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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SAN FRANCISCO

16 KELLY ELLIS, HOLLY PEASE, KELLI
17 WISURI, and HEIDI LAMAR individually
and on behalf of all others similarly situated,

18 Plaintiffs,

19 v.

20 GOOGLE, LLC (formerly GOOGLE, INC.),
21 Defendant.

Case No. CGC-17-561299

**SECOND AMENDED CLASS ACTION
COMPLAINT**

1. Violation of California Equal Pay Act (Labor Code §§1197.5, 1194.5)
2. Failure to Pay All Wages Due to Discharged and Quitting Employees (Labor Code §§201-203, 1194.5)
3. Unfair and Unlawful Business Practices (Bus. & Prof. Code §17200)
4. Declaratory Judgment (C.C.P. §1060 *et seq.*)
5. Penalties under the Labor Code Private Attorneys General Act (Labor Code §§2698-2699.5)

JURY TRIAL DEMANDED

1 Plaintiffs Kelly Ellis, Holly Pease, Kelli Wisuri, and Heidi Lamar (collectively, “Plaintiffs”),
2 individually and on behalf of all others similarly situated, allege as follows:

3 **INTRODUCTION**

4 1. Plaintiffs bring this class action on behalf of themselves and on behalf of a class
5 defined as all women employed by Google in California at any time from September 14, 2013
6 through the date of trial in this action (“Class Period”) in the following job positions (at all levels
7 within these job positions): Software Engineer; Senior Software Engineer; Staff Software Engineer;
8 Senior Staff Software Engineer; Senior Manager for Business Systems Integration; Software
9 Engineer Manager; Senior Software Engineer Manager; Network Engineer; Systems Administrator;
10 Field Technician; Operations Engineer; Business Systems Integrator; Site Reliability Systems
11 Engineer; Site Reliability Software Engineer; Project Manager; Technical Writer; Product Manager;
12 Product Marketing Manager; User Experience (“UX”) Researcher; User Experience (“UX”)
13 Engineer; Program Manager; Technical Program Manager; Enterprise Sales Operations Coordinator;
14 Enterprise Sales Operations Associate; Sales Brand Evangelist (aka Sales Solution Senior
15 Associate); Sales Representative; Account Representative; Account Manager; Preschool Teacher;
16 and Infant/Toddler Teacher (collectively, “Covered Positions”).

17 2. These Covered Positions fall into six categories: Software Engineer, Senior Software
18 Engineer, Staff Software Engineer, and Senior Staff Software Engineer are all Software Engineer
19 Positions (sometimes collectively referred to as “Software Engineer Covered Positions”). Senior
20 Manager for Business Systems Integration, Software Engineer Manager, and Senior Software
21 Engineer Manager are all manager positions relating to software (sometimes collectively referred to
22 as “Software Manager Covered Positions”). Network Engineer, Systems Administrator, Field
23 Technician, Operations Engineer, Business Systems Integrator, Site Reliability Systems Engineer,
24 Site Reliability Software Engineer, Project Manager, Technical Writer, Product Manager, Product
25 Marketing Manager, UX Researcher, and UX Engineer are all engineering positions (sometimes
26 collectively referred to as “Engineer Covered Positions”). Program Manager and Technical Program
27 Manager are both manager positions for programs across Google in engineering (sometimes
28

1 collectively referred to as “Program Manager Covered Positions”). Enterprise Sales Operations
2 Coordinator, Enterprise Sales Operations Associate, Sales Brand Evangelist (aka Sales Solution
3 Senior Associate), Sales Representative, Account Representative, and Account Manager are all sales
4 positions (sometimes collectively referred to as “Sales Covered Positions”). Preschool Teacher and
5 Infant/Toddler Teacher are both Early Childhood Education Positions (sometimes collectively
6 referred to as “Early Childhood Education Covered Positions”).¹

7 3. Plaintiffs allege that Google has violated and continues to violate the California Equal
8 Pay Act by paying women in Covered Positions less than it pays men for substantially equal work
9 (through December 31, 2015) or for substantially similar work (from January 1, 2016 forward).
10 Plaintiffs allege that Google has violated and continues to violate the Unfair and Unlawful Business
11 Practices Act through its violations of the Equal Pay Act and its violations of the Fair Employment
12 and Housing Act, in the following ways: (a) assigning women to lower “Levels” (i.e. salary bands)
13 than it assigns men; (b) assigning women to jobs that do not compensate as highly as those
14 populated largely by men; (c) promoting women more slowly and at lower rates than it promotes
15 men; and (d) paying women less than it pays men performing similar work.

16 **Introductory Allegations Regarding the Equal Pay Act and Unfair and Unlawful Business**
17 **Practices Act**

18 4. Throughout the Class Period and throughout California, Google has paid and
19 continues to pay its female employees in Covered Positions systematically lower compensation
20 (including salary, stock, and bonuses) than Google has paid and continues to pay male
21 employees performing substantially equal work (through December 31, 2015) or substantially
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24 ¹ In accordance with the Court’s December 4, 2017 order, Plaintiffs have narrowed the Class
25 definition to certain specified Covered Positions. Plaintiffs are informed and believe that the policies
26 and practices described in this Complaint – including using prior pay to set salary, channeling
27 women to lower salary levels and to lower paying job positions and paying women less than men in
28 the same job positions and level – adversely affect women in other job positions as well. Plaintiffs
reserve the right to move to amend to add additional Covered Positions based on facts obtained prior
to moving for class certification.

1 similar work (from January 1, 2016 forward) under similar working conditions,² in violation of the
2 California Equal Pay Act, California Labor Code §1197.5.

3 5. Specifically, Google has paid and continues to pay women less than men in the
4 same job position and level (i.e. salary band), even though Google acknowledges that persons in
5 the same job position and level perform substantially equal or substantially similar work. All four
6 Plaintiffs experienced this violation of the Equal Pay Act in the same manner as did other
7 women in Covered Positions.

8 6. Google has also paid and continues to pay women less than men in the same job
9 position but different job Levels (i.e. salary bands), because Google has placed and continues to
10 place men in higher job Levels than women, even though women and men in the same job title
11 but different job levels perform substantially equal or substantially similar work. Plaintiffs Kelly
12 Ellis, Kelli Wisuri, and Heidi Lamar each experienced this violation of the Equal Pay Act in the
13 same manner as did other women in Covered Positions. While Google’s policy is that levels
14 should correspond to duties and responsibilities as well as salary, that is not the case; in reality,
15 women in Covered Positions often perform substantially equal or substantially similar work as
16 men in the level above them.

17 7. In addition, Google has paid and continues to pay women in three Covered
18 Position job titles – Brand Evangelist, Senior Manager for Business Integration, and Program
19 Manager – less than men in three other Covered Position job titles – Sales Representative,
20 Senior Software Engineer, and Technical Program Manager – even though the women and men
21 in those positions performed substantially equal or substantially similar work. Specifically, Google
22 paid female Brand Evangelists less than male Sales Representatives; Google paid female Senior
23 Managers for Business Integration less than male Senior Software Engineer Managers; and
24 Google paid female Program Managers less than male Technical Program Managers, even though
25

26 ² Throughout this First Amended Complaint, the phrase “substantially equal or substantially
27 similar work” shall mean substantially equal work (through December 31, 2015) or substantially
28 similar work (from January 1, 2016 forward) under similar working conditions.

1 the men and women in those respective Covered Positions performed substantially equal or
2 substantially similar work. Plaintiffs Kelli Wisuri and Holly Pease each experienced this violation
3 of the Equal Pay Act in the same manner as did other female Brand Evangelists, Senior Managers
4 for Business Integration, and Program Managers.

5 8. At all relevant times, Google has known or should have known of this pay disparity
6 between its female employees in Covered Positions and male employees performing substantially
7 equal or substantially similar work, yet Google has taken no action to equalize its male and female
8 employees' pay for substantially equal or substantially similar work. Google's failure to pay female
9 employees the same compensation paid to male employees for substantially equal or substantially
10 similar work has been and is willful.

11 **Introductory Allegations Regarding Violations of the Unfair Business and Practices Act**
12 **Arising out of Violations of the Fair Employment and Housing Act**

13 9. Google violates the Unfair and Unlawful Business Practices Act ("UCL"), Business
14 & Professions Code §§17200 *et seq.*, through its violations of the Equal Pay Act. Google also
15 violates the UCL through the following violations of the Fair Employment and Housing Act:

16 10. Throughout the Class Period and throughout California, Google has violated and
17 continues to violate the Fair Employment and Housing Act ("FEHA"), Government Code §12940(a),
18 by discriminating against women with respect to their compensation and/or in the terms, conditions,
19 and privileges of employment on the basis of sex. Specifically Google has created and implemented
20 common compensation, promotion, and assignment policies and practices through which it: (a)
21 assigns women to lower "levels" (i.e. salary bands) than similarly-situated men, even when these
22 women's qualifications are equal to or greater than the men's; (b) assigns women to jobs that Google
23 does not compensate as highly as those jobs populated largely by men, even when women are
24 equally qualified for the more highly compensated jobs; (c) promotes women more slowly and at
25 lower rates than similarly-situated men, even though women are equally or more qualified for
26 promotion; and (d) pays women less than similarly-situated men. Google's violations of FEHA
27 violate the UCL.
28

1 **JURISDICTION AND VENUE**

2 11. This Court has jurisdiction over this matter because Google is a corporation that
3 maintains its headquarters in California, is licensed to do business in California, regularly conducts
4 business in California, and committed and continues to commit the unlawful acts alleged herein in
5 California.

6 12. Venue is proper in this Court pursuant to California Code of Civil Procedure §395.5.
7 Google has an office in San Francisco, which is where many class members have worked and
8 continue to work for Google. Google’s obligation to pay its female employees equally to its male
9 employees, and its liability for failing to do so, therefore arise in, among other counties, the County
10 of San Francisco.

11 **PARTIES**

12 13. Plaintiff Kelly Ellis is a woman who was employed by Google as a Software
13 Engineer at Google’s Mountain View office from approximately May 2010 to approximately July
14 2014.

15 14. Plaintiff Holly Pease is a woman who was employed by Google as a Manager,
16 Corporate Network Engineering; Manager, Business Systems Integration; Manager, Corporate Data
17 Warehouse/Reporting Team; and Senior Manager, Business Systems Integration, at Google’s
18 Mountain View office and, for her final year, at Google’s Sunnyvale office, from approximately
19 August 2005 to approximately February 2016.

20 15. Plaintiff Kelli Wisuri is a woman who was employed by Google as an Enterprise
21 Operations Coordinator, Enterprise Sales Operations Associate, and Google Brand Evangelist,
22 Executive Communications Program (aka Sales Solutions Senior Associate), at Google’s Mountain
23 View office from approximately October 2012 to approximately January 2015.

24 16. Plaintiff Heidi Lamar is a woman who was employed by Google as a Preschool
25 Teacher and Infant/Toddler Teacher at Google’s Children Center in Palo Alto from approximately
26 July 2013 to August 2017.

1 conditions of employment, including, without limitation, job and location assignment, career
2 progression, promotion, and compensation policies, practices and procedures.

3 20. Throughout the Class Period, Google’s corporate headquarters has maintained
4 responsibility for hiring employees, setting wages, and assigning the location of employment across
5 all of its California offices.

6 21. Throughout the Class Period, Google’s compensation, assignment, and promotion
7 policies and practices have been and continue to be centrally determined and uniformly applied to all
8 of Google’s employees throughout its California office locations.

9 22. Throughout the Class Period, Google has maintained and continues to maintain a
10 centrally determined and uniform set of policies and/or practices for determining employees’
11 compensation throughout California, including centralized policies and/or practices for setting
12 employees’ initial pay and centralized policies and/or practices for giving employees pay raises,
13 bonuses, and company equity. For example, Google’s offices throughout California use a common
14 organizational structure, organizing employees by job levels and ladders. Google’s centralized pay
15 structure establishes corporate-imposed compensation ranges based on employees’ job ladder and
16 level. Google’s corporate headquarters sets these compensation ranges on a company-wide basis.
17 These compensation ranges (or “levels”) apply across all of Google’s California offices.

18 23. Google’s current compensation policies and practices have been in place since 2007,
19 and apply to all Google employees in the Covered Positions.

20 24. Google assigns all jobs to a “job family.” A job family is a professional category of
21 jobs at Google, and all employees within the same job family perform similar job duties and
22 responsibilities. All jobs at Google are also assigned to a “job level,” corresponding to salary grade.
23 According to Google, all employees in the same job level and job position are performing a like
24 level of duties and responsibilities. Google assigns each employee a job code. The job code is a
25 numeric identifier that includes job family at a specific level. For example, the number for the job
26 family software engineer is 34. A software engineer level 3 has a job code of 3403, a software
27 engineer level 4 has a job code of 3404, and a software engineer level five has a job code of 3405.
28

1 discrimination obligations. Google is a government contractor. In or around September 2015,
2 OFCCP opened a compliance audit on the Mountain View headquarters of Google.

3 32. As part of its audit, OFCCP performed a statistical regression analysis of the
4 compensation data for all approximately 21,000 employees at Google’s Mountain View headquarters
5 for the year 2015. That analysis studied all jobs, including all Covered Positions, at Google’s
6 Mountain View Headquarters. The OFCCP’s analysis of Google’s compensation data for all 21,000
7 employees at its Mountain View Headquarters for the year 2015, “found systemic compensation
8 disparities against women pretty much across the entire workforce.”³ OFCCP’s analysis showed six
9 to seven standard deviations between pay for men and women in nearly every job classification in
10 2015.⁴ Two standard deviations is considered statistically significant; six or seven standard
11 deviations means there is a one in 100 million chance that the disparity occurred randomly or by
12 chance. The Covered Positions include many of Google’s heavily populated positions.

13 33. A regression model is the most common and rigorous method for conducting a pay
14 equity analysis. A regression analysis allows a statistician to determine if there are statistically
15 significant differences in pay between two groups, such as men and women, after taking into
16 account, or “controlling for,” variables that could legitimately explain differences in compensation.
17 A regression analysis “controls” for each identified neutral variable by comparing groups of people
18 who share that variable. For example, controlling for job code involves comparing people in the
19 same job code.

20 34. OFCCP Directive 307 provides that when the OFCCP performs a regression analysis,
21 it must determine whether the employees whose pay is being evaluated are similarly situated,
22 considering the tasks they perform, their skills, efforts, level of responsibility, working conditions,
23 job difficulty, minimum qualifications, and other objective factors, and then controlling for neutral
24

25 ³ *In re OFCCP v. Google, Inc.*, DOL, ALJ Case No. 2017-OFC-08004 (April 7, 2017 hearing) at 48
26 (testimony by OFCCP Regional Director Janette Wipper).

27 ⁴ “Google Deliberately Confuses Its Employees, Fed Says,” *Wired*, July 25, 2017 (quoting Janet
28 Herold, Regional Solicitor for OFCCP).

1 job-related factors other than protected class status that might account for potential explanations of
2 pay differences.

3 35. When performing its regression analysis, OFCCP had data about job code, which at
4 Google includes both job position and salary level. When performing regression analyses in other
5 cases involving other Complaints (*see* January 17, 2017 U.S. OFCCP Administrative Complaint
6 against Oracle), OFCCP has controlled for job code (i.e. compared people having the same job
7 code). Google concedes that employees in the same job position and level perform like level of
8 duties and responsibilities. Accordingly, on information and belief, the OFCCP's regression analysis
9 of data from 2015 from all 21,000 employees at Google's Mountain View Headquarters, in all jobs
10 at Google's Mountain View Headquarters, controlled for job code. OFCCP's regression analysis
11 thus compared persons performing substantially equal or similar work, including persons in the
12 Covered Positions.

13 **Violations of the Equal Pay Act and Unfair Competition Law**

14 36. Throughout the Class Period and throughout California, Google has maintained and
15 continues to maintain a centrally determined and uniformly applied policy and/or practice of paying
16 its female employees in Covered Positions less than male employees for substantially equal or
17 similar work, when viewed as a composite of skill, effort, and responsibility, and performed under
18 similar working conditions.

19 37. Google employees with the same job title and level in Covered Positions throughout
20 California have performed, from the beginning of the Class Period until at least December 31, 2015,
21 equal work on jobs the performance of which requires equal skill, effort, and responsibility, and
22 performed under similar working conditions, and from at least January 1, 2016 until the present,
23 substantially similar work, when viewed as a composite of skill, effort, and responsibility, and
24 performed under similar working conditions. Throughout the Class Period, Google has paid women
25 in the Covered Positions, including the four Plaintiffs, less than men in the same job position and
26 level.

1 38. In addition, throughout the Class Period, Google paid Kelly Ellis and female
2 Software Engineers, Heidi Lamar and female Preschool Teachers, and Kelli Wisuri and female
3 Enterprise Sales Operations Coordinators and Associates, less than men performing substantially
4 equal or similar work in the same job by slotting men into higher salary levels (i.e. salary bands).

5 39. Throughout the Class Period, Google has also paid women less than men in different
6 job positions who are performing equal or substantially similar work, in the following three job
7 pairings:

8 (A) Throughout the Class Period, Google has paid female Brand Evangelists, including
9 Plaintiff Kelli Wisuri, less than male Sales Representatives even though they have
10 performed, from the beginning of the Class Period until at least December 31, 2015, equal
11 work on jobs the performance of which requires equal skill, effort, and responsibility, and
12 performed under similar working conditions, and from at least January 1, 2016 until the
13 present, substantially similar work, when viewed as a composite of skill, effort, and
14 responsibility, and performed under similar working conditions.

15 (B) Throughout the Class Period, Google has paid female Senior Managers for Business
16 Systems Integration, including Plaintiff Holly Pease, less than male Senior Software
17 Engineer Managers, even though they performed, from the beginning of the Class Period
18 until at least December 31, 2015, equal work on jobs the performance of which requires
19 equal skill, effort, and responsibility, and performed under similar working conditions, and
20 from at least January 1, 2016 until the present, substantially similar work, when viewed as a
21 composite of skill, effort, and responsibility, and performed under similar working
22 conditions.

23 (C) Throughout the Class Period, Google has paid female Program Managers, less than male
24 Technical Program Managers, even though they performed, from the beginning of the Class
25 Period until at least December 31, 2015, equal work on jobs the performance of which
26 requires equal skill, effort, and responsibility, and performed under similar working
27 conditions, and from at least January 1, 2016 until the present, substantially similar work,
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1 when viewed as a composite of skill, effort, and responsibility, and performed under similar
2 working conditions.

3 40. One reason Google unlawfully fails to pay men and women equally for substantially
4 equal or similar work is because Google relies on prior salary (before becoming employees of
5 Google) to set salary for new hires and to determine what compensation level into which to place
6 each new hire. Overall, in the United States, women are paid no more than 79 cents for each dollar a
7 man is paid. Even after adjusting for type of job, industry, experience, education, and location,
8 women in the United States are paid no more than 92 cents for every dollar earned by a man.
9 Google's use of prior compensation to set starting compensation for its employees perpetuates this
10 historic pay disparity between men and women, and results in men receiving higher starting salaries
11 than women, even when those men and women are hired into the same job position and perform
12 substantially equal or similar work.

13 41. Because Google routinely asks for applicants' prior salary, and uses that prior salary
14 to determine the employees' assigned level, Google routinely assigns women to salary levels below
15 the work that they actually perform. For example, if a woman's prior salary for a given job family
16 falls within the salary range for Level 3, and a man's prior salary for a given job family falls within
17 the salary range for Level 4, Google places the woman into that job family at Level 3, and places the
18 man into that job family at Level 4, even when the man and woman actually perform the same job
19 duties and have the same level of responsibility at Google. Google's under-leveling of women not
20 only resulted in Google paying them lower base salaries than if they had been properly levelled, but
21 also resulted in Google paying them smaller bonuses and fewer stock units and options than if
22 Google had placed them in the proper level.

23 42. Raises at Google perpetuate and widen the gender pay gap because they are based on
24 a percentage of the employees' existing Google salary—so the longer a woman works at Google, the
25 less she is paid compared to similarly situated men, even men performing substantially equal or
26 similar work in the same job position.
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1 43. Google performs internal pay equity analyses on an annual basis. Google is also
2 required to maintain records of the wage rates, job classifications, and other terms and conditions of
3 employment of all of its employees throughout California. Accordingly, at all relevant times,
4 Google has known or should have known of the substantial pay disparities between its female
5 employees in Covered Positions and male employees in Covered Positions performing substantially
6 equal work (through December 31, 2015) or similar work (from January 1, 2016), yet Google has
7 taken no action to equalize men and women’s pay for equal or substantially similar work. Google’s
8 failure to pay female employees the same compensation paid to male employees for equal or
9 substantially similar work has been and is willful.

10 44. As a result of Google’s unlawful pay policies and/or practices, Plaintiffs and Class
11 Members have been denied compensation legally owed to them for work performed during the
12 Class Period and are entitled to wages and other compensation due, interest thereon, and
13 liquidated damages. In addition to damages, Plaintiffs also seek declaratory and injunctive relief
14 enjoining Google from continuing to pay women less than men for substantially similar work.

15 **Violations of the Fair Employment Housing Act and Unfair Competition Law**

16 45. Throughout the Class Period and throughout California, Google has violated and
17 continues to violate the Fair Employment and Housing Act (“FEHA”), Government Code §12940(a),
18 by discriminating against women with respect to their compensation and/or in the terms, conditions,
19 and privileges of employment on the basis of sex. Specifically Google applies common
20 compensation, promotion, and assignment policies through which it: (a) assigns women to lower
21 “Levels” (i.e. salary bands) than similarly-qualified men, even when women’s qualifications are
22 equal to or greater than men’s; (b) assigns women to jobs that Google does not compensate as highly
23 as those jobs populated largely by men, even when women are equally qualified for the more highly
24 compensated jobs; (c) promotes women more slowly and at lower rates than similarly-situated men,
25 even though women are equally or more qualified for promotion; and (d) pays women less than
26 similarly-situated and/or qualified men.

1 46. Throughout the Class Period, Google relied on prior pay when setting its employees’
2 starting salaries and assigning them to salary Levels, a policy and practice that caused Google to slot
3 women into lower salary levels and to pay women lower starting pay than similarly qualified men.
4 Throughout the Class Period, Google’s use of prior salaries has resulted in women in Covered
5 Positions, including Plaintiffs Heidi Lamar, Kelly Ellis, Kelli Wisuri, being placed into lower-paying
6 salary levels, and paid lower compensation on initial hire, than similarly qualified males.

7 47. For example, Google asked Heidi Lamar for her prior salary as an early childhood
8 educator, and then placed her into Preschool Teacher Level 1, and paid her at that salary, even
9 though at or around that time Google hired a male who did not have a Master’s in Teaching, as
10 Ms. Lamar did, or as much relevant job experience as Ms. Lamar did, as a Preschool Teacher at
11 a salary Level 2. Google paid that male at a higher hourly rate (\$21.00/hr) than it paid Ms.
12 Lamar (\$18.51/hr), who was hired for the same job position and performed the same job duties.
13 Similarly, Google asked Kelly Ellis about her prior salary as a Software Engineer and then paid
14 her that salary. She was hired as a Software Engineer in the Level 3 salary level for entry level
15 employees, even though she had four years of relevant job experience as a software engineer and
16 had graduated four years earlier from the University of Virginia with a major in Applied
17 Mathematics and a Minor in Computer Science. At the same time, Google hired a man who
18 graduated from college in the same year as Ms. Ellis, but who had less relevant work experience,
19 as a Software Engineer. Google placed him in salary Level 4, with greater compensation,
20 despite the fact that Kelly Ellis was similarly or more qualified to be placed in Level 4.
21 Similarly, Google paid Kelli Wisuri her prior salary, hiring her at Level 2 for entry level
22 employees without job experience, despite her two and a half years of job experience, while
23 simultaneously hiring similarly qualified males into the higher paying salary Level 3.

24 48. Throughout the Class Period, Google has regularly and routinely channeled and
25 segregated women into lower-paying Levels (i.e., salary bands) than men with equal or lesser
26 qualifications and/or paid women less than similarly qualified or situated men.
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1 All women employed by Google in a Covered Position in California at any time from
2 September 14, 2013 through the date of trial in this action, excluding campus hires and
women hired after August 28, 2017.

3 53. This action is appropriately suited for a class action pursuant to Code of Civil
4 Procedure §382 because there exists an ascertainable and sufficiently numerous Class, a well-
5 defined community of interest, and substantial benefits from certification that render proceeding as a
6 class superior to the alternatives.

7 54. Numerosity and Ascertainability. The size of the Class makes a class action both
8 necessary and efficient. The proposed Class includes thousands of current and former female
9 Google employees located across California. Members of the Class are ascertainable through
10 Google's records, but are so numerous that joinder of all individual Class members would be
11 impractical.

12 55. Predominant Common Questions of Law and Fact. Common questions of law and
13 fact affecting the rights of all Class members predominate over individualized issues. These
14 common questions include, but are not limited to: (a) whether Google has a systemic policy and/or
15 practice of paying its female employees in Covered Positions at wage rates lower than those paid to
16 its male employees performing substantially equal or similar work under similar conditions; (b)
17 whether Google's systemic policy and/or practice of paying its female employees in Covered
18 Positions at wage rates lower than those paid to their male counterparts violates the California Equal
19 Pay Act, as amended, Labor Code §§1197.5 *et seq.*; (c) whether Google has a systemic policy and/or
20 practice of paying women in Covered Positions less than similarly-situated and/or qualified men; (d)
21 whether Google has a systemic policy and or practice of assigning and channeling women in
22 Covered Positons to lower paying job positions, job ladders and salary Levels; (e) whether Google's
23 systemic policy and/or practice of paying its female employees in Covered Positions at wage rates
24 lower than those it paid to their male counterparts was willful; (f) whether Google's use of prior pay
25 to determine starting salary has an adverse effect on women, in terms of compensation, position, or
26 Level assigned; (g) whether Google's systemic policy and/or practice of paying women less than
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1 similarly-situated and/or qualified men violates FEHA; and (h) whether Google’s policies and
2 practices violate the Unfair Competition Law.

3 56. Typicality: All four Plaintiffs’ claims are typical of the Equal Pay Act claims (and
4 UCL claims arising out of EPA claims) of the Class as a whole because all four Plaintiffs are women
5 who were employed by Google in Covered Positions in California during the Class Period and were
6 paid less than male employees for substantially equal work (through December 31, 2015) or similar
7 work (from January 1, 2016 forward). Plaintiffs Lamar, Ellis, and Wisuri’s claims are typical of the
8 Unfair Competition Law claims arising out of the FEHA claims of women who were assigned to
9 lower pay levels because of Google’s practice of relying on prior salary when setting a new hire’s
10 salary. Plaintiffs Pease, and Wisuri’s claims are typical of Unfair Competition Law claims based on
11 the FEHA claims of women assigned to lower paying jobs and ladders than similarly situated males
12 because of gender stereotypes.

13 57. Adequacy of Representation. Plaintiffs will fairly and adequately represent the
14 interests of the Class because their individual interests are consistent with, and not antagonistic to,
15 the interests of the Class, and because Plaintiffs have retained counsel who have the requisite
16 resources and ability to prosecute this case as a class action and are experienced labor and
17 employment attorneys who have successfully litigated other cases involving similar issues, including
18 in class actions.

19 58. Superiority of Class Mechanism. Class certification is appropriate because common
20 questions of law and fact predominate over any questions affecting only individual Class Members.
21 Google’s liability in this case is based on uniform company policies and procedures applicable to all
22 Covered Positions, including, but not limited to, its policy of relying on prior salary to determine
23 Google starting pay and job level. The compensation that Google owes to each individual Class
24 Member is small in relation to the expense and burden of individual litigation to recover that
25 compensation. The prosecution of separate actions against Google by individual Class Members
26 could create a risk of inconsistent or varying adjudications which could establish incompatible
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standards of conduct for Google. A class action is superior to other available methods for the fair and efficient adjudication of the controversy set forth herein.

ALLEGATIONS OF NAMED PLAINTIFFS

Plaintiff Kelly Ellis

59. Plaintiff Ellis was hired by Google in 2010 as a Software Engineer. During the hiring process, Google asked Ms. Ellis about her prior salary. Google then offered Ms. Ellis essentially the same base salary as she had received at her prior job.

60. Ms. Ellis graduated from the University of Virginia in 2006 with a bachelor’s degree in applied mathematics and a minor in computer science. At the time of her hiring, she had four years’ experience working in backend software engineering. Google hired Ms. Ellis as a Software Engineer but placed her into Level 3, even though she had four years of directly relevant work experience. Level 3 is the level to which Google typically assigns new college graduates. Google placed Ms. Ellis into Level 3 rather than Level 4 because her prior salary fit within Google’s Level 3 salary range. At the time of her hiring, Ms. Ellis was qualified to work as a Software Engineer Level 4 at Google.

61. Within a few weeks of hiring Ms. Ellis, Google hired a male who had less relevant job experience as a Software Engineer on Ms. Ellis’s Software Engineer team. Even though that male, like Ms. Ellis, had graduated from college in 2006, and had less relevant job experience, Google placed him into the higher-paying salary Level 4.

62. Even though Ms. Ellis performed substantially equal work to the male 2006 graduate hired onto her Software Engineer group and to other male Software Engineers in the level immediately above her, Level 4, she was paid less for the same work.

63. While Ms. Ellis was a Level 3 Software Engineer, she performed substantially equal, or more advanced, work than men who Google assigned as Level 3 Software Engineers. While Ms. Ellis was a Level 3 Software Engineer, she earned less than male Level 3 Software Engineers, despite performing substantially equal (or more advanced) work than those males.

1 64. Ms. Ellis received excellent performance reviews. Senior software engineers that she
2 worked with quickly recognized that she had been under-levelled, and suggested she apply for a
3 promotion consistent with her skill, experience, and the work she was already performing at Google.
4 But the first time Ms. Ellis applied for a promotion, Google denied her application. Although
5 Google acknowledged her excellent performance, it refused to pay her at the same rate as men
6 performing substantially equal or similar work on the ground that she had not been at the company
7 long enough to merit a promotion. Ms. Ellis eventually obtained the higher-paying Level 4
8 designation that was given to her male counterparts on their first day on the job—but by that time,
9 her male counterparts were on their way to even higher levels and compensation for similar work,
10 ensuring that she would never catch up on the gender pay gap. Near the end of her employment at
11 Google, Ms. Ellis was finally promoted to Software Engineer level 5, but again, could not catch up
12 and remained underpaid compared to male Software Engineers performing substantially equal work.

13 65. While a Software Engineer Level 4, Ms. Ellis continued to be paid less than Google
14 paid male Software Engineers performing substantially equal work, including male Software
15 Engineers at Level 4. While a Software Engineer Level 5, Ms. Ellis was paid less than male
16 Software Engineers performing substantially equal work, including male Software Engineers at
17 Level 5.

18 66. Because Google initially placed Ms. Ellis into a Level below that warranted by her
19 skills and qualifications, she was under-leveled during most of her time at Google: That is, she
20 performed Level 4 work while assigned to Level 3 and performed Level 5 work while assigned to
21 Level 4. Google consistently underpaid Ms. Ellis in comparison to what it paid male Software
22 Engineers who were performing substantially equal work.

23 67. While a Software Engineer at Google, Ms. Ellis’s job duties and the job duties of the
24 male Software Engineers at her level and the level above her consisted of writing code, designing
25 systems, designing code, and code reviews. During the time Ms. Ellis was at Google she performed
26 substantially equal work to the other Google Software Engineers in her salary level and the salary
27 level immediately above hers.
28

1 still on the “Operations” ladder on how to pass the technical interviews necessary to convert to the
2 “Engineering” ladder. Google re-assigned almost all of these employees to the higher-paying
3 Software Engineering ladder, including a male manager one level below Ms. Pease whom she
4 personally coached, and who, despite performing poorly on a technical interview, was assigned to
5 the Software Engineering ladder because he managed software engineers. The transitioned
6 employees’ job duties did not change after Google re-assigned them to a higher-paying
7 “Engineering” ladder.

8 74. Google refused to pay Ms. Pease at the same rate as similar employees on the
9 “Engineering” ladder, even though she and they were all performing substantially equal or similar
10 work. Ms. Pease’s two interviewers, both men, did not ask her any technical questions, and one
11 interviewer did not even bother to take notes of the meeting with her. Google ultimately denied Ms.
12 Pease re-assignment to the higher-paying “Engineering” ladder on the false pretext that she lacked
13 technical influence, even though she had decades of technical experience and even though she—like
14 the male manager she coached into a similar re-assignment—managed large groups of software
15 engineers. Ms. Pease continued to perform substantially equal or similar work to the male
16 employees whom Google assigned to the “Engineering” ladder – supervising groups of employees
17 developing software applications for Google – but Google paid her less than those males.

18 75. While Ms. Pease was on medical leave, Google transferred the employees she
19 managed to another group. When she returned from medical leave, the only position made available
20 to her was a non-engineering position in physical security. Ms. Pease was paid less than the men in
21 that same position performing substantially equal work. Ms. Pease received excellent performance
22 reviews in her new position. Nonetheless, due to the lack of engineering opportunities available to
23 her and other women at Google, the denial of compensation commensurate with her duties and skills
24 relative to similarly situated and qualified men, and the stalling out of her career at the company, Ms.
25 Pease resigned in February 2016.

1 jobs earn considerably less compensation than employees in Sales jobs. Almost all of the employees
2 on the Sales teams Ms. Wisuri worked with were men. About 50% of the employees in Sales
3 Enablement jobs were women.

4 81. In 2014, Ms. Wisuri became a Google Brand Evangelist (formally titled Sales
5 Solution Senior Associate) in the Google Executive Communications Program. Her job duties
6 included preparing and presenting sales pitches to the executive teams of clients with more than \$10
7 million in brand marketing sales to Google. Her role was part of Google’s “sales funnel,” and she
8 worked with Sales teams both before and after the pitches. During her time at Google, she was
9 responsible for bringing in significant new revenue to Google. Although Ms. Wisuri was performing
10 work that was substantially equal to that performed by her male counterparts on the Sales team, she
11 remained on the Sales Enablement ladder, which is less compensated and provides fewer
12 opportunities for career advancement into higher-paying jobs.

13 82. As a Brand Evangelist, Ms. Wisuri worked with Sales Representatives in preparing
14 sales pitches to potential clients to get the clients excited about Google products. She trained the
15 Sales Representatives to make similar pitches. After making the sales pitches to the clients, she
16 worked with Sales Representatives to sell the Google product to the clients. Even though during the
17 period Ms. Wisuri worked as a Brand Evangelist her work was substantially equal to that of Sales
18 Representatives with whom she worked and to other Sales Representatives who worked on other
19 products, she was paid less than the male Sales Representatives.

20 83. For the entire time that Ms. Wisuri worked at Google, she was paid less than men for
21 substantially equal work performed under similar working conditions, when viewed as a composite
22 of skill, effort, and responsibility.

23 84. Ms. Wisuri resigned from Google in January 2015.

24 **Plaintiff Heidi Lamar**

25 85. Heidi Lamar graduated from Bennington College with a B.A. in Literature and
26 Teaching and a Master’s in Teaching for the Early Childhood level. Before coming to work at
27 Google, she had five years of relevant job experience – one year of full-time student teaching in an
28

1 inclusive pre-school classroom and four year as an Early Childhood Educator in a pre-school with
2 the same teaching philosophy as Google's.

3 86. In July 2013, Google hired Ms. Lamar as a Preschool Teacher. Google asked Ms.
4 Lamar what her previous salary had been and paid her that salary – \$18.51 per hour. Google slotted
5 Ms. Lamar into salary Level 1, even though she had five years of job experience. Google placed Ms.
6 Lamar into Level 1 rather than Level 2 because her prior salary fit within the Level 1 salary range.
7 Ms. Lamar was qualified to be placed into Level 2.

8 87. Around the same time Google hired Ms. Lamar, it hired a male as Preschool Teacher
9 who did not have a Master's in Teaching and did not have as much relevant job experience as Ms.
10 Lamar, and slotted him in at salary Level 2, paying him \$21.00 per hour.

11 88. During the time Ms. Lamar worked as a Preschool Teacher for Google, Google
12 employed approximately 150 Preschool Teachers – approximately 147 of whom were female, and
13 three of whom were male. Two of the three males were hired into salary Level 2. Ms. Lamar is only
14 aware of one woman whom Google hired into salary Level 2 around or after Ms. Lamar's start date,
15 and that woman had over ten years of job experience. All the other women were hired into salary
16 Level 1.

17 89. Ms. Lamar was eventually promoted to salary Level 2, and in late 2016 was promoted
18 to salary Level 3.

19 90. During the time from when Google hired Ms. Lamar as a Preschool Teacher in July
20 2013, until late 2016, when she was promoted to level 3, she performed substantially equal or similar
21 work to the male Level 1 and Level 2 Preschool Teachers – but she was paid less than those males.
22 During the time Ms. Lamar was a Preschool Teacher and Infant/Toddler Teacher at Google, the job
23 duties for Preschool and Infant/Toddler teachers at all levels were as follows:

- 24 a. Provide responsive, relationship-based care and create a stimulating
25 environment for children. Develop creative and age-appropriate activities
26 based on child's interests. Create a nurturing environment for play and
27 exploration for children;
28

1 94. From the beginning of the Class Period until at least December 31, 2015, Google
2 paid women less (including base salary, bonuses, and stock) than it paid men in the same
3 establishment (which includes all of Google’s office locations in California) for equal work on jobs
4 the performance of which required equal skill, effort, and responsibility, and performed under
5 similar working conditions. From at least January 1, 2016 until the present, Google has paid women
6 less (including base salary, bonuses, and stock) than men in the same establishment (i.e. all of
7 Google’s California offices) for substantially similar work, when viewed as a composite of skill,
8 effort, and responsibility, and performed under similar working conditions.

9 95. Throughout the Class Period, Google has maintained and continues to maintain a
10 centrally determined and uniformly applied policy and/or practice throughout California of not
11 adjusting employees’ wage rates to ensure that it does not pay its female employees less than its
12 male employees for substantially equal or similar work.

13 96. Google’s failure to pay women and men equal wages for performing substantially
14 equal or similar work is not justified by any lawful reason.

15 97. Google has willfully violated California Labor Code §1197.5 by intentionally,
16 knowingly, and/or deliberately paying women less than men for substantially equal or similar work
17 throughout the Class Period.

18 98. As a result of Google’s ongoing conduct, violation of California Labor Code §1197.5,
19 and/or willful discrimination, Plaintiffs Pease, Wisuri, Lamar, and Class Members have suffered and
20 will continue to suffer harm, including but not limited to lost earnings, lost benefits, and other
21 financial loss, as well as non-economic damages.

22 99. Plaintiffs Pease, Wisuri, Lamar, and Class Members are entitled to all legal and
23 equitable remedies available under law, including compensation (including salary, bonuses, and
24 stock), wages, interest, and liquidated damages.

1 against in the workplace, as reflected in both the California Fair Employment and Housing Act, Cal.
2 Gov't Code §12940 *et seq.*, and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.*

3 109. As a result of its unlawful and/or unfair business practices, Google has reaped and
4 continues to reap unfair and illegal profits at the expense of Plaintiffs and Class members.
5 Accordingly, Google should be required to disgorge its illegal profits, and to pay Plaintiffs and Class
6 members are entitled to restitution with interest of such ill-gotten profits in an amount according to
7 proof at the time of trial.

8 110. Google's unlawful and/or unfair business practices entitle Plaintiffs and Class
9 members to preliminary and permanent injunctive relief and other equitable relief available under
10 law.

11 **FOURTH CAUSE OF ACTION**

12 **Declaratory Judgment**
13 **Cal. C.C.P. § 1060 *et seq.***

14 **(Brought by All Plaintiffs on Behalf of Themselves and the Plaintiff Class)**

15 111. Plaintiffs hereby re-allege and incorporate by reference all allegations in each and
16 every preceding paragraph as if fully set forth herein.

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

21 113. A declaratory judgment is necessary and proper in that Plaintiffs contend that Google
22 has committed and continues to commit the violations set forth above and, on information and belief,
23 Google will deny that it has done so and/or will continue to commit such acts.

24 **FIFTH CAUSE OF ACTION**

25 **Representative Action for Civil Penalties**
26 **Cal. Labor Code §§ 2698- 2699.5**

27 **(Brought by Plaintiffs Holly Pease and Kelli Wisuri on Behalf of Themselves, All Similarly**
28 **Aggrieved Current and Former Google Employees, and the State)**

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

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By: /s/Kelly M. Dermody
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1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs Kelly Ellis, Holly Pease, Kelli Wisuri, and Heidi Lamar on behalf of themselves
3 and all others similarly situated, hereby demand a jury trial with respect to all issues triable of right
4 by jury.

5 Respectfully submitted,

6 Dated: June 14, 2022

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