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JOHN EVANS

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

JOHN EVANS, individually  
Plaintiff,

v.

ADVANCED MICRO DEVICES, INC., a  
Delaware Corporation, and DOES 1 through 50,  
inclusive.  
Defendants.

Case No. 24CV452629

**COMPLAINT FOR DAMAGES**

1. Retaliation in Violation of FEHA (Government Code §12940, et seq.);
2. Retaliation in Violation of Labor Code §1102.5;
3. Retaliation in Violation of Labor Code § 98.6;
4. Age Discrimination in Violation of FEHA (Government Code § 12940, et seq.);
5. Disability Discrimination in Violation of FEHA (Government Code §12940, et seq.);
6. Failure to Engage in Good Faith Interactive Process in Violation of FEHA (Government Code §12940, et seq.);
7. Failure to Provide Reasonable Accommodations in Violation of FEHA (Government Code §12940, et seq.);
8. Hostile Work Environment Harassment in Violation of FEHA (Government Code § 12940, et seq.);
9. Failure to Prevent Discrimination and Harassment in Violation of FEHA (Government Code § 12940, et seq.);
10. Intentional Infliction of Emotional Distress
11. Wrongful Termination in Violation of Public Policy

**DEMAND FOR JURY TRIAL**

1. Plaintiff JOHN EVANS (“Evans”) individually, brings this action against Defendant ADVANCED MICRO DEVICES, INC. (“AMD”), a Delaware Corporation, and DOES 1 through 50, inclusive.

***PARTIES***

2. Plaintiff is, and at all times relevant to this action was, a resident of the City of San Jose, California. The events giving rise to this action arose primarily in Santa Clara, California.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendant Advanced Micro Devices, Inc. is a Delaware Corporation and is authorized to do business in California.

4. Plaintiff does not know the true names of Defendants Does 1 through 50, inclusive, and therefore sues them by those fictitious names. The names, capacities, and relationships of Defendants Does 1 through 50, inclusive, will be alleged by amendment to this Complaint when the same are known to Plaintiff.

5. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants Does 1 through 50 (“Does”), inclusive and each of them, are not known to Plaintiff at this time. Such Does are legally responsible for the events and happenings described herein and for the damages proximately caused thereby. Plaintiff will seek the leave of the Court to amend this complaint to set forth the true names and capacities of any such Does when they have been ascertained.

6. On information and belief, at all times mentioned herein, defendants, inclusive and each of them, including without limitation any Does, were acting in concert and participation with each other; were joint participants and collaborators in the acts complained of; and were the agents and/or employees of one another in doing the acts complained of herein, each acting within the course and scope of said agency and/or employment.

7. AMD and Does 1 through 50, inclusive, are collectively referred to hereafter as “Defendants”.

## ***JURISDICTION AND VENUE***

8. This Court has jurisdiction over Defendants because at all times relevant, they were authorized to transact and are transacting business in California.

9. Venue is proper in this Court pursuant to Code of Civil Procedure § 395, because the acts,

1 events and omissions complained of herein occurred in Santa Clara County, California.

2 ***EXHAUSTION OF ADMINISTRATIVE REMEDIES***

3 10. On or about November 25, 2024, Plaintiff obtained a Right to Sue Letter from the  
4 California Civil Rights Department attached hereto as Exhibit A.

5 ***GENERAL ALLEGATIONS***

6 1. Plaintiff John Evans (“Evans”) is a 54-year-old Caucasian male who began working for  
7 Pensando Systems, Inc. (“Pensando”) as Principal Application Engineer on August 27, 2018. Advanced  
8 Micro Devices, Inc. (“AMD”) then acquired Pensando and Mr. Evans worked as a Primary Member  
9 Technical Staff – S&A Hardware Engineer until his wrongful termination on October 25, 2023.

10 2. At all times relevant, Mr. Evans had a strong work ethic, consistent contributions to  
11 positive business outcomes, a robust skill set and effective leadership skills which all resulted positively  
12 in his performance evaluations from the company and customer comments.

13 3. Mr. Evans has glaucoma and Non-arteritic Anterior Ischemic Optic Neuropathy  
14 (“NAION”), a loss of field of vision in his right eye.

15 4. On or around June of 2022, Mr. Evans participated in an anonymous survey taken after  
16 the AMD acquisition. One question in the survey asked if the employee thought that AMD would help  
17 Pensando succeed. Mr. Evans answered “No” to this question because he felt that AMD does not have  
18 networking experience, and that the Pensando teams like to do everything themselves.

19 5. Approximately two weeks later, Rami Siadous (“Siadous”), Directory of Application  
20 Engineering and Mr. Evan’s direct report, mentioned to Mr. Evans that Soni Jiandani (“Jiandani”), Co-  
21 Founder of Pensando, was upset with Mr. Evans’ answers on the survey. Mr. Siadous asked Mr. Evans to  
22 say something positive at Mr. Jiandani’s Customer eXperience meeting. Unfortunately, there was not an  
23 opportunity for Mr. Evans to speak at this meeting. This incident bothered Mr. Evans because  
24 anonymous surveys are meant to solicit honest answers without repercussions and should remain  
25 anonymous if promised to be so.

26 6. On or around October 11, 2022, approximately two weeks before taking leave, Mr. Evans  
27 had a conversation with Boris Shpolyansky (“Shpolyansky”), Senior Director, Support and Customer  
28 Engineering, about how his corneal erosion that was making it impossible to work on some days and

1 affected his sleep, while also being excruciatingly painful. At the time Mr. Evans asked for  
2 accommodation in purchasing a larger computer screen so that he could use a larger font. Mr. Evans did  
3 in fact purchase his own larger computer screen which seemed to help somewhat. Mr. Evans also  
4 expressed that reading takes a bit longer of time than a normal reader due to his blind spots, and that he  
5 needs more time to complete tasks. Mr. Evans specifically described how reading was difficult and that  
6 he would compensate by positioning his head slightly to the left or right after a sentence became blurry to  
7 help him see from a different position.

8 7. On October 25, 2022, Mr. Evans went on FMLA leave for his corneal erosion.

9 8. On November 16, 2022, Mr. Evans underwent a keratectomy to treat his corneal erosion.  
10 He also was treated at Stanford Eye Institute for glaucoma and NAION.

11 9. On November 22, 2022, Mr. Evans' FMLA leave ended and he went on disability for the  
12 last three weeks of recovery.

13 10. On December 12, 2022, Mr. Evans returned to work.

14 11. On or around January 1, 2023, Mr. Evans had a follow up conversation with Mr.  
15 Shpolyansky explaining his recovery and how excruciating the pain was but that the vision was  
16 improving. Mr. Evans continued that he was still was not operating at full compacity and while his vision  
17 was improving, continued to find it difficult to read.

18 12. On June 1, 2023, Mr. Evans provided first aid to a man who was fatally stabbed in his  
19 neck at a grocery store in Milpitas. The victim lost consciousness, eventually collapsed, and Mr. Evans  
20 was covered in the victim's blood as he applied pressure to the wound until the police arrived. Mr. Evans  
21 sent a slack message while still at the grocery store to Mr. Siadous explaining what had taken place and  
22 to let them know what had happened. Mr. Evans remained on the scene for two hours to conduct  
23 interviews with the police. Mr. Evans took the remainder of the day off work and scheduled a doctor's  
24 appointment for 7:00 a.m. the next morning. Mr. Evans also experienced severe emotional trauma from  
25 this horrific event.

26 13. The next morning, on June 2, 2023, Mr. Evans visited his doctor for a blood test, since he  
27 was covered in the victim's blood and did not know if he carried any diseases.

28 14. On July 19, 2023, Mr. Evans' father passed away. He took approximately two weeks of

1 bereavement leave. Mr. Evans suffered a great deal of emotional distress in a short amount of time.

2 15. On July 24, 2023, Mr. Evans underwent polypectomy to have polyps removed.

3 16. On July 27, 2023, Mr. Evans discovered he had a 1.7-centimeter large kidney stone. He  
4 was experiencing blood in his urine, light headedness, anemia, and pain.

5 17. On September 28, 2023, Mr. Evans visited his doctor and confided that he was feeling  
6 hypervigilant and in a stunned malaise mood due to the incident on June 1, 2023. Mr. Evans was offered  
7 counselling, which at the time Mr. Evans declined but stated he would consider counselling.

8 18. On or around mid-October 2023, Mr. Evans had a conversation with Mr. Shpolyansky  
9 about his anemia and light headedness he was experiencing due to his kidney stone. Mr. Evans told Mr.  
10 Shpolyansky that he was going to undergo kidney stone surgery in November of 2023 to rectify his  
11 ailment.

12 19. On October 25, 2023, Mr. Evans received AE Team Feedback Report from one of their  
13 customers who used their product, which shows Mr. Evans and his team had scored mostly 10, 9, 8 on a  
14 scale of 1-10 with 10 being a high rating. Mr. Evans had a direct role in supporting this customer with  
15 technical problems and questions. This customer rated their satisfaction with Mr. Evans' interactions and  
16 the product with high ratings.

17 20. On the same day, October 25, 2023, Mr. Evans was notified that AMD had decided to  
18 restructure and streamline Company operations by terminating his position effective December 1, 2023.

19 21. On October 28, 2023, Mr. Evans requested counselling for the emotional trauma he  
20 experienced from providing aid to a fatally injured person and his father passing away.

21 22. Mr. Evans' doctors confirmed that he experienced emotional trauma from these  
22 experiences. And on October 30, 2023, Mr. Evans was diagnosed with adjustment disorder, unspecified  
23 type and reactive depression.

24 23. On November 17, 2023, Mr. Evans was diagnosed with PTSD.

25 24. On November 30, 2023, Mr. Evans had his kidney stone removed.

26 25. The following discrimination occurred when AMD discriminated against Mr. Evans on  
27 the basis of his disability and age.

28 26. On information and belief, AMD framed Mr. Evans' termination as a reduction in force,

1 as a pretext, when he was terminated on the basis of his disability and age.

2 27. On information and belief, Mr. Evans' employer grew concerned when it became known  
3 to them the extent of his physical disability and the sudden requests for medical leaves to remedy his  
4 ailments.

5 28. Up until knowledge of his disability, Mr. Evans had never received a disciplinary write-up  
6 and was a well-regarded and valued employee.

7 29. In violation of Government Code §12940, Plaintiff was discriminated against based on his  
8 disability and age. Plaintiff is informed and believes that AMD became aware of his disability only after  
9 they acquired Pensando and that other co-workers without a disability have been given opportunities for  
10 promotion and advancement as well as his previous position.

11 30. Both California and Federal Law require employers such as AMD to engage with an  
12 employee with a disability in a process to find a solution to the issues created by the disability. AMD did  
13 not do so.

14 31. AMD's actions against Mr. Evans caused, and continue to cause, Mr. Evans to suffer  
15 significant emotional distress. Mr. Evans intends to seek damages from AMD under the Fair  
16 Employment and Housing Act ("FEHA") The seriousness of these claims places AMD at an elevated risk  
17 of liability for monetary damages, including punitive damages. As a result of the hostile work  
18 environment, Plaintiff has suffered and continues to suffer depression, PTSD, embarrassment,  
19 humiliation, mental and emotional pain and distress, depression, anger, worry, anxiety, negative feelings,  
20 and discomfort.

21 32. As a result of the discrimination and retaliation Plaintiff was wrongfully terminated.

22 33. As a result of Defendants' actions, Plaintiff has lost his bonus, and equity trust that would  
23 be vesting had he not been terminated.

24 34. On information and belief, AMD terminated five employees with ages ranging from 49 to  
25 65. AMD did not in fact conduct a reduction in force and are still currently hiring. Mr. Evans was the  
26 only member in his role to have been terminated.

27 35. AMD did not fire younger employees. The foregoing demonstrates that AMD fired Mr.  
28 Evans on the basis of his age.

1 ***FIRST CAUSE OF ACTION***

2 *Retaliation in Violation of FEHA*

3 *(Government Code §12940, et seq.)*

4 *(Against All Defendants)*

5 36. Plaintiff re-pleads, re-alleges, and incorporates by reference each allegation set forth in  
6 this Complaint.

7 37. At all relevant times, the California Fair Employment & Housing Act, § 12940, et seq.,  
8 was in full force and effect, and binding on Defendants.

9 38. FEHA makes it an unlawful employment practice for an employer to retaliate against an  
10 employee who has opposed a forbidden practice or filed a complaint against an employer or supervisor.  
11 Government Code §12940(h).

12 39. Plaintiff asked for accommodation due to his disability and required time off due to his  
13 disabilities, which resulted in Defendants discriminating against Plaintiff based on Plaintiff's disability  
14 and age.

15 40. Defendants retaliated against Plaintiff by forcing a new job description for his position,  
16 disregarding his need for accommodations, and ultimately wrongfully terminating him.

17 41. Plaintiff was harmed.

18 42. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

19 43. As a result of Defendants' discriminatory and retaliatory treatment Plaintiff has suffered  
20 and continues to suffer depression, PTSD, embarrassment, humiliation, mental and emotional pain and  
21 distress, depression, anger, worry, anxiety, negative feelings, and discomfort.

22 44. The conduct of Defendants and each of them as described above was malicious,  
23 fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.  
24 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and  
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1 ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages  
2 against each of said Defendants.

3 ***SECOND CAUSE OF ACTION***

4 *Retaliation in Violation of Labor Code §1102.5, et seq.*

5 *(Against All Defendants)*

6 45. Plaintiff re-pleads, re-alleges, and incorporates by reference each allegation set forth in  
7 this Complaint.

8 46. At all relevant times, California Labor Code was in full force and effect, and binding on  
9 Defendants.

10 47. Labor Code §1102.5 makes it an unlawful for an employer to retaliate against an  
11 employee who has for disclosing information the employee reasonable believes discloses a violation of  
12 state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

13 48. Plaintiff asked for accommodation due to his disability and required time off due to his  
14 disabilities, which resulted in Defendants discriminating against Plaintiff based on Plaintiff's disability  
15 and age.

16 49. Defendants retaliated against Plaintiff by forcing a new job description for his position,  
17 disregarding his need for accommodations, and ultimately wrongfully terminating him.

18 50. Plaintiff was harmed.

19 51. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

20 52. As a direct and proximate result of the above violations, Plaintiff has suffered damages in  
21 the form of past and future wage losses, bonus losses, vesting equity, potential stock participation, and  
22 emotional distress in an amount to be proven at trial.

23 53. The conduct of Defendants and each of them as described above was malicious,  
24 fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.  
25 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and  
26 ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages  
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1 against each of said Defendants.

2 ***THIRD CAUSE OF ACTION***

3 *Retaliation in Violation of Labor Code § 98.6*

4 *(Against All Defendants)*

5 54. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set  
6 forth in this Complaint.

7 55. Labor Code § 98.6 provides:

8 (a) A person shall not discharge an employee or in any manner discriminate,  
9 retaliate, or take any adverse action against any employee . . . because the  
10 employee . . . engaged in any conduct delineated in this chapter, including .  
11 . . Chapter 5 (commencing with Section 1101) of Part 3 of Division 2, or  
12 because the employee . . . or because of the exercise by the employee or  
applicant for employment on behalf of himself, herself, or others of any  
rights afforded him or her.

13 (b)(1) Any employee who is discharged, threatened with discharge,  
14 demoted, suspended, retaliated against, subjected to an adverse action, or in  
15 any other manner discriminated against in the terms and conditions of his or  
16 her employment because the employee engaged in any conduct delineated in  
this chapter, including . . . Chapter 5 (commencing with Section 1101) of  
Part 3 of Division 2 . . . shall be entitled to reinstatement and reimbursement  
for lost wages and work benefits caused by those acts of the employer.

17 56. Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

18 57. Plaintiff asked for accommodation due to his disability and required time off due to his  
19 disabilities, which resulted in Defendants discriminating against Plaintiff based on Plaintiff's disability  
20 and age.

21 58. Defendants retaliated against Plaintiff by forcing a new job description for his position,  
22 disregarding his need for accommodations, and ultimately wrongfully terminating him.

23 59. Plaintiff was harmed.

24 60. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

25 61. Pursuant to Labor Code § 98.6(b)(3), Defendants are liable to Plaintiff for a civil penalty  
26 of ten thousand dollars (\$10,000) for each violation.

27 62. The conduct of Defendants and each of them as described above was malicious,  
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1 fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights.  
2 Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and  
3 ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages  
4 against each of said Defendants.

5 ***FOURTH CAUSE OF ACTION***

6 *Age Discrimination in Violation of FEHA*

7 *(Government Code § 12940, et seq.)*

8 *(Against All Defendants)*

9 63. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set  
10 forth in this Complaint.

11 64. Government Code § 12940(a) provides in relevant part:

12 It is an unlawful employment practice. . . (a) [f]or an employer, because  
13 of the race, religious creed, color, national origin, ancestry, physical  
14 disability, mental disability, medical condition, genetic information,  
15 marital status, sex, gender, gender identity, gender expression, age, sexual  
16 orientation, or military and veteran status of any person, to refuse to hire  
17 or employ the person or to refuse to select the person for a training  
program leading to employment, or to bar or to discharge the person from  
employment or from a training program leading to employment, or to  
discriminate against the person in compensation or in terms, conditions, or  
privileges of employment.

18 65. At all times herein mentioned, Government Code § 12940, et seq. was in full force and  
19 effect and binding upon Defendants, and each of them. These laws make it an unlawful employment  
20 practice to discriminate against any employee on the basis of her age.

21 66. Defendants were Plaintiff's employer.

22 67. Plaintiff was a male over the age of 40.

23 68. Plaintiff was able to perform the essential job duties of Plaintiff's position.

24 69. Throughout the period of Plaintiff's employment, Plaintiff was discriminated against by  
25 reason of his age, and was subjected to harassment, discrimination and retaliation by Defendants.

26 70. Defendants wrongfully discriminated against Plaintiff based on his age.

27 71. Defendants offered other employees of the younger age to remain in their employment  
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1 while five employees, including Plaintiff, between the ages of 49 to 65 were terminated.

2 72. Such actions were in direct violation of Government Code § 12940 and were done with  
3 the intent of depriving Plaintiff of his rights to equal employment opportunity and for the purpose of  
4 depriving Plaintiff of the benefits of his employment.

5 73. Defendants engaged in the aforementioned unlawful actions, including but not limited to  
6 discrimination, harassment and retaliation on the basis of Plaintiff's age.

7 74. Despite being aware of the discriminatory treatment of Plaintiff, Defendants failed to take  
8 any steps to prevent or correct the misconduct.

9 75. Plaintiff believes and alleges that Plaintiff's age and disabilities were a substantial and  
10 determining factor in Defendants' decision to terminate Plaintiff's employment.

11 76. Defendants' termination of Plaintiff as alleged in this complaint constitutes an  
12 unlawful employment practice in violation of Government Code § 12940(a).

13 77. As direct, foreseeable, and proximate results of Defendants' discriminatory acts, Plaintiff  
14 has suffered and continues to suffer substantial losses in earnings and job benefits, vesting equity, and  
15 has suffered and continues to suffer humiliation, embarrassment and mental and emotional distress, and  
16 discomfort, all to Plaintiff's damage in an amount to be proven at trial.

17 78. Under Government Code § 12940, Plaintiff is entitled to recover Plaintiff's economic and  
18 noneconomic damages caused by Defendants' unlawful practices. Plaintiff is also entitled to reasonable  
19 attorney's fees and costs pursuant to Government Code § 12965.

20 79. The conduct of Defendants and each of them as described above was malicious, fraudulent,  
21 or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendants and each  
22 of them, and their agent/employees or supervisors, authorized, condoned, and ratified the unlawful conduct  
23 of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

### 24 ***FIFTH CAUSE OF ACTION***

#### 25 *Disability Discrimination in Violation of FEHA*

26 *(Government Code § 12940, et seq.)*

27 *(Against All Defendants)*

28 80. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set  
forth in this Complaint.

81. Government Code section 12940(a) provides in relevant part:

It is an unlawful employment practice. . . (a) [f]or an employer, because of the. . . physical disability, neurodevelopmental disability to discharge the person from employment. . . or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

82. Defendant wrongfully discriminated against Plaintiff based on Plaintiff's disability.

83. Defendant was Plaintiff's employer, and Plaintiff was Defendants' employee.

84. Defendant became aware that Plaintiff had a disability after his hire, that limited a major life activity.

85. Plaintiff was able to perform the essential job duties of Plaintiff's position.

86. Upon learning of Plaintiff's disability, Defendant denied and ignored Plaintiff's reasonable accommodation.

87. Plaintiff was terminated in violation of the Fair Employment and Housing Act.

88. Plaintiff suffered harm.

89. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

90. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress, including but not limited to, depression, PTSD, embarrassment, humiliation, mental and emotional pain and distress, depression, anger, worry, anxiety, negative feelings, and discomfort.

91. Under Government Code section 12940, Plaintiff is entitled to recover economic and noneconomic damages caused by Defendants' discriminatory practices based on Plaintiff's disability and violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees and costs pursuant to Government Code section 12965.

### ***SIXTH CAUSE OF ACTION***

#### ***Failure to Engage in Good Faith Interactive Process in Violation of FEHA***

***(Government Code § 12940, et seq.)***

***(Against All Defendants)***

92. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

93. Government Code section 12940(n) provides in relevant part:

1 It is an unlawful employment practice. . . (n) For an employer or other  
2 entity covered by this part to fail to engage in a timely, good faith,  
3 interactive process with the employee or applicant to determine effective  
4 reasonable accommodations, if any, in response to a request for reasonable  
accommodation by an employee or applicant with a known physical or  
mental disability or known medical condition.

5 94. California Code of Regulations, Title 2 section 11069 provides in relevant part:

6 (a) Interactive Process. When needed to identify or implement an  
7 effective, reasonable accommodation for an employee or applicant with a  
8 disability, the FEHA requires a timely, good faith, interactive process  
9 between an employer or other covered entity and an applicant, employee,  
10 or the individual's representative, with a known physical or mental  
11 disability or medical condition. Both the employer or other covered entity  
and the applicant, employee or the individual's representative shall  
exchange essential information identified below without delay or  
obstruction of the process.

12 95. Defendant was Plaintiff's employer, and Plaintiff was Defendants' employee.

13 96. Defendant was aware that Plaintiff had a disability that limited a major life activity.

14 97. Plaintiff was able to perform the essential job duties of Plaintiff's position with reasonable  
15 accommodation for Plaintiff's disability.

16 98. Plaintiff at all times was willing to participate in an interactive process to determine  
17 reasonable accommodation.

18 99. Defendant refused to participate in a timely good-faith interactive process.

19 100. Defendant could have made a reasonable accommodation had it timely engaged in the  
20 interactive process.

21 101. Plaintiff suffered harm.

22 102. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

23 103. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress,  
24 including but not limited to, depression, PTSD, embarrassment, humiliation, mental and emotional pain  
25 and distress, depression, anger, worry, anxiety, negative feelings, and discomfort.

26 104. Under Government Code section 12940, Plaintiff is entitled to recover economic and  
27 noneconomic damages. Plaintiff is also entitled to reasonable attorney's fees and costs pursuant to  
28 Government Code section 12965.

1 **SEVENTH CAUSE OF ACTION**

2 *Failure to Provide Reasonable Accommodations in Violation of FEHA*

3 *(Government Code § 12940, et seq.)*

4 *(Against All Defendants)*

5 105. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set  
6 forth in this Complaint.

7 106. Government Code section 12940(m)(1) provides in relevant part:

8 It is an unlawful employment practice. . . (m)(1) [f]or an employer or other  
9 entity covered by this part to fail to make reasonable accommodation for  
the known physical or mental disability of an applicant or employee.

10 107. California Code of Regulations, Title 2 section 11068 provides in relevant part:

11 (a) Affirmative Duty. An employer or other covered entity has an  
12 affirmative duty to make reasonable accommodation(s) for the disability of  
13 any individual applicant or employee if the employer or other covered  
14 entity knows of the disability, unless the employer or other covered entity  
can demonstrate, after engaging in the interactive process, that the  
accommodation would impose an undue hardship.

15 . . .

16 (e) Any and all reasonable accommodations. An employer or other  
17 covered entity is required to consider any and all reasonable  
18 accommodations of which it is aware or that are brought to its attention by  
19 the applicant or employee, except ones that create an undue hardship. The  
20 employer or other covered entity shall consider the preference of the  
applicant or employee to be accommodated but has the right to select and  
implement an accommodation that is effective for both the employee and  
the employer or other covered entity.

21 108. Defendant was Plaintiff's employer, and Plaintiff was Defendants' employee.

22 109. Defendant was aware that Plaintiff had a disability that limited a major life activity, as well  
23 as a history of disability that limited a major life activity.

24 110. Plaintiff was able to perform the essential job duties of Plaintiff's position with reasonable  
25 accommodation for Plaintiff's disability. Defendant refused to provide reasonable accommodation to  
26 Plaintiff. Instead, Defendants retaliated against Plaintiff by forcing a new job description for his position,  
27 disregarding his need for accommodations, and ultimately wrongfully terminating him.

28 111. Plaintiff was terminated in violation of the Fair Employment and Housing Act by

1 Defendants due to Plaintiff's disability.

2 112. Plaintiff suffered harm.

3 113. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

4 114. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress,  
5 including but not limited to, depression, PTSD, embarrassment, humiliation, mental and emotional pain  
6 and distress, depression, anger, worry, anxiety, negative feelings, and discomfort.

7 115. Under Government Code section 12940, Plaintiff is entitled to recover economic and  
8 noneconomic damages caused by Defendants' discriminatory practices based on Plaintiff's disability and  
9 violation of the Fair Employment and Housing Act. Plaintiff is also entitled to reasonable attorney's fees  
10 and costs pursuant to Government Code section 12965.

11 ***EIGHTH CAUSE OF ACTION***

12 *Hostile Work Environment Harassment in Violation of FEHA*

13 *(Government Code § 12940, et seq.)*

14 *(Against All Defendants)*

15 116. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set  
16 forth in this Complaint.

17 117. Defendants, and each of them, either individually and/or through their agents, engaged in  
18 the foregoing conduct, which constitutes a pattern and practice of hostile work environment harassment  
19 in violation of Government Code sections 12940(j), which provides that harassment of employees is an  
20 unlawful employment practice.  
21

22 118. Plaintiff endured harassing conduct by Defendants and/or Defendant's manager's that took  
23 place throughout Plaintiff's working environment.

24 119. Plaintiff considered the work environment to be hostile or abusive towards people with  
25 disabilities, and who are over the age of 40.

26 120. Plaintiff's manager engaged in the conduct.  
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121. Defendants knew or should have known of the conduct and failed to take any corrective action whatsoever, let alone immediate appropriate corrective action.

122. The above-described acts and conduct by Defendants proximately caused Plaintiff damages and injury in an amount to be proven at trial.

123. The conduct of Defendants and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

### ***NINTH CAUSE OF ACTION***

#### ***Failure to Prevent Discrimination and Harassment in Violation of FEHA***

***(Government Code § 12940, et seq.)***

***(Against All Defendants)***

124. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

125. Government Code section 12940(m)(2) provides in relevant part:

It is an unlawful employment practice . . . (k) For an employer . . . to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

126. Defendants wrongfully failed to take all reasonable steps necessary to prevent harassment and discrimination of Plaintiff based on Plaintiff's disabilities and age.

127. Plaintiff suffered and continues to suffer harm as a result of Plaintiff's treatment by Defendants.

128. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

129. Under Government Code section 12940, Plaintiff is entitled to recover Plaintiff's economic and noneconomic damages caused by Defendants' unlawful practices. Plaintiff is also entitled to reasonable attorney's fees and costs pursuant to Government Code section 12965.



130. The conduct of Defendants and each of them as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendants and each of them, and their agents/employees or supervisors, authorized, condoned, and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

***TENTH CAUSE OF ACTION***

### *Intentional Infliction of Emotional Distress*

*(Against All Defendants)*

131. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set forth in this Complaint.

132. Defendant's treatment of Plaintiff as discussed supra, exceeds the bounds of decency, is intolerable within our civilized community, and is therefore outrageous.

133. Defendant's actions, as discussed supra, were intended to cause Plaintiff to suffer the resulting emotional distress.

134. The conduct of Defendant was a substantial factor in causing Plaintiff emotional distress, including but not limited to, depression, PTSD, embarrassment, humiliation, mental and emotional pain and distress, depression, anger, worry, anxiety, negative feelings, and discomfort.

135. Plaintiff was harmed.

136. Defendant's conduct was a substantial factor in causing Plaintiff's harm.

137. The conduct of Defendant as described above was malicious, fraudulent, or oppressive and done with a willful and conscious disregard for Plaintiff's rights. Defendant and each of them, and their agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

### ***ELEVENTH CAUSE OF ACTION***

### *Wrongful Termination in Violation of Public Policy*

*(Against All Defendants)*

138. Plaintiff re-pleads, re-alleges, and incorporates by reference each and every allegation set

1    forth in this Complaint.

2            139.    Art. I, § 8, of the California Constitution provides that a person may not be disqualified  
3    from pursuing a profession or employment because of their disability.

4            140.    At all times herein mentioned in this complaint, Government Code Section 12940 (a), was  
5    in full force and effect and were binding on the Defendants and the Defendants were subject to their  
6    terms, and therefore Defendant was required to refrain from violations of public policy, including  
7    discrimination based on disability in violation of FEHA and in retaliation for complaining of said  
8    discrimination.

9            141.    Defendants were Plaintiff's employer, and Plaintiff was Defendants' employee.

10          142.    Defendant terminated Plaintiff in violation of Plaintiff's rights and public policy.

11          143.    Plaintiff is informed and believes and thereon alleges that his protected status (disability  
12    and age) and/or his protestation against being discriminated against based on said protected status as  
13    alleged above, were, in part, factors in Defendants' decision to terminate Plaintiff's employment.

14          144.    Plaintiff was harmed.

15          145.    Defendants' conduct was a substantial factor in causing Plaintiff's harm.

16          146.    As a proximate result of Defendants' conduct, Plaintiff has suffered special damages in the  
17    form of lost earnings, vesting equity, benefits and/or out of pocket expenses in an amount according to  
18    proof at the time of trial. As a further direct and proximate result of Defendants' conduct, Plaintiff will  
19    suffer additional special damages in the form of lost future earnings, benefits and/or other prospective  
20    damages in an amount according to proof at the time of trial.

21          147.    As a further direct and proximate result of Defendants' conduct, Plaintiff has suffered loss  
22    of financial stability, peace of mind and future security, and has suffered embarrassment, humiliation,  
23    mental and emotional pain and distress and discomfort, all to his detriment and damage in amounts not  
24    fully ascertained but within the jurisdiction of this court and subject to proof at the time of trial.

25          148.    In violation of public policy, Defendants terminated Plaintiff because he is a 54-year-old  
26    disabled male who was wrongfully terminated, despite the fact that Defendants knew that Plaintiff was  
27    experienced and able to perform the essential functions of his position and had done so since 2018 as a  
28    Principal Application Engineer and later ad Primary Member Technical Staff – S&A Hardware Engineer

1 after the acquisition.

2 149. The conduct of Defendants as described above was malicious, fraudulent, or oppressive  
3 and done with a willful and conscious disregard for Plaintiff's rights. Defendant and each of them, and  
4 their agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each  
5 other. Consequently, Plaintiff is entitled to punitive damages against each of said Defendants.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, as  
8 follows:

- 9 1. Compensatory damages including emotional distress damages and lost wages, benefits  
10 and interest in a sum according to proof;  
11 2. Interest on judgment, including prejudgment interest, at the legal rate;  
12 3. Punitive damages against Defendant in a sum according to proof;  
13 4. Attorney's fees and costs; and  
14 5. For any further legal and equitable relief, the Court deems proper.

15  
16 Dated: November 25, 2024.

**RATNER MOLINEAUX, LLP**

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18 \_\_\_\_\_  
David S. Ratner  
Shelley A. Molineaux  
Attorneys for Plaintiff John Evans

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20  
21 **DEMAND FOR JURY TRIAL**

22 Plaintiff hereby demands trial of his claims by jury to the extent authorized by law.

23 Respectfully submitted,

24 Dated: November 25, 2024.

**RATNER MOLINEAUX, LLP**

25 

26 \_\_\_\_\_  
David S. Ratner  
Shelley A. Molineaux  
Attorneys for Plaintiff John Evans  
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