating a complaint of discrimination against her, concluding in its Investigation Report that Plaintiff suffered an adverse action as an applicant for employment at Berkeley.

59. Plaintiff was injured as a result of Defendant’s actions by losing an employment and educational opportunity that would have significantly benefited her career, suffering reputational harm, emotional distress, and other harms that violate her rights.

60. Plaintiff has suffered harm as a direct and proximate result of Defendant’s actions in the form of general and special damages in an amount to be determined at trial, including but

1 not limited to economic damages, compensatory damages, pre- and post-judgment interest, and
2 attorneys' fees and costs.

3 61. Because of Berkeley's unwillingness to redress its discrimination against Dr. Nativ,
4 her injuries remain ongoing. Thus, absent injunctive and declaratory relief against Berkeley,
5 Plaintiff will continue to be harmed as a result of Berkeley's actions.

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7 **SECOND CAUSE OF ACTION**
8 **California Fair Employment and Housing Act**
9 **Cal. Gov. Code § 12940(k)**
10 **Failure to Prevent Discrimination**

11 62. Plaintiff incorporates by reference the allegations set forth in the preceding
12 paragraphs.

13 63. FEHA provides, in relevant part, that "[i]t is an unlawful employment practice . . .
14 [f]or an employer . . . to fail to take all reasonable steps necessary to prevent discrimination and
15 harassment from occurring." Cal. Gov. Code § 12940(k).

16 64. FEHA prohibits discrimination by employers against employees as well as against
17 job applicants. *See* Cal. Gov. Code § 12940(a).

18 65. Plaintiff was a job applicant who was subjected to discrimination by Berkeley on
19 the basis of her Israeli national origin. Plaintiff was treated differently by Berkeley because she is
20 Israeli. By its actions, Berkeley intended to treat Plaintiff differently based on her Israeli identity
21 as compared to similarly situated non-Israeli persons.

22 66. Berkeley failed to take all reasonable steps to prevent discrimination against
23 Plaintiff.

24 67. Plaintiff was injured as a result of Berkeley's actions by losing an employment and
25 educational opportunity that would have significantly benefited her career, suffering reputational
26 harm, emotional distress, and other harms that violate her rights.

27 68. Plaintiff has suffered harm as a direct and proximate result of Defendant's actions
28 in the form of general and special damages in an amount to be determined at trial, including but
not limited to economic damages, compensatory damages, pre- and post-judgment interest, and

1 attorneys' fees and costs.

2 69. Because of Defendant's failure to prevent discrimination against Plaintiff, the
3 discrimination against and injuries to Plaintiff remain ongoing. Thus, absent injunctive and
4 declaratory relief against Berkeley, Plaintiff will continue to be harmed as a result of Berkeley's
5 actions.

6 **THIRD CAUSE OF ACTION**
7 **California Education Code**
Cal. Educ. Code § 66270
National Origin Discrimination

8 70. Plaintiff incorporates by reference the allegations set forth in the preceding
9 paragraphs.

10 71. The Equity in Higher Education Act, Cal. Educ. Code §§ 66250 et seq., provides,
11 in relevant part, that "[n]o person shall be subjected to discrimination on the basis of . . .
12 nationality, race or ethnicity . . . in any program or activity conducted by any postsecondary
13 educational institution that receives, or benefits from, state financial assistance or enrolls students
14 who receive state student financial aid." Cal. Educ. Code § 66270.

15 72. Plaintiff is a "person" who is subject to the Equity in Higher Education Act's anti-
16 discrimination protections.

17 73. The Equity in Higher Education Act prohibits discrimination on the basis of
18 "nationality" or "national identity," which "includes a person's actual or perceived shared ancestry
19 or ethnic characteristics, citizenship, or residency in a country with a dominant religion or distinct
20 religious identity." Cal. Educ. Code § 66261.3. Plaintiff's status as an Israeli national brings her
21 within the Equity in Higher Education Act's protections.

22 74. Defendant is a "postsecondary educational institution" that is subject to the Equity
23 in Higher Education Act, including its anti-discrimination provision, as set forth in Cal. Educ.
24 Code § 66261.5.

25 75. Plaintiff was subjected to discrimination by Berkeley on the basis of her Israeli
26 nationality. Plaintiff was treated differently by Berkeley because she is Israeli. By its actions,
27 Berkeley intended to treat Plaintiff differently based on her Israeli identity as compared to
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similarly situated non-Israeli persons.

76. The Equity in Higher Education Act's non-discrimination provision is enforceable through a civil action, as set forth in Cal. Educ. Code § 66292.4.

77. Plaintiff was injured as a result of Berkeley's actions by losing an employment and educational opportunity that would have significantly benefited her career, suffering reputational harm, emotional distress, and other harms that violate her rights.

78. Plaintiff has suffered harm as a direct and proximate result of Berkeley's actions in the form of general and special damages in an amount to be determined at trial, including but not limited to economic damages, compensatory damages, pre- and post-judgment interest, and attorneys' fees and costs.

79. Because of Berkeley's unwillingness to redress its admitted discrimination against Plaintiff, the discrimination against and injuries to Plaintiff remain ongoing. Thus, absent injunctive and declaratory relief against Berkeley, Plaintiff will continue to be harmed as a result of Berkeley's actions.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

1. Declare that Berkeley has violated the California Fair Employment and Housing Act, Cal. Gov. Code § 12940(a), and California Education Code § 66270;

2. Issue an injunction enjoining Berkeley from engaging in future discrimination against Plaintiff based on her Israeli national origin or identity;

3. Issue an injunction requiring Berkeley to enforce its nondiscrimination policies with regard to applicants and employees of Israeli national origin;

4. Award Plaintiff economic and compensatory damages, including for all past lost earnings (through the date of trial), all future lost earnings (after trial), and emotional distress;

5. Award Plaintiff pre- and post-judgment interest under California law;

6. Award Plaintiff the costs of this action and reasonable attorneys' fees; and

7. Award such other and further relief to which Plaintiff may be entitled or the Court

1 deems just and proper.

2
3 DATED: August 20, 2025

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