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WEI YE

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

WEI YE, individually

Plaintiff,

v.

FIDELITY BROKERAGE SERVICES LLC, a
corporation; ROBERT DOUGLAS JUDAY, an
individual; and DOES 1 through 50, inclusive.

Defendants.

Case No. 24CV451159

COMPLAINT FOR DAMAGES

- 1) Race Discrimination in Violation of FEHA
(Government Code § 12940, et seq.);**
- 2) Harassment on the Basis of Race in Violation
of FEHA (Government Code § 12940, et seq.);**
- 3) Gender/Sex Discrimination in Violation of
FEHA (Government Code § 12940, et seq.);**
- 4) Harassment on the Basis of Gender/Sex in
Violation of FEHA (Government Code § 12940,
et seq.);**
- 5) Disability Discrimination in Violation of
FEHA (Government Code § 12940, et seq.);**
- 6) Harassment on the Basis of Disability in
Violation of FEHA (Government Code § 12940,
et seq.);**
- 7) Failure to Provide Reasonable
Accommodations in Violation of FEHA
(Government Code § 12940, et seq.);**

1 8) Failure to Engage in Interactive Process in
2 Violation of FEHA (Government Code § 12940,
3 et seq.);

4 9) Failure to Prevent Discrimination and
5 Harassment in Violation of FEHA
6 (Government Code § 12940, et seq.);

7 10) Retaliation in Violation of FEHA
8 (Government Code § 12940, et seq.);

9 11) Retaliation for Taking A Leave of Absence
10 Protected by CFRA (Government Code §
11 12945.2, et seq.);

12 12) Retaliation in Violation of Labor Code §
13 1102.5;

14 13) Wrongful Termination in Violation of Public
15 Policy; and

16 14) Intentional Infliction of Emotional Distress

17 15) Defamation in Violation of Labor Code § 44
18 and § 46(3)

- 19 1. Plaintiff WEI YE (*also known as “Rebecca Ye”*), individually, brings this action against
20 Defendant FIDELITY BROKERAGE SERVICES LLC, a corporation, ROBERT DOUGLAS
21 JUDAY, an individual, and DOES 1 through 50, inclusive.

22 ***PARTIES***

- 23 2. Plaintiff WEI YE (“Plaintiff” or “Ye”) is, and at all times relevant to this action was, a resident of
24 the County of Santa Clara, California.
- 25 3. Defendant FIDELITY BROKERAGE SERVICES LLC (“Defendant” or “Fidelity”) is, and at all
26 times mentioned in this Complaint was, an active Delaware corporation authorized to do business
27 in California;
- 28 4. Defendant ROBERT DOUGLAS JUDAY is, and at all times mentioned in this Complaint was, an
individual residing in California;

- 1 5. Plaintiff does not know the true names of Defendants Does 1 through 50, inclusive, and therefore
2 sues them by those fictitious names. The names, capacities, and relationships of Defendants Does
3 1 through 50, inclusive, will be alleged by amendment to this Complaint when the same are known
4 to Plaintiff.
- 5 6. All defendants may be collectively referred to as “Defendants” and they employed or co-employed
6 Plaintiff directly or indirectly.
- 7 7. The true names and capacities, whether individual, corporate, associate or otherwise, of
8 defendants Does 1 through 50 (“Does”), inclusive and each of them, are not known to Plaintiff at
9 this time. Such Does are legally responsible for the events and happenings described herein and
10 for the damages proximately caused thereby. Plaintiff will seek the leave of the Court to amend
11 this complaint to set forth the true names and capacities of any such Does when they have been
12 ascertained.
- 13 8. On information and belief, at all times mentioned herein, defendants, inclusive and each of them,
14 including without limitation any Does, were acting in concert and participation with each other;
15 were joint participants and collaborators in the acts complained of; and were the agents and/or
16 employees of one another in doing the acts complained of herein, each acting within the course
17 and scope of said agency and/or employment.

18
19 ***JURISDICTION AND VENUE***

- 20 9. This Court has jurisdiction over Defendants because at all times relevant, they were authorized
21 to transact and are transacting business in California and/or are residents of California.
- 22 10. Venue is proper in this Court pursuant to Code of Civil Procedure § 395, because the acts, events
23 and omissions complained of herein occurred in Santa Clara County, California.

24
25 ***EXHAUSTION OF ADMINISTRATIVE REMEDIES***

- 26 11. On or about November 6, 2024, Plaintiff obtained a Right to Sue Letter from the California
27 Department of Fair Employment and Housing attached hereto as Exhibit A.

28 ***GENERAL ALLEGATIONS***

12. *Plaintiff's Alleged Protected Status and Activity:*

- a. Plaintiff, Ye is an Asian American female;
- b. Plaintiff required a temporary leave of absence because she suffered from a serious disability;
- c. Plaintiff reported what she in good faith believed in to be illegal activity to her employer.

13. Fidelity offered Plaintiff a job on November 10, 2017, as an Assistant Branch Manager. Plaintiff accepted the offer. Fidelity employed Plaintiff until Fidelity wrongfully terminated her employment on February 15, 2024. At all times stated herein, Ye performed the essential functions of her job competently.

14. Plaintiff earned a stellar performance review at the end of her first full year in 2018, Plaintiff's supervisor described her as a great asset:

Rebecca was a great asset to the firm and the San Francisco market in 2018. Her willingness to help in any and all circumstances was clearly demonstrated when she covered Palo Alto as interim BOM for an extended period. Rebecca quickly stabilized the operations and compliance of the branch and made significant progress against the branch's performance metrics. During that same period, she also assisted other BOMs in day to day operations and compliance support. Rebecca has demonstrated core strengths in recruiting, strategy, motivation, and coaching.

15. In 2018, due to her hard work and exemplary performance, Plaintiff earned a promotion to Vice President, Wealth Management Advisor. In her role as a Vice President, Wealth Management Advisor, Plaintiff reported to Regional Vice President, John Lloyd ("Lloyd"). In Plaintiff's Annual Performance Evaluations from 2019 through 2021 she earned a "Successful Performance" rating. In her 2021 Annual Performance Evaluation, Lloyd said the following regarding Plaintiff's performance: "Top quartiles in Planning, TOA, and NPS. Great improvement in Development. Your supported territory has a growing confidence in your ability to fully take care of the clients and deliver results. Thanks so much for your commitment. You have a very bright future."

16. In November 2021, Regional Vice President, Robert Douglas Juday, also known as Doug Juday, ("Juday") became Plaintiff's immediate supervisor.

17. As she became familiar with Juday, Plaintiff noticed that Juday used false and pretextual

complaints about performance to berate and diminish the accomplishments of non-Caucasian women, or women of color, whom he supervised. Plaintiff observed that Juday did not give clear, constructive or fair feedback to Plaintiff along with two other women of color. Throughout the time Plaintiff reported to Juday she observed that Juday did not place men or Caucasian employees on Performance Improvement Plans or subject them to written disciplinary action. Juday used written warnings and Performance Improvement Plans that misstated facts as a tool to discipline and terminate the employment of women of color. In addition, Juday used a demeaning, overtly hostile tone with women of color both publicly and privately that he did not use with employees he supervised that were either Caucasian or men.

18. In 2022, Plaintiff's first performance evaluation conducted by Juday still rated her as having "Successful Performance." However, throughout, Juday continued to levy unfair criticism and appraisals of Plaintiff's work performance.

19. On or around April 25, 2023, Juday mentioned to Plaintiff that he was considering issuing disciplinary action against Plaintiff. Plaintiff proactively came up with a ninety (90) day plan to improve her performance based on Juday's complaints. Plaintiff engaged with Juday multiple times to seek clarity and concrete benchmarks towards which she could strive, which Juday refused to provide. Thereafter, it became clear that Juday was using Plaintiff's performance as a pretext since all of Plaintiff's efforts were in vain and any allegations of shortcomings were made by Juday in bad faith.

20. Juday's tone, false and defamatory accusations, and demeaning attitude went above and beyond that required to carry out day to day personnel actions and management of employees. Juday's discriminatory animus and attitude, as well as the methods in which he expressed it in the workplace, impacted Plaintiff's emotional tranquility, caused significant emotional distress, and impacted her ability to perform her work.

21. On or around August 1, 2023, Plaintiff reported that Juday is discriminating against and harassing Plaintiff on the basis of Plaintiff's gender/sex and race to Director of Human Resources, Audrey Ross ("Ross") and Executive Vice President, Roger Hobby ("Hobby"). However, Hobby did not give Plaintiff a chance to talk, said he already spoke with Juday, and

the rest of the conversation was about Plaintiff finding another position within Fidelity.

22. On or around August 10, 2023, Plaintiff had an appointment with a medical professional wherein she was diagnosed with severe depression and anxiety. Plaintiff's medical condition was a temporary disability as it impacted her ability to perform day to day activities, required ongoing medical treatment and medication was prescribed to her to help manage the symptoms.
23. On or around August 20, 2023, Plaintiff reiterated her report of discrimination and harassment based on her gender/sex and race by writing in an email to Director of Human Resources, Ross. Specifically, Plaintiff discussed how Juday subjected her to mistreatment, unclear and changing expectations, negativity and toxic language, gaslighting, and that this was all on the basis of her sex. On or around September 8, 2023, Plaintiff started to experience severe chest pains for which she needed medical attention.
24. Fidelity never conducted a full, thorough, and good faith investigation of Plaintiff's claims of discrimination. Instead of conducting a thorough investigation and taking Plaintiff's whistleblower reports seriously, Defendants retaliated by placing Plaintiff on a sixty (60) day Performance Improvement Plan on September 15, 2023. Defendants' retaliatory Performance Improvement Plan came less than one (1) month after Plaintiff's report of discrimination and harassment in the workplace. Juday listed the following performance deficiencies: strategic approach to practice, proactively providing ideas to clients, communication skills, and core solutions knowledge. Juday's retaliatory motive was obvious to Plaintiff as strategic approach and communication skills are areas that Plaintiff's previous manager had identified as a strength.
25. On or around September 26, 2023, and October 2, 2023, Vice President, Advanced Planning, Matthew Metos and Vice President, Wealth Planner, Jason Klein both gave glowing performance appraisals regarding Plaintiff. They praised her organization, communication skills, relationship with clients, ability to propose ideas to clients, and ability to explain complex issues. However, Juday continued to criticize Plaintiff for the same areas that others recognized as a strength.
26. On or around October 10, 2023, Plaintiff emailed the Director of Employee Relations, Jewel Ellis ("Ellis") to report Juday's discrimination, harassment and retaliation. Plaintiff included an

1 explanation of how Juday was using unfair and inaccurate statements regarding her work
2 performance to justify placing Plaintiff on a retaliatory Performance Improvement Plan. Plaintiff
3 reported Juday's actions had caused her intense stress, anxiety and depression.

4 27. On or around October 26, 2023, Plaintiff sent Ellis a written complaint stating in no uncertain
5 terms that women of color are treated poorly and subjected to discrimination by Defendants. The
6 following day, Plaintiff met with Ellis. Plaintiff reiterated the ways in which Juday has
7 discriminated, harassed and retaliated against her for her race, gender/sex, and reports of
8 discrimination. Plaintiff also informed Defendants of her need for a medical leave of absence
9 starting on November 13, 2023, for her own serious disability. At no point did Fidelity or any of
10 its employees make any good faith attempt to engage Plaintiff in the interactive process to
11 determine how she could continue to perform her job duties with accommodations when she
12 returned from her protected leave of absence under the California Family Rights Act ("CFRA").

13 28. On or around October 31, 2023, Plaintiff's doctor faxed medical documentation confirming
14 Plaintiff's need to take a medical leave of absence because of her disability. Initially, Plaintiff
15 requested a two-week leave of absence, and her doctor recommended she take one.

16 29. However, Plaintiff had to delay her medical leave to work on a large client's account because
17 she was the only one who would win the relationship and their business.

18 30. On November 13, 2023, Plaintiff provided a statement regarding the discrimination, harassment
19 and retaliation she faced at work, "As you are aware, my concerns primarily revolve around the
20 discriminatory conduct, harassment, retaliatory actions, defamation that I have experienced in
21 my work relationship with my manager, Doug Juday. I initially reached out to HR on August 1,
22 2023."

23 31. During the subsequent investigation, one of the witnesses named by Plaintiff confirmed that
24 Juday treats Asian American women worse than other employees and the witness herself was
25 subjected to discrimination and harassment by Juday. Defendants ignored evidence of
26 discrimination, harassment, and retaliation in the workplace.

27 32. On or around November 28, 2023, Plaintiff told Defendants' Vice President, Employee
28 Relations, Michael LaVita, that she has a desire to seek legal recourse against Defendants for

the illegal harassment she has faced at work. In retaliation, on December 6, 2023, despite her constant effort Defendants' extended Plaintiff's Performance Improvement Plan for another sixty (60) days. Plaintiff immediately reported Juday's latest retaliatory actions to Defendants to no avail.

33. Defendants terminated Plaintiff's employment on February 15, 2024. Juday participated in and delivered news of Plaintiff's termination to her. Plaintiff provided a written rebuttal of Juday's false claims regarding her work performance and protested her PIP unsuccessfully.

34. Defendants' stated reason for terminating Plaintiff was false and mere pretext as Defendants' real reason for terminating Plaintiff's employment was for wrongful, illegal, discriminatory and/or retaliatory purposes related to her disability, race, gender, and/or her good faith complaints regarding conduct that she believed to be illegal.

DAMAGES

35. *Economic damages:* As a consequence of Defendants' conduct, Plaintiff has suffered and will suffer economic damages, including but not limited to lost past and future income and employment benefits, inability to find another job due to defamation, unpaid expenses, fees paid to health care providers for treatment of depression, anxiety, chronic gastritis, and resulting penalties, and interest on unpaid wages at the legal rate from and after each payday on which those wages should have been paid, in a sum to be proven at trial.

36. *Non-economic damages:* Because of Defendants' conduct, Plaintiff has suffered and will suffer non-economic damages and emotional distress in a sum to be proven at trial. Plaintiff's symptoms of emotional distress include, but are not limited to, shock, disbelief, embarrassment, severe distress, hurt, dejection, depression, stress, diminished confidence, anxiety, anger, fear, isolation, insomnia, fatigue, rejection, bleakness, lack of joy, grief, emotional blocking, disappointment, sadness, despair, isolation, numbness, and insomnia, physical discomfort, crying, intense fatigue, weight fluctuations, lethargy, lack of energy, tiredness, stomach pain, headaches, numbness, nausea, chest pain, difficulty in falling asleep, and restless sleep, loss of interest in everyday activities, loss of ability to tend to family needs, lack of sex drive, feelings

of loss, feelings of low self-worth, loss of concentration, forgetfulness, suicidal thoughts, chronic gastritis, low quality of life, and lessened ability to think clearly.

37. *Punitive damages:* Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or punitive damages.

a. *Malice:* Defendants' conduct was committed with malice within the meaning of California Civil Code § 3294. Defendants acted: a) to cause injury to Plaintiff; and b) despicably with a willful and conscious disregard of the rights or safety of others.

b. *Oppression:* Defendants' conduct was committed with oppression within the meaning of California Civil Code § 3294. Defendants subjected Plaintiff to cruel and unjust hardships in conscious disregard of her rights.

c. *Fraud:* Defendants' conduct was committed with oppression within the meaning of California Civil Code § 3294. Defendants acted with intentional misrepresentation, deceit, or concealment of a material fact known to them with the intention on their part of depriving Plaintiff of property or legal rights or otherwise causing injury.

38. *Attorneys' Fees and Costs:* Where applicable, pursuant to Government Code § 12965(b), Code of Civil Procedure §§ 1021.5 and 1032.5, Plaintiff is entitled to recover reasonable attorney's fees, costs, and legal expenses in an amount according to proof.

FIRST CAUSE OF ACTION

(Race Discrimination in Violation of FEHA (Government Code § 12900, et seq.) - Against Defendant FIDELITY BROKERAGE SERVICES LLC and Does 1 to 100, Inclusive)

1. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

2. At all relevant times, FEHA (Government Code § 12940, *et seq.*), was in full force and effect and was binding on Defendants. This statute requires Defendants to refrain from discriminating against any employee because of their race.

- 1 3. Plaintiff was Defendants' employee and Defendants were Plaintiff's employer.
- 2 4. Plaintiff is Asian and faced discrimination based on her race and a hostile work environment
- 3 during her time as an employee of Defendants.
- 4 5. Defendants' actions, as alleged, violated FEHA, by including but not limited to the
- 5 following separate bases for liability:
- 6 a. Terminating Plaintiff's employment in whole or in part based on Plaintiff's race;
- 7 b. Unfairly criticizing, reprimanding and harassing Plaintiff in whole or in part since
- 8 Plaintiff's race;
- 9 c. Excluding Plaintiff from peer activities and career growth opportunities in whole or in part
- 10 because of Plaintiff's race; and
- 11 d. Excluding Plaintiff from work opportunities or assignments based on Plaintiff's race.
- 12 6. Based on the above, Plaintiff alleges on information and belief that her race was a substantial
- 13 motivating factor in Defendants' wrongful actions, including the demotion and termination of
- 14 her employment. Defendants' wrongful actions caused Plaintiff harm, including economic and
- 15 noneconomic harm. Plaintiff further alleges that Defendants' actions were made with malice,
- 16 oppression and/or fraud.
- 17 7. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the
- 18 damages alleged herein, including but not limited to the following:
- 19 a. Economic damages, including but not limited to lost past and future income and
- 20 employment benefits, unpaid expenses and resulting penalties, and interest on unpaid
- 21 wages at the legal rate from and after each payday on which those wages should have been
- 22 paid, in a sum to be proven at trial;
- 23 b. Non-economic damages, including but not limited to mental and emotional distress
- 24 in a sum to be proven at trial; and
- 25 c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover
- 26 reasonable attorney's fees and legal expenses in an amount according to proof.
- 27 d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under
- 28 California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or

1 punitive damages.

2
3 ***SECOND CAUSE OF ACTION***

4 *(Harassment since Race in Violation of FEHA (Government Code § 12900,*
5 *et seq.) - Against All Defendants*
6 *and Does 1 to 100, Inclusive)*

7 8. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by
8 reference.

9 9. Defendants' conduct, as alleged, violated FEHA, Government Code section 12940, *et seq.*, and
10 Defendants committed unlawful employment practices, including by the following, separate
11 bases for liability:

- 12 a. Harassing Plaintiff and/or creating a hostile work environment, in whole or in part since
13 Plaintiff's race and/or other protected characteristics, in violation of Government Code
14 section 12940(j); and
15 b. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation
16 based on race, in violation of Government Code section 12940(k).

17 10. Defendants' conduct, including their tone, false criticism and accusations exceeded general
18 managerial and supervisory criticism and were intended as retaliation and pretext for
19 Defendant's discriminatory animus toward Plaintiff on this basis of her race. Defendants'
20 conduct impacted Plaintiff's emotional tranquility at work, interfered with Plaintiff's ability to
21 perform her job duties, and created what Plaintiff perceived to be an intimidating, hostile and
22 offensive work environment.

23 11. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the
24 damages alleged herein, including but not limited to the following:

- 25 a. Economic damages, including but not limited to lost past and future income and
26 employment benefits, unpaid expenses and resulting penalties, and interest on unpaid
27 wages at the legal rate from and after each payday on which those wages should have been
28 paid, in a sum to be proven at trial;

- b. Non-economic damages, including but not limited to mental and emotional distress in a sum to be proven at trial; and
- c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover reasonable attorney's fees and legal expenses in an amount according to proof.
- d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or punitive damages.

THIRD CAUSE OF ACTION

(Gender/Sex Discrimination in Violation of FEHA (Government Code § 12900, et seq.) - Against Defendant FIDELITY BROKERAGE SERVICES LLC and Does 1 to 100, Inclusive)

12. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.
13. At all relevant times, FEHA (Government Code § 12940, *et seq.*), was in full force and effect and was binding on Defendants. This statute requires Defendants to refrain from discriminating against any employee because of their gender and/or sex.
14. Plaintiff was Defendants' employee and Defendants were Plaintiff's employer.
15. Plaintiff identifies as female and she faced discrimination based on her gender and/or sex and a hostile work environment during her time as an employee of Defendants.
16. Defendants' actions, as alleged, violated FEHA, by including but not limited to the following separate bases for liability:
- a. Terminating Plaintiff's employment in whole or in part on the basis of Plaintiff's gender/sex;
 - b. Unfairly criticizing, reprimanding and harassing Plaintiff in whole or in part on the basis of Plaintiff's gender/sex;
 - c. Excluding Plaintiff from peer activities and career growth opportunities in whole or in part on the basis of Plaintiff's gender/sex; and

d. Excluding Plaintiff from work opportunities or assignments in whole or in part on the basis of Plaintiff's gender/sex.

17. Based on the above, Plaintiff alleges on information and belief that her race was a substantial motivating factor in Defendants' wrongful actions, including the demotion and termination of her employment. Defendants' wrongful actions caused Plaintiff harm, including economic and noneconomic harm. Plaintiff further alleges that Defendants' actions were made with malice, oppression and/or fraud.

18. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the damages alleged herein, including but not limited to the following:

- a. Economic damages, including but not limited to lost past and future income and employment benefits, unpaid expenses and resulting penalties, and interest on unpaid wages at the legal rate from and after each payday on which those wages should have been paid, in a sum to be proven at trial;
- b. Non-economic damages, including but not limited to mental and emotional distress in a sum to be proven at trial; and
- c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover reasonable attorney's fees and legal expenses in an amount according to proof.
- d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or punitive damages.

FOURTH CAUSE OF ACTION

(Harassment on the Basis of Gender/Sex in Violation of FEHA

(Government Code § 12900, et seq.) - Against All Defendants

and Does 1 to 100, Inclusive)

19. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

20. Defendants' conduct, as alleged, violated FEHA, Government Code section 12940, *et seq.*,

1 and Defendants committed unlawful employment practices, including by the following,
2 separate bases for liability:

- 3 a. Harassing Plaintiff and/or creating a hostile work environment, in whole or in part on the
4 basis of Plaintiff's gender/sex and/or other protected characteristics, in violation of
5 Government Code section 12940(j);
- 6 b. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation
7 based on gender/sex, in violation of Government Code section 12940(k).

8 21. Defendants' conduct, including their tone, false criticism and accusations exceeded general
9 managerial and supervisory criticism and were intended as retaliation and pretext for
10 Defendant's discriminatory animus toward Plaintiff on this basis of her gender/sex. Defendants'
11 conduct impacted Plaintiff's emotional tranquility at work, interfered with Plaintiff's ability to
12 perform her job duties, and created what Plaintiff perceived to be an intimidating, hostile and
13 offensive work environment.

14 22. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the
15 damages alleged herein, including but not limited to the following:

- 16 a. Economic damages, including but not limited to lost past and future income and
17 employment benefits, unpaid expenses and resulting penalties, and interest on unpaid
18 wages at the legal rate from and after each payday on which those wages should have been
19 paid, in a sum to be proven at trial;
- 20 b. Non-economic damages, including but not limited to mental and emotional distress
21 in a sum to be proven at trial; and
- 22 c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover
23 reasonable attorney's fees and legal expenses in an amount according to proof.
- 24 d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under
25 California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or
26 punitive damages.

27
28 ***FIFTH CAUSE OF ACTION***

*(Disability/Medical Condition Discrimination in Violation of FEHA
(Government Code § 12900, et seq.)— Against Defendant FIDELITY
BROKERAGE SERVICES LLC and Does 1 to 100, Inclusive)*

23. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

24. Plaintiff's actual, perceived, and/or her own history of disability, were motivating factors in Defendants' decision to terminate plaintiff's employment, not to retain, hire, or otherwise employ plaintiff in any position, to refuse to accommodate plaintiff, to refuse to engage in the interactive process, and/or to take other adverse job actions against plaintiff, which caused Plaintiff harm.

25. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, et seq., and defendants committed unlawful employment practices, including by the following, separate bases for liability:

- a. Terminating, constructively terminating, refusing to transfer, retain, hire, promote, select, and/or employ, asking impermissible non-employment related questions, unfairly reprimanding, suspending, denying work opportunities and/or assignment, denying any employment benefit or privilege, and/or otherwise discriminating against plaintiff, in whole or in part on the basis of plaintiff's actual, perceived, and/or history of disability and/or other protected characteristics, in violation of Government Code section 12940(a);
- b. Failing to accommodate plaintiff's actual, perceived, and/or history of disability, in violation of Government Code section 12940(m);
- c. Failing to engage in a timely, good faith interactive process to determine reasonable accommodation, in violation of Government Code section 12940(n);
- d. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation based on actual, perceived, and/or history of disability, in violation of Government Code section 12940(k);
- e. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA and/or opposing defendants' failure to provide such rights, including rights of reasonable

1 accommodation, rights of interactive process, leave rights, and/or the right to be free of
2 discrimination, in violation of Government Code section 12940(h);

- 3 f. Failing to provide plaintiff with requisite statutory leave, violating notice and/or other
4 procedural requisites of leave, and/or retaliating against plaintiff for taking leave, in
5 violation of Government Code section 12945.2.

6 26. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the
7 damages alleged herein, including but not limited to the following:

- 8 a. Economic damages, including but not limited to lost past and future income and
9 employment benefits, unpaid expenses and resulting penalties, and interest on unpaid
10 wages at the legal rate from and after each payday on which those wages should have been
11 paid, in a sum to be proven at trial;
- 12 b. Non-economic damages, including but not limited to mental and emotional distress
13 in a sum to be proven at trial; and
- 14 c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover
15 reasonable attorney's fees and legal expenses in an amount according to proof.
- 16 d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under
17 California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or
18 punitive damages.

19
20 ***SIXTH CAUSE OF ACTION***

21 *(Harassment on the Basis of Disability and/or Medical Condition in*

22 *Violation of FEHA (Government Code § 12900, et seq.)— Against All*

23 *Defendants and Does 1 to 100, Inclusive)*

24 27. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by
25 reference.

26 28. Defendants' conduct, as alleged, violated FEHA, Government Code section 12940, *et seq.*,
27 and defendants committed unlawful employment practices, including by the following,
28 separate bases for liability:

- a. Harassing plaintiff and/or creating a hostile work environment, in whole or in part on the basis of plaintiff's actual, perceived, and/or history of disability in violation of Government Code section 12940(j);
- b. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation based on actual, perceived, and/or history of medical condition and/or physical disability, in violation of Government Code section 12940(k).

29. Defendants' conduct, including their tone, false criticism and accusations exceeded general managerial and supervisory criticism and were intended as retaliation and pretext for Defendant's discriminatory animus toward Plaintiff on this basis of her actual or perceived disability and/or medical condition. Defendants' conduct impacted Plaintiff's emotional tranquility at work, interfered with Plaintiff's ability to perform her job duties, and created what Plaintiff perceived to be an intimidating, hostile and offensive work environment.

30. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the damages alleged herein, including but not limited to the following:

- a. Economic damages, including but not limited to lost past and future income and employment benefits, unpaid expenses and resulting penalties, and interest on unpaid wages at the legal rate from and after each payday on which those wages should have been paid, in a sum to be proven at trial;
- b. Non-economic damages, including but not limited to mental and emotional distress in a sum to be proven at trial; and
- c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover reasonable attorney's fees and legal expenses in an amount according to proof.
- d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or punitive damages.

SEVENTH CAUSE OF ACTION

(Failure to Provide Reasonable Accommodations in Violation of

*FEHA (Government Code § 12940(a), (i), (m), (n))— Against
Defendant FIDELITY BROKERAGE SERVICES LLC
and Does 1 to 100, Inclusive)*

31. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

32. At all times herein mentioned, FEHA, Government Code section 12940(a), (i), (m), and (n), was in full force and effect and was binding on defendants. This statute requires defendants to provide reasonable accommodations to known disabled employees. Within the time provided by law, plaintiff filed a complaint with the DFEH, in full compliance with administrative requirements, and received a right-to-sue letter.

33. Defendants wholly failed to attempt any reasonable accommodation of plaintiff's known disability by refusing to allow her to return to her position after a finite medical leave of absence.

34. Plaintiff believes and, on that basis, alleges that her disability and the need to accommodate her disability were substantial motivating factors in defendants' decision to terminate, constructively terminate, refusal to transfer, retain, hire, promote, select, and/or employ, ask impermissible non-employment related questions, unfairly reprimand, suspend, deny work opportunities and/or assignment, deny any employment benefit or privilege, and/or otherwise discriminating against plaintiff during her employment.

35. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the damages alleged herein, including but not limited to the following:

- a. Economic damages, including but not limited to lost past and future income and employment benefits, unpaid expenses and resulting penalties, and interest on unpaid wages at the legal rate from and after each payday on which those wages should have been paid, in a sum to be proven at trial;
- b. Non-economic damages, including but not limited to mental and emotional distress in a sum to be proven at trial; and
- c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover

reasonable attorney's fees and legal expenses in an amount according to proof.

- d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or punitive damages.

EIGHTH CAUSE OF ACTION

(Failure to Engage in Interactive Process in Violation of FEHA

(Government Code § 12900, et seq.)— Against Defendants FIDELITY

BROKERAGE SERVICES LLC and Does 1 to 100, Inclusive)

36. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

37. Defendants' conduct, as alleged, violated FEHA, Government Code section 12940, *et seq.*, and defendants committed unlawful employment practices, including the following basis for liability: failing to engage in a timely, good faith interactive process to determine reasonable accommodation, in violation of Government Code section 12940(n).

38. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the damages alleged herein, including but not limited to the following:

- a. Economic damages, including but not limited to lost past and future income and employment benefits, unpaid expenses and resulting penalties, and interest on unpaid wages at the legal rate from and after each payday on which those wages should have been paid, in a sum to be proven at trial;
- b. Non-economic damages, including but not limited to mental and emotional distress in a sum to be proven at trial; and
- c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover reasonable attorney's fees and legal expenses in an amount according to proof.
- d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or punitive damages.

1 ***NINTH CAUSE OF ACTION***

2 *(Failure to Prevent Discrimination, Harassment and/or Retaliation in*

3 *Violation of FEHA (Government Code § 12940, et seq.) - Against*

4 *Defendant FIDELITY BROKERAGE SERVICES LLC*

5 *and Does 1 to 100, Inclusive)*

6 39. The allegations set forth in the preceding paragraphs are realleged and incorporated
7 herein by reference.

8 40. At all relevant times, FEHA (Government Code § 12940, *et seq.*), was in full force and effect
9 and was binding on Defendants. This statute requires Defendants “to take all reasonable steps
10 necessary to prevent discrimination and harassment from occurring.”

11 41. During Plaintiff’s employment with Defendants, Defendants, personally and
12 through their supervisors, managers, and employees, failed to take reasonable actions to prevent
13 themselves, their supervisors, managers and employees, from discriminating against and harassing
14 their employees on the basis of their protected characteristics.

15 42. During Plaintiff’s employment with Defendants, Defendants, personally and
16 through their supervisors, managers and employees, failed to take reasonable actions to prevent
17 themselves, their supervisors, managers and employees, from discriminating against and harassing
18 Plaintiff on the basis of her protected characteristic (i.e. her race, gender/sex, and disability) which
19 resulted in acts of discrimination and harassment including but not limited to the following
20 separate bases for liability:

- 21 a. Terminating Plaintiff’s employment because of her race, gender/sex, and disability;
- 22 b. Unfairly criticizing, reprimanding and harassing Plaintiff because of her race, gender/sex,
23 and disability;
- 24 c. Excluding Plaintiff from peer activities and career growth opportunities because of her
25 race, gender/sex, and disability;
- 26 d. Excluding Plaintiff from work opportunities or assignments in whole or in part on the basis
27 of Plaintiff’s her race, gender/sex, and disability; and
- 28 e. Failing to take reasonable steps to prevent discrimination, harassment and

process, were motivating factors in defendants' decision to terminate plaintiff's employment, not to retain, hire, or otherwise employ plaintiff in any position, and/or to take other adverse job actions against plaintiff.

47. Defendants' conduct, as alleged, violated FEHA, Government Code section 12940, *et seq.*, and defendants committed unlawful employment practices, including by the following, separate bases for liability:

- a. Demoting, terminating, constructively terminating, barring, suspending, unfairly criticizing, unfairly reprimanding, excluding from work opportunities, excluding from career growth opportunities, excluding from assignments, refusing to retain, refusing to transfer, hire, select, and/or employ, and/or otherwise discriminating against plaintiff, in whole or in part on the basis of plaintiff's race, gender/sex, disability, and/or, good faith complaints and/or other protected characteristics by FEHA, Government Code section 12900, *et seq.*, in violation of Government Code section 12940(a), (c);
- b. Harassing plaintiff and/or creating a hostile work environment, in whole or in part on the basis of plaintiff's race, gender/sex, disability, and/or, good faith complaints and/or other protected characteristics, in violation of Government Code section 12940(j);
- c. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation based on race, gender/sex, disability, and/or, and/or good faith complaints in violation of Government Code section 12940(k);
- d. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA and/or opposing defendants' failure to provide such rights, including the right to be free of discrimination, in violation of Government Code section 12940(h);
- e. Failing to accommodate plaintiff's actual, perceived, and/or history of physical or mental disability, in violation of Government Code section 12940(m);
- f. Failing to engage in a timely, good faith interactive process to determine reasonable accommodation, in violation of Government Code section 12940(n);
- g. Creating a hostile work environment, in whole or in part on the basis of plaintiff's actual, perceived, and/or history of race, gender/sex, disability, and/or other protected character-

istics, in violation of Government Code section 12940(j);

- h. Making nonjob-related inquiries of Plaintiff that express, directly or indirectly, a limitation or discriminatory animus on the basis of race, gender/sex, disability, and/or, and/or other protected characteristics, in violation of Government Code section 12940(d)
- i. Failing to provide plaintiff with requisite statutory leave, violating notice and/or other procedural requisites of leave, and/or retaliating against plaintiff for taking and/or attempting to take leave, in violation of Government Code section 12945.2.

48. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the damages alleged herein, including but not limited to the following:

- a. Economic damages, including but not limited to lost past and future income and employment benefits, unpaid expenses and resulting penalties, and interest on unpaid wages at the legal rate from and after each payday on which those wages should have been paid, in a sum to be proven at trial;
- b. Non-economic damages, including but not limited to mental and emotional distress in a sum to be proven at trial; and
- c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover reasonable attorney's fees and legal expenses in an amount according to proof.
- d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or punitive damages.

ELEVENTH CAUSE OF ACTION

*(Retaliation for Using FMLA/CFRA Protected Leave (Government Code
§ 12945, et seq.) —Against Defendants FIDELITY BROKERAGE
SERVICES LLC and Does 1 to 100, Inclusive)*

49. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

50. Plaintiff had at least twelve (12) months of service with Defendants and worked greater than

1 twelve hundred and fifty (1250) hours in the previous twelve (12) month period.

2 51. Defendants employed greater than fifty (50) employees within a seventy-five (75) mile radius
3 of Plaintiff's primary worksite making Plaintiff eligible for a leave of absence under FMLA
4 and CFRA for her own serious health condition.

5 52. Plaintiff provided reasonable notice to Defendants that she needed to take an FMLA/CFRA
6 protected leave of absence for her own serious health condition. Plaintiff provided pertinent
7 information including the expected timing and length of her FMLA/CFRA protected leave of
8 absence as soon as possible under the circumstances.

9 53. Plaintiff's engagement in protected activity, including attempting to take an FMLA/CFRA
10 protected leave of absence, good faith complaints and/or opposition to discrimination and
11 retaliation, were motivating factors in defendants' decision to terminate plaintiff's
12 employment, not to retain, hire, or otherwise employ plaintiff in the same, comparable, or any
13 position, and/or to take other adverse job actions against plaintiff.

14 54. Defendants' conduct, as alleged, violated Government Code section 12945.2, *et seq.*, and
15 Defendants committed unlawful employment practices causing Plaintiff harm, including by
16 the following, separate bases for liability:

17 a. Demoting, terminating, constructively terminating, barring, suspending, unfairly
18 criticizing, unfairly reprimanding, excluding from work opportunities, excluding from
19 career growth opportunities, excluding from assignments, refusing to retain, refusing to
20 transfer, hire, select, and/or employ, and/or otherwise discriminating against plaintiff, in
21 whole or in part on the basis of plaintiff's request and/or use of FMLA/CFRA protected
22 leave of absence, good faith complaints and/or other protected activity under Government
23 Code section 12945.2, *et seq.*, in violation of Government Code section 12945.2;

24 b. Failing to provide plaintiff with requisite statutory leave, violating notice and/or other
25 procedural requisites of leave, and/or retaliating against plaintiff for taking and/or
26 attempting to take leave, in violation of Government Code section 12945.2.

27 55. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the
28 damages alleged herein, including but not limited to the following:

- 1 a. Economic damages, including but not limited to lost past and future income and
2 employment benefits, unpaid expenses and resulting penalties, and interest on unpaid
3 wages at the legal rate from and after each payday on which those wages should have been
4 paid, in a sum to be proven at trial;
- 5 b. Non-economic damages, including but not limited to mental and emotional distress
6 in a sum to be proven at trial; and
- 7 c. Pursuant to Government Code section 12965(b), Plaintiff is entitled to recover
8 reasonable attorney's fees and legal expenses in an amount according to proof.
- 9 d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under
10 California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or
11 punitive damages.

12
13 ***TWELVTH CAUSE OF ACTION***

14 *(Violation of Labor Code § 1102.5, et seq. - Against Defendant FIDELITY*
15 *BROKERAGE SERVICES LLC and Does 1 to 100, Inclusive)*

16 56. The allegations set forth in the preceding paragraphs are realleged and incorporated
17 herein by reference.

18 57. At all relevant times, Labor Code section 1102.5 was in full force and effect and was binding
19 on Defendants. This statute prohibits Defendants from retaliating against any employee for
20 raising or making complaints of actions which the employee knows or reasonably believes to
21 be illegal.

22 58. During Plaintiff's employment with Defendants, Defendants, personally and through
23 their supervisors, managers and employees, retaliated against their employees for making
24 complaints of actions which they knew or reasonably believed to be illegal.

25 59. During Plaintiff's employment with Defendants, Defendants, personally and through
26 their supervisors, managers and employees, retaliated against Plaintiff for making
27 complaints of actions which she knew or reasonably believed to be illegal by taking actions
28 including but not limited to the following separate bases for liability:

- 1 a. Terminating Plaintiff in whole or in part on the basis of Plaintiff's reporting and resisting
2 discrimination, harassment, and retaliation;
- 3 b. Unfairly criticizing and harassing Plaintiff in whole or in part on the basis of Plaintiff's reporting
4 and resisting discrimination, harassment, and retaliation; and
- 5 c. Excluding Plaintiff from peer activities and career growth opportunities in whole or in part on
6 the basis of Plaintiff's reporting and resisting discrimination, harassment, and retaliation.

7 On the basis of the above, Plaintiff alleges on information and belief that her good-faith
8 complaints regarding activity which she knew or reasonably believed to be illegal was a
9 substantial motivating factor in Defendants' wrongful actions, including but not limited to the
10 termination of her employment. Plaintiff further alleges that Defendants' actions were made
11 with malice, oppression and/or fraud.

12 60. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the
13 damages alleged herein, including but not limited to the following:

- 14 a. Economic damages, including but not limited to lost past and future income and
15 employment benefits, unpaid expenses and resulting penalties, and interest on unpaid
16 wages at the legal rate from and after each payday on which those wages should have been
17 paid, in a sum to be proven at trial;
- 18 b. Non-economic damages, including but not limited to mental and emotional distress
19 in a sum to be proven at trial; and
- 20 c. Pursuant to Civil Code sections 1102.5(j), 1021.5, and 1032.5, plaintiff is entitled to
21 recover reasonable attorneys' fees and costs (including expert costs) in an amount
22 according to proof.
- 23 d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under
24 California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or
25 punitive damages.

26
27 ***THIRTEENTH CAUSE OF ACTION***

28 *(Wrongful Termination in Violation of Public Policy - Against Defendant*

1 *FIDELITY BROKERAGE SERVICES LLC and Does 1 to 100, Inclusive)*

2 61. The allegations set forth in the preceding paragraphs are realleged and incorporated
3 herein by reference.

4 62. Defendants terminated Plaintiff's employment in violation of various and certain
5 public policies underlying both state and federal laws. Plaintiff's employment was terminated for
6 whole or in part because of her protected characteristic (i.e. race, gender/sex, and disability) and
7 her complaints of illegal activity. These actions were in violation of FEHA (Government Code §
8 12940, *et seq.*) Labor Code section 1102.5, the California Constitution, and the Constitution of the
9 United States of America.

10 63. On the basis of the above, Plaintiff alleges on information and belief that
11 Defendants' actions were made with malice, oppression and/or fraud.

12 64. As a proximate result of Defendants' wrongful actions, Plaintiff has sustained the
13 damages alleged herein, including but not limited to the following:

- 14 a. Economic damages, including but not limited to lost past and future income and
15 employment benefits, unpaid expenses and resulting penalties, and interest on unpaid
16 wages at the legal rate from and after each payday on which those wages should have been
17 paid, in a sum to be proven at trial;
- 18 b. Non-economic damages, including but not limited to mental and emotional distress
19 in a sum to be proven at trial; and
- 20 c. Pursuant to Civil Code sections 1021.5 and 1032.5, Plaintiff is entitled to recover
21 reasonable attorney's fees and legal expenses in an amount according to proof.
- 22 d. Defendants' conduct alleged herein constitutes malice, oppression, and/or fraud, under
23 California Civil Code § 3294, and entitles Plaintiff to an award of exemplary and/or
24 punitive damages.

25
26 ***FOURTEENTH CAUSE OF ACTION***

27 *(Intentional Infliction of Emotional Distress— Against All Defendants and*
28 *Does 1 to 100, Inclusive)*

65. The allegations set forth in the preceding paragraphs are realleged and incorporated herein by reference.

66. Defendants' discriminatory, harassing, and retaliatory actions against Plaintiff constituted severe and outrageous misconduct and caused Plaintiff extreme emotional distress.

67. Defendants' conduct, including their tone, false criticism and accusations exceeded general managerial and supervisory criticism and were intended as retaliation and pretext for Defendant's discriminatory animus toward Plaintiff on this basis of her race, gender/sex, and disability. Defendants' conduct impacted Plaintiff's emotional tranquility at work, interfered with Plaintiff's ability to perform her job duties, and created what Plaintiff perceived to be an intimidating, hostile and offensive work environment.

68. Defendants were aware that treating plaintiff in the manner alleged above, including depriving her of her livelihood, would devastate plaintiff and cause her extreme hardship.

69. As a proximate result of defendants' extreme and outrageous conduct, plaintiff has suffered and continues to suffer severe emotional distress. Plaintiff has sustained and continues to sustain substantial losses of earnings and other employment benefits as a result of being emotionally distressed.

70. As a proximate result of defendants' extreme and outrageous conduct, plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

71. Defendants' misconduct was committed intentionally, in a malicious, fraudulent, oppressive manner, entitling plaintiff to punitive damages.

FIFTEENTH CAUSE OF ACTION

(Defamation in Violation of Labor Code § 44 and § 46(3))

— Against All Defendants and Does 1 to 100, Inclusive)

72. Plaintiffs re-plead, re-allege, and incorporate by reference each and every allegation set forth in this Complaint.

73. Labor Code § 44 provides:

Defamation is affected by either of the following:

Libel.

Slander.

74. Labor Code § 46(3) provides:

Tends directly to injure him in respect to his office, profession, trade or business, either by imputing to him general disqualification in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to his office, profession, trade, or business that has a natural tendency to lessen its profits;

75. Defendant Fidelity published on Plaintiff's FINRA securities licenses that Plaintiff has been involuntarily terminated due to unsatisfactory performance which made Plaintiff's ability to find another advisory role in the industry extremely difficult.

76. Defendant Juday shared his comments to the hiring manager on Plaintiff's performance which made it impossible for Plaintiff to find another job inside of Fidelity.

77. The statements were a substantial factor in causing Plaintiff's harm.

78. Plaintiff suffered harm to her profession, occupation, and reputation as a result of Defendants defamation.

79. As a direct, foreseeable, and proximate result of Defendants' defamation, Plaintiff suffered and continue to suffer humiliation, embarrassment, mental and emotional distress, and discomfort, all to Plaintiff's damages in an amount to be proven at trial.

80. Defendants acted with malice, knowing the statements would harm, and intending for the statements made to other people to harm Plaintiff's profession, occupation, reputation.

PRAYER

WHEREFORE, plaintiff WEI YE prays for judgment against Defendants as follows:

1. For economic and non-economic damages according to proof;
2. For punitive damages according to proof;
3. For pre-judgment and post-judgment interest on all damages awarded;
4. For reasonable attorneys' fees;

1 5. For costs of suit incurred;

2 6. For such other and further relief as the Court may deem just and proper.

3
4 ADDITIONALLY, plaintiff WEI YE demands trial of this matter by jury. The amount demanded
5 exceeds \$35,000.00 (Government Code § 72055).

6
7 DATED: November 6, 2024

RATNER MOLINEAUX, LLP

8
9 

10 _____
11 David S. Ratner
12 Shelley A. Molineaux
13 Attorneys for Plaintiff, Wei Ye
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EXHIBIT A



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

November 6, 2024

Shelley Molineaux
2950 Buskirk Ave., Suite 300
Walnut Creek, CA 94597

RE: **Notice to Complainant's Attorney**
CRD Matter Number: 202411-26963807
Right to Sue: Ye / Fidelity Brokerage Services LLC et al.

Dear Shelley Molineaux:

Attached is a copy of your complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, CRD will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the CRD does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Civil Rights Department



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

November 6, 2024

RE: **Notice of Filing of Discrimination Complaint**
CRD Matter Number: 202411-26963807
Right to Sue: Ye / Fidelity Brokerage Services LLC et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to CRD is requested or required.

Sincerely,

Civil Rights Department



Civil Rights Department

651 Bannan Street, Suite 200 | Sacramento | CA | 95811
1-800-884-1684 (voice) | 1-800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

November 6, 2024

Wei Ye
3494 Serra Circle
Pleasanton, CA 94588

RE: **Notice of Case Closure and Right to Sue**
CRD Matter Number: 202411-26963807
Right to Sue: Ye / Fidelity Brokerage Services LLC et al.

Dear Wei Ye:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective November 6, 2024 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Wei Ye

CRD No. 202411-26963807

Complainant,

vs.

Fidelity Brokerage Services LLC
245 Summer Street
Boston, MA 02210

Robert Juday
245 Summer Street
Boston, MA 02210

Respondents

1. Respondent **Fidelity Brokerage Services LLC** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Robert Juday** individual as Co-Respondent(s).

3. Complainant **Wei Ye**, resides in the City of **Pleasanton**, State of **CA**.

4. Complainant alleges that on or about **February 15, 2024**, respondent took the following adverse actions:

Complainant was harassed because of complainant's national origin (includes language restrictions), sex/gender, other, disability (physical, intellectual/developmental, mental health/psychiatric), race (includes hairstyle and hair texture).

Complainant was discriminated against because of complainant's national origin (includes language restrictions), sex/gender, other, disability (physical, intellectual/developmental, mental health/psychiatric), race (includes hairstyle and hair texture) and as a result of the discrimination was terminated, other, denied work opportunities or assignments, denied accommodation for a disability, denied employer paid health care while on family care and medical leave (cfra).

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment and as a result was terminated, other, denied work opportunities or assignments, denied accommodation for a disability, denied employer paid health care while on family care and medical leave (cfra).

Additional Complaint Details: Plaintiff, Ye is an Asian American female;

Plaintiff required a temporary leave of absence because she suffered from a serious disability;

Plaintiff reported what she in good faith believed in to be illegal activity to her employer.

Fidelity offered Plaintiff a job on November 10, 2017, as an Assistant Branch Manager. Plaintiff accepted the offer. Fidelity employed Plaintiff until Fidelity wrongfully terminated her employment on February 15, 2024. At all times stated herein, Ye performed the essential functions of her job competently.

Plaintiff earned a stellar performance review at the end of her first full year in 2018, Plaintiff's supervisor described her as a great asset:

Rebecca was a great asset to the firm and the San Francisco market in 2018. Her willingness to help in any and all circumstances was clearly demonstrated when she covered Palo Alto as interim BOM for an extended period. Rebecca quickly stabilized the operations and compliance of the branch and made significant progress against the branch's performance metrics. During that same period, she also assisted other BOMs in day to day operations and compliance support. Rebecca has demonstrated core strengths in recruiting, strategy, motivation, and coaching.

In 2018, due to her hard work and exemplary performance, Plaintiff earned a promotion to Vice President, Wealth Management Advisor. In her role as a Vice President, Wealth Management Advisor, Plaintiff reported to Regional Vice President, John Lloyd ("Lloyd"). In Plaintiff's Annual Performance Evaluations from 2019 through 2021 she earned a "Successful Performance" rating. In her 2021 Annual Performance Evaluation, Lloyd said the following regarding Plaintiff's performance: "Top quartiles in Planning, TOA, and NPS. Great improvement in Development. Your supported territory has a growing confidence in your ability to fully take care of the clients and deliver results. Thanks so much for your commitment. You have a very bright future."

In November 2021, Regional Vice President, Robert Douglas Juday, also known as Doug Juday, ("Juday") became Plaintiff's immediate supervisor.

As she became familiar with Juday, Plaintiff noticed that Juday used false and pretextual complaints about performance to berate and diminish the accomplishments of non-Caucasian women, or women of color, whom he supervised. Plaintiff observed that Juday did not give clear, constructive or fair feedback to Plaintiff along with two other women of color. Throughout the time Plaintiff reported to Juday she observed that Juday did not place men or Caucasian employees on Performance Improvement Plans or subject them to written disciplinary action. Juday used written warnings and Performance Improvement Plans that misstated facts as a tool to discipline and terminate the employment of women of color. In addition, Juday used a demeaning, overtly hostile tone with women of

1 color both publicly and privately that he did not use with employees he supervised that were
2 either Caucasian or men.

3 In 2022, Plaintiff's first performance evaluation conducted by Juday still rated her as
4 having "Successful Performance." However, throughout, Juday continued to levy unfair
5 criticism and appraisals of Plaintiff's work performance.

6 On or around April 25, 2023, Juday mentioned to Plaintiff that he was considering
7 issuing disciplinary action against Plaintiff. Plaintiff proactively came up with a ninety (90)
8 day plan to improve her performance based on Juday's complaints. Plaintiff engaged with
9 Juday multiple times to seek clarity and concrete benchmarks towards which she could
10 strive, which Juday refused to provide. Thereafter, it became clear that Juday was using
11 Plaintiff's performance as a pretext since all of Plaintiff's efforts were in vain and any
12 allegations of shortcomings were made by Juday in bad faith.

13 Juday's tone, false and defamatory accusations, and demeaning attitude went above
14 and beyond that required to carry out day to day personnel actions and management of
15 employees. Juday's discriminatory animus and attitude, as well as the methods in which he
16 expressed it in the workplace, impacted Plaintiff's emotional tranquility, caused significant
17 emotional distress, and impacted her ability to perform her work.

18 On or around August 1, 2023, Plaintiff reported that Juday is discriminating against
19 and harassing Plaintiff on the basis of Plaintiff's gender/sex and race to Director of Human
20 Resources, Audrey Ross ("Ross") and Executive Vice President, Roger Hobby ("Hobby").
21 However, Hobby did not give Plaintiff a chance to talk, said he already spoke with Juday,
22 and the rest of the conversation was about Plaintiff finding another position within Fidelity.

23 On or around August 10, 2023, Plaintiff had an appointment with a medical
24 professional wherein she was diagnosed with severe depression and anxiety. Plaintiff's
25 medical condition was a temporary disability as it impacted her ability to perform day to day
activities, required ongoing medical treatment and medication was prescribed to her to help
manage the symptoms.

On or around August 20, 2023, Plaintiff reiterated her report of discrimination and
harassment based on her gender/sex and race by writing in an email to Director of Human
Resources, Ross. Specifically, Plaintiff discussed how Juday subjected her to mistreatment,
unclear and changing expectations, negativity and toxic language, gaslighting, and that this
was all on the basis of her sex. On or around September 8, 2023, Plaintiff started to
experience severe chest pains for which she needed medical attention.

Fidelity never conducted a full, thorough, and good faith investigation of Plaintiff's
claims of discrimination. Instead of conducting a thorough investigation and taking Plaintiff's
whistleblower reports seriously, Defendants retaliated by placing Plaintiff on a sixty (60) day
Performance Improvement Plan on September 15, 2023. Defendants' retaliatory
Performance Improvement Plan came less than one (1) month after Plaintiff's report of
discrimination and harassment in the workplace. Juday listed the following performance
deficiencies: strategic approach to practice, proactively providing ideas to clients,
communication skills, and core solutions knowledge. Juday's retaliatory motive was obvious
to Plaintiff as strategic approach and communication skills are areas that Plaintiff's previous
manager had identified as a strength.

On or around September 26, 2023, and October 2, 2023, Vice President, Advanced
Planning, Matthew Metos and Vice President, Wealth Planner, Jason Klein both gave
glowing performance appraisals regarding Plaintiff. They praised her organization,

1 communication skills, relationship with clients, ability to propose ideas to clients, and ability
2 to explain complex issues. However, Juday continued to criticize Plaintiff for the same areas
3 that others recognized as a strength.

4 On or around October 10, 2023, Plaintiff emailed the Director of Employee Relations,
5 Jewel Ellis ("Ellis") to report Juday's discrimination, harassment and retaliation. Plaintiff
6 included an explanation of how Juday was using unfair and inaccurate statements regarding
7 her work performance to justify placing Plaintiff on a retaliatory Performance Improvement
8 Plan. Plaintiff reported Juday's actions had caused her intense stress, anxiety and
9 depression.

10 On or around October 26, 2023, Plaintiff sent Ellis a written complaint stating in no
11 uncertain terms that women of color are treated poorly and subjected to discrimination by
12 Defendants. The following day, Plaintiff met with Ellis. Plaintiff reiterated the ways in which
13 Juday has discriminated, harassed and retaliated against her for her race, gender/sex, and
14 reports of discrimination. Plaintiff also informed Defendants of her need for a medical leave
15 of absence starting on November 13, 2023, for her own serious disability. At no point did
16 Fidelity or any of its employees make any good faith attempt to engage Plaintiff in the
17 interactive process to determine how she could continue to perform her job duties with
18 accommodations when she returned from her protected leave of absence under the
19 California Family Rights Act ("CFRA").

20 On or around October 31, 2023, Plaintiff's doctor faxed medical documentation
21 confirming Plaintiff's need to take a medical leave of absence because of her disability.
22 Initially, Plaintiff requested a two-week leave of absence, and her doctor recommended she
23 take one.

24 However, Plaintiff had to delay her medical leave to work on a large client's account
25 because she was the only one who would win the relationship and their business.

26 On November 13, 2023, Plaintiff provided a statement regarding the discrimination,
27 harassment and retaliation she faced at work, "As you are aware, my concerns primarily
28 revolve around the discriminatory conduct, harassment, retaliatory actions, defamation that I
have experienced in my work relationship with my manager, Doug Juday. I initially reached
out to HR on August 1, 2023."

During the subsequent investigation, one of the witnesses named by Plaintiff
confirmed that Juday treats Asian American women worse than other employees and the
witness herself was subjected to discrimination and harassment by Juday. Defendants
ignored evidence of discrimination, harassment, and retaliation in the workplace.

On or around November 28, 2023, Plaintiff told Defendants' Vice President,
Employee Relations, Michael LaVita, that she has a desire to seek legal recourse against
Defendants for the illegal harassment she has faced at work. In retaliation, on December 6,
2023, despite her constant effort Defendants' extended Plaintiff's Performance Improvement
Plan for another sixty (60) days. Plaintiff immediately reported Juday's latest retaliatory
actions to Defendants to no avail.

Defendants terminated Plaintiff's employment on February 15, 2024. Juday
participated in and delivered news of Plaintiff's termination to her. Plaintiff provided a written
rebuttal of Juday's false claims regarding her work performance and protested her PIP
unsuccessfully.

Defendants' stated reason for terminating Plaintiff was false and mere pretext as
Defendants' real reason for terminating Plaintiff's employment was for wrongful, illegal,

discriminatory and/or retaliatory purposes related to her disability, race, gender, and/or her good faith complaints regarding conduct that she believed to be illegal.

1 VERIFICATION

2 I, **Shelley A. Molineaux**, am the **Attorney** in the above-entitled complaint. I have
3 read the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On November 6, 2024, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

7 **Walnut Creek, CA**
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