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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
SEP 21 2010
John A. Clarke, Executive Officer/Clerk
By *[Signature]*, Deputy
GLORIETTA ROBINSON

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

JAKI NELSON, an individual

Plaintiff,

v.

JONES DAY, an International Law Firm;
and DOES 1 through 50, inclusive,

Defendants.

Case No. BC413805

Assigned for all purposes to
HONORABLE MARY ANN MURPHY
DEPARTMENT 25

**SECOND AMENDED COMPLAINT FOR
DAMAGES FOR:**

1. Racial Harassment in Violation of FEHA
2. Race Discrimination in Violation of
FEHA
3. Failure to Prevent Unlawful Harassment,
Discrimination and Retaliation in
Violation of FEHA
4. Failure to Investigate Racial Harassment
in Violation of FEHA
5. Retaliation in Violation of FEHA
6. Tortious Discharge in Violation of Public
Policy
7. Intentional Infliction of Emotional
Distress
8. Negligent Infliction of Emotional Distress

DEMAND FOR JURY TRIAL
UNLIMITED JURISDICTION
(Prayer Exceeds \$25,000)

1 these Defendants by such fictitious names. Plaintiff will amend this Second Amended Complaint to
2 allege their true names and capacities when ascertained. Said Defendants are sued as partners,
3 parent companies, joint-ventures, principals and/or agents, or employees of said principals, and all of
4 the acts performed by them as agents and employees were performed within the course and scope of
5 their authority and employment. Based on information and belief, Plaintiff alleges that each and
6 every Defendant designated as a DOE Defendant was responsible for the events referred to herein
7 and in some manner cause the injuries to Plaintiff as hereinafter alleged. Plaintiff will amend this
8 Second Amended Complaint to state the manner in which each fictitious Defendant is so
9 responsible.

10 8. Plaintiff is informed and believes, and thereon alleges, that each of the
11 Defendants herein was, at all times relevant to this action, the agent, employee, representing partner,
12 de-facto partner, joint-venturer and/or co-conspirator of the remaining Defendants and was acting
13 within the course and scope of that relationship. Plaintiff is informed and believes, and thereon
14 alleges, that each business Defendant was an integrated enterprise of the other. Plaintiff is further
15 informed and believes, and thereon alleges, that each of the Defendants herein gave consent to,
16 ratified, and authorized the acts alleged herein to each of the remaining Defendants.

17 FACTUAL ALLEGATIONS

18 9. Since November 1992, when Plaintiff's employment began at JONES DAY,
19 the firm has employed only a handful of African American legal secretaries in its Los Angeles
20 office. Many of the African American secretaries in JONES DAY's Los Angeles office have been
21 subjected to and victimized by a pattern and practice of unfavorable disparate treatment in regards to
22 unfair compensation, benefits, bonuses, performance evaluations, desk assignments and accusations
23 of misconduct. Plaintiff in particular has been retaliated against for complaining about this disparate
24 treatment and singled out for further discrimination and harassment due to her race, perpetrated by
25 Suzanne Zamel ("Zamel"), JONES DAY's Human Resources Manager, Lisa Takata ("Takata"),
26 JONES DAY's Office Administrator, and Pat Miller ("Miller"), JONES DAY's HR Coordinator
27 and/or Secretarial Supervisor, with the knowledge and complicity of firm management in the Los
28 Angeles office.

1 10. At all relevant times, Frederick ("Rick") McKnight ("McKnight") has been
2 the Managing Partner of JONES DAY's Los Angeles office. McKnight tolerated racist attitudes and
3 conduct in the workplace. Plaintiff is informed and believes that McKnight himself loudly
4 proclaimed one day that "A nigger robbed me!" when discussing a situation when he was allegedly
5 robbed. McKnight also displayed a callous indifference to Plaintiff's complaints of harassment and
6 discrimination and turned a blind eye to Plaintiff when it came to her reporting the abusive conduct
7 engaged in by Zamel and Takata. Plaintiff is informed and believes that McKnight engaged in
8 inappropriate sexual conduct with Jones Day employees, including a young African American
9 female, which seriously eroded his credibility and leadership in the Los Angeles office. Plaintiff
10 herself was subjected to offensive staring at her private areas by McKnight which made her feel as
11 though McKnight viewed African American females as sexual objects and not worthy of protection
12 from harassment, discrimination and retaliation as experience by Plaintiff in the Los Angeles office
13 of JONES DAY.

14 11. Plaintiff is informed and believes that many of the attorneys and support staff
15 in the Los Angeles office of JONES DAY, most of whom are not African American, are guilty of
16 violating the firm's policy against internet abuse. Yet, none of them have been subjected to the same
17 level of surveillance, erroneous accusations or abusive interrogation as was Plaintiff.

18 12. For example, McKnight's former secretary, a Caucasian employee, was
19 permitted to get away with whatever she wanted, including violating JONES DAY's policy against
20 internet abuse. She spent excessive time on the internet during work hours playing all sorts of games
21 with McKnight's knowledge. She occasionally loudly yelled out, "Hey guess what, I scored 200
22 points," or make similar comments indicating to those around her that she was playing online games
23 during regular work hours. In addition to her, there are several other Caucasian employees that
24 openly used their computers for non-work related matters, some of them even running a separate
25 business while at work.

26 13. In sharp contrast, Plaintiff was singled out and falsely accused of "running a
27 business online" and threatened with disciplinary action by Defendant's HR department and office
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1 managers and several disgruntled attorneys that she worked for, demonstrating that JONES DAY has
2 a pattern and practice of treating African Americans differently in this regard.

3 14. At all relevant times, Miller held the position of HR Coordinator and/or
4 Secretarial Supervisor in JONES DAY's Los Angeles office. Plaintiff is informed and believes that
5 Miller's duties consisted of making secretarial desk assignments, completing employee payroll and
6 monitoring the work of legal secretaries. Miller has a horrible reputation in the Los Angeles office
7 for mistreating employees of color, including Plaintiff, other support staff and several attorneys.
8 Plaintiff is informed and believes that Zamel and Takata supported Miller's conduct by constantly
9 calling minority secretaries into the HR office and accusing them of "gossiping" about Miller.
10 Whenever Miller or other Caucasian employees had a complaint, their complaints were immediately
11 investigated by HR. In contrast, Plaintiff's complaints were ignored, not investigated and/or never
12 taken seriously. JONES DAY has a pattern and practice of treating employees of color, and African
13 Americans in particular, differently in this regard.

14 15. Miller used her influence to change the desk assignments of minority
15 secretaries who ended up on her bad side, or they would be tossed into the secretarial floater pool.
16 This is what happened to an African American legal secretary. Miller and Zamel harassed her for
17 trivial things because of her race. On one occasion, she came up to Plaintiff in tears immediately
18 after Zamel and Miller had called her into the HR office and accused her of gossiping about Miller's
19 involvement in a well-known sex scandal at JONES DAY. Thereafter, she was suddenly removed
20 from her desk. Miller assigned another non-African American secretary to her desk and she was
21 relegated to a slow desk with all young associates. Plaintiff is informed and believes that the African
22 American secretary informed McKnight about Miller and Zamel's mistreatment, and specifically
23 stated that Miller and Zamel showed favoritism towards non-African Americans, were racist and had
24 been harassing her due to her race. She suffered the same pattern and practice of discrimination and
25 harassment experienced by Plaintiff subsequent to her meeting with McKnight. She was intensely
26 monitored by Defendant' office managers and was eventually forced to leave the firm.

27 16. In an effort to improve her working conditions at JONES DAY, Plaintiff
28 constantly complained to Zamel and Takata regarding her desk not having enough work. Miller had

1 constantly paired Plaintiff with new associate attorneys who did not generate much secretarial work.
2 Plaintiff feared that she might lose important secretarial skills and asked to be paired with partners,
3 the same as other non-African American secretaries at her level and experience. Miller refused to do
4 so and Defendant's office managers did nothing in response to Plaintiff's complaints. JONES DAY
5 has a pattern and practice of treating African Americans differently in this regard by favoring non-
6 African American legal secretaries with the best positions, highest salaries and better bonuses and
7 benefits.

8 17. Plaintiff is informed and believes that what happened to the individual
9 discussed in Paragraph 15 above was a common practice experienced by African American
10 secretaries in particular, and other ethnic minorities in general. Caucasian legal secretaries in
11 JONES DAY's Los Angeles office were always protected by the firm's management and HR
12 department. Carrie Evans ("Evans"), a Caucasian secretary who Plaintiff believes had the worst
13 attendance record among the secretaries in the firm's Los Angeles office, was allowed to come to
14 work whenever she pleased. In 2007, Jeneva Hackney ("Hackney") worked for JONES DAY only a
15 couple of months, if that, but was permitted to collect a Christmas bonus and anniversary check.
16 Hackney laughed about these disparities when she informed Plaintiff about them. She also said she
17 was actually to benefit from the racial discrimination at the firm.

18 18. In addition, while Hackney was out on medical leave, she never received the
19 same type of constant harassment from Zamel as did Plaintiff. Plaintiff went out on medical leave
20 on June 1, 2007 and Zamel sent Plaintiff numerous letters demanding that she return to work
21 immediately for contrived and bogus reasons. Hackney and other non-African American employees
22 were not subjected to the same harassing conduct by Zamel. Plaintiff was the victim of a double
23 standard of treatment with respect to her use of the firm's medical leave policy because of her race.
24 Plaintiff is informed and believes that JONES DAY has a pattern and practice of treating African
25 Americans differently in this regard.

26 19. African American secretaries, including Plaintiff, were subjected to unequal
27 treatment regarding the firm's implementation of various pilot programs in the Los Angeles office.
28 Plaintiff is informed and believes that African American secretaries were rarely, if ever, included in

1 pilot programs. Routinely, the same group of Caucasian secretaries – Larry Sublett, Melonie Moss,
2 Kathy Conway, Tina Lindenbaum-Schubert, Shelly Hirmand and others – benefited from the firm’s
3 pilot programs. Plaintiff is informed and believes that JONES DAY has a pattern and practice of
4 treating African Americans differently in this regard.

5 20. Plaintiff failed to receive appropriate compensation, bonuses and other fringe
6 benefits equal to non-African American secretaries who possessed the same years of experience and
7 skills as Plaintiff. Plaintiff is informed and believes that JONES DAY has a pattern and practice of
8 treating African Americans differently in this regard.

9 21. African Americans were never part of Miller’s clique that received
10 preferential treatment. Even those who were in Miller’s exclusive clique referred to her as “evil,”
11 and warned Plaintiff, “Don’t ever get on Miller’s bad side.”

12 22. Plaintiff is informed and believes that Miller called Dique Canon, another
13 African American legal secretary, a “ghetto nigger.” Plaintiff confronted Miller about her use of the
14 term “ghetto nigger,” which Miller never denied. Plaintiff informed Miller she was highly offended
15 by Miller’s use of this epithet towards Canon stating that “I am also African American.” Instead of
16 apologizing for the statement, Miller demanded that Plaintiff tell her the name of the person that
17 informed Plaintiff about this incident. Plaintiff refused to tell Miller but made it clear that she felt
18 the comment was entirely inappropriate.

19 23. Plaintiff was repeatedly exposed to other racist remarks in the JONES DAY
20 Los Angeles office. For instance, Plaintiff returned from sick leave and learned that a Mexican
21 American secretary had covered her desk. Plaintiff asked Scott Behrendt (“Behrendt”), one of the
22 Caucasian partners on Plaintiff’s desk, who had covered Plaintiff’s desk in her absence. Behrendt
23 said, “Can’t you smell the odor”. Plaintiff said, “I am not sure what you are talking about”. Then
24 Behrendt said, “A dirty Mexican, can’t you smell her.” Plaintiff immediately went to Sheila
25 McKeowan, the Office Administrator, and reported Behrendt’s inappropriate comment. Afterwards,
26 Behrendt was instrumental in causing Garcia to leave the firm. Later, Behrendt also retaliated
27 against Plaintiff by having her removed from her desk assignment because he was furious about
28 Plaintiff reporting his offensive behavior to the Office Administrator. Behrendt would slam doors in

1 Plaintiff's face and aggressively walk towards her causing her to move swiftly out of the way in
2 order to avoid getting run into. JONES DAY's office management and HR Department were
3 complicit in this retaliation. Daniel McMillan ("McMillan") and Behrendt became allies against
4 Plaintiff. McMillan demanded that Plaintiff be fired after she complained about Behrendt.

5 24. Behrendt and Reed Aljian ("Aljian"), another Caucasian attorney, then
6 undertook a campaign of harassment against Emery Elhabiby ("Elhabiby"), an Attorney of Egyptian
7 ancestry, which Plaintiff witnessed. Plaintiff is informed and believes that Elhabiby was harassed so
8 severely by these attorneys that he was driven to file an EEOC complaint against JONES DAY in
9 2003. At that time, Plaintiff was the secretary for both Elhabiby and Aljian. Plaintiff observed
10 Aljian and Behrendt constantly joke about and give Elhabiby a hard time by walking past his office
11 and taunting him. Knowing that the firm had withdrawn work from Elhabiby, they would walk by
12 his office and say, "What are you working on?" On one occasion, Plaintiff found approximately 9 of
13 Elhabiby's check stubs, all taken out of the envelopes and completely visible, on Aljian's out box.
14 When Plaintiff asked why Aljian had them, he said, "Oh, I thought they were mine," and laughed.

15 25. When Elhabiby went to Plaintiff in distress, Plaintiff suggested that he should
16 speak to the managing partner to see if he could change his situation at the firm. Elhabiby agreed
17 and he met with the managing partner. After the meeting, Elhabiby told Plaintiff that McKnight told
18 him, "We never wanted you here, but you just did not get it. Out of all the attorneys, you are the
19 worst performing associate. You are horrible." Elhabiby left the firm and filed an EEOC complaint.
20 JONES DAY has a pattern and practice of dismissing or forcing African Americans who are
21 perceived not to "fit in" to leave the firm in significantly disproportionate numbers to non-African
22 Americans. Plaintiff is informed and believes that African American employees are dismissed,
23 usually for trumped up reasons, as a pretext for race discrimination.

24 26. Unbeknownst to Plaintiff, Elhabiby named her as a witness in connection with
25 his EEOC complaint against JONES DAY. Aljian was furious when he found out about Elhabiby's
26 complaint and immediately went to Zamel and requested that Plaintiff no longer be assigned to work
27 with him. Aljian also called Plaintiff into his office and told her that he felt he could no longer trust
28 Plaintiff because her name was mentioned in Elhabiby's charge. Plaintiff tried to explain to Aljian

1 that she had absolutely no knowledge of Elhabiby mentioning her name to the EEOC. Plaintiff was
2 concerned that she might be fired and went out of her way to demonstrate to Aljian that she was only
3 at JONES DAY to perform her job and had nothing against him.

4 27. After Elhabiby left the firm and his EEOC complaint was dismissed, Aljian,
5 Philip Cook ("Cook"), another Caucasian attorney, and other Caucasian associates stopped by
6 Plaintiff's desk and gleefully made disparaging comments about Elhabiby loud enough for Plaintiff
7 to hear. Cook stated in Plaintiff's presence that Elhabiby was "a stupid moron," an "idiot" and that
8 Elhabiby failed to figure out that JONES DAY did not want him as an associate.

9 28. At one point, Plaintiff's desk assignment consisted of Aljian, Chris Lovrien
10 ("Lovrien"), a Caucasian attorney who transferred from JONES DAY's Washington, DC office, and
11 Jennifer Scott ("Scott"), a new Caucasian associate. Aljian continued to play mind games with
12 Plaintiff in retaliation for her role in the Elhabiby matter. He became extremely controlling and
13 abusive towards Plaintiff to the point of Scott begging Plaintiff to get off the desk. Aljian continued
14 to engage in a pattern of passive-aggressive behavior towards Plaintiff, but she desperately wanted to
15 keep her job and felt trapped by the lack of support from Miller and others in HR. Plaintiff learned
16 that Nicole Thomas ("Thomas"), an African American attorney, was also victimized by offensive
17 remarks from Aljian. Thomas informed Plaintiff that one day she opened the door and Aljian ran up
18 behind her and said, "Hold dah doe," using a slave-type affect. Thomas and Plaintiff were both
19 offended by Aljian's behavior.

20 29. On another occasion, Aljian walked up to Plaintiff and falsely accused her of
21 spreading rumors about his affair with another employee in the office. Plaintiff denied doing so.
22 Aljian was enraged and kept saying loudly, "You did, you did!" Aljian stated that he was going to
23 personnel and that he no longer wanted to work with Plaintiff. Zamel never contacted Plaintiff about
24 Aljian's request being granted. However, even though Plaintiff was no longer Aljian's secretary, he
25 was still allowed to demand that Plaintiff do his work. Aljian angrily slammed papers on Plaintiff's
26 desk, which intimidated her because Aljian had a violent temper and Plaintiff had witnessed his
27 behavior towards other employees when he became angry. Aljian had even threatened to throw
28 secretaries out of the window. Plaintiff reported to Zamel that Aljian's behavior scared her and that

1 she did not want to sit near him. Despite Zamel's promise to Plaintiff that Aljian would be located
2 on another floor in the new building, Zamel put Aljian in an office on the same floor near Plaintiff.
3 This is yet another example of how Plaintiff's concerns fell on deaf ears.

4 30. Aljian, Lovrien, Behrendt and Geoffrey Forgione ("Forgione") became daily
5 lunch friends and conspired against Plaintiff. They would walk past Plaintiff and glare at her with
6 disgust. Forgione was a third-year associate and treated office staff like servants. One day while
7 Plaintiff was at her desk eating lunch, Forgione told Plaintiff to immediately stop eating and remove
8 a dirty rag from his desk, which she believed was racially motivated and degrading. Plaintiff was
9 insulted and suggested that Forgione contact Office Services. Forgione appeared to be appalled by
10 Plaintiff's suggestion.

11 31. Forgione further berated Plaintiff by suggesting that she "needed therapy."
12 He constantly gave Plaintiff personal work to perform, such as preparing and sending
13 correspondence to the Federal immigration authorities on behalf of his girlfriend. Forgione and
14 Lovrien also had a bad habit of regularly giving Plaintiff an entire month of incomplete timesheets to
15 fill out only a couple of hours before the deadline. Plaintiff reported this practice to Miller because
16 she was concerned about the validity of the time she was directed to input long after the fact. But
17 Miller did nothing to correct this practice. When Forgione gave Plaintiff 30 days of incomplete
18 timesheets, he would only provide the client name and narrative and wanted Plaintiff to go through
19 each day and fill in the hours making sure that he billed at least 7.50 hours or more. Plaintiff
20 believed this practice constituted potentially fraudulent billing to clients, which made her feel
21 extremely uncomfortable. Plaintiff's complaints were ignored by HR and Forgione continued this
22 practice. After her complaints to HR, Plaintiff is informed and believes that Lovrien, Forgione and
23 possibly other Caucasian attorneys all falsely reported to Zamel and Takata that Plaintiff was
24 allegedly "unapproachable, lazy and had an attitude." Plaintiff believes Defendant' office managers
25 and HR used this contrived information to retaliate against and discredit Plaintiff due to her race.

26 32. On May 23, 2007, Plaintiff was inexplicably called into a surprise meeting
27 with Zamel and Takata. Prior to this meeting, Plaintiff had received very good performance
28 evaluations and had not received any warnings from any of the attorneys she worked with or from

1 HR. This meeting lasted almost two hours and consisted of Zamel and Takata literally taking turns
2 berating, harassing and yelling at Plaintiff. Zamel waived a document in front of Plaintiff and
3 claimed to have pulled Plaintiff's computer records and accused her of impermissibly visiting T-
4 Mobile and eBay websites. Zamel and Takata refused to listen to Plaintiff's explanations regarding
5 this information and continued to yell at her and interrupt her each time she tried to defend herself.
6 During this meeting, both Zamel and Takata took turns hurling demeaning insults at Plaintiff. Zamel
7 and Takata told Plaintiff that all four of the attorneys she was assigned to disliked her and were
8 unhappy with her. Zamel kept yelling at the top of her lungs, "You are in violation of firm policy."
9 When Plaintiff asked Zamel "Why are you singling me out?" Zamel's derisive response was, "You
10 are singling me out," obviously referring to Plaintiff's prior complaints to David Boyce, the
11 Administrative Lawyer for the Los Angeles office of JONES DAY, of Zamel's unethical and
12 unprofessional behavior, harassment and racially disparate treatment that had never been
13 investigated by JONES DAY. Zamel also told Plaintiff that this was "pay back" for Plaintiff having
14 reported the conduct of other people at the firm. Zamel then falsely accused Plaintiff of time-sheet
15 fraud, bad attendance, chronic lateness and excessive phone and internet usage, which she knew was
16 false and only a pretext because of her race. When Plaintiff asked if she was going to be fired,
17 Zamel said, "No, you know that JONES DAY does not fire people, after all you are still here."
18 Takata then threatened Plaintiff by telling her that if she spoke with any of the attorneys about this
19 meeting she would be fired immediately. Takata also told Plaintiff, "Black people have come a long
20 way and you should be ashamed of cheating the firm," which insulted and humiliated Plaintiff.
21 Plaintiff observed that Zamel and Takata took delight in torturing her during the meeting. When
22 Plaintiff asked if she would be placed on probation, Zamel mockingly replied, "Not unless you want
23 me to document this and put it in your file." Plaintiff requested that Zamel and Takata not to leave
24 this situation hanging over her head indefinitely. Takata pointed her finger at Plaintiff's face and
25 stated, "Oh you better believe it and we will always be watching you." This unjustified interrogation
26 left Plaintiff near a nervous breakdown. Plaintiff believes Takata and Zamel purposely engaged in
27 this behavior to try and push Plaintiff over the edge, break her spirit and/or elicit a response from
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1 Plaintiff to use against her. Plaintiff believes this meeting was racially motivated and no other
2 employee had ever been subjected to such abusive behavior by Takata and Zamel.

3 33. After 15 years of faithful employment, Plaintiff found herself illegitimately
4 placed under an investigation and treated worse than a common criminal. Plaintiff knows that the
5 accusations of Takata and Zamel were false, contrived and unjust. Plaintiff incurred the wrath of HR
6 all because of her race and/or having had the courage to protest conduct she believed was
7 inappropriate in the workplace. However, time after time when Plaintiff complained to HR and
8 others about the unfair treatment she experienced, there was no investigation, no corrective action
9 taken and she received no response whatsoever from firm management – much less any assurances
10 that she would not be mistreated for having lawfully asserted her rights. Instead, the very
11 individuals in HR who were supposed to assure Plaintiff that the laws protecting her from workplace
12 abuse would be upheld labeled her a “troublemaker,” retaliated against her and completely destroyed
13 any confidence Plaintiff had that the Los Angeles office of JONES DAY would ever treat employees
14 of color fairly under its current leadership.

15 34. On May 29, 2007, Plaintiff filed an internal complaint about the May 23, 2007
16 meeting and chronicled what she believed were multiple instances of retaliation, disparate treatment
17 and harassment against her due to her race. Plaintiff arranged for a conference call with David
18 Williams (“Williams”), the Firm-wide Human Resources Director and Counsel based in the
19 Washington D.C. office of JONES DAY, and another employment attorney from JONES DAY’S
20 Los Angeles office to discuss her complaints. Williams stated that he had completed his
21 “investigation” and he had reviewed Plaintiff’s personnel file twice and basically indicated that
22 everything was Plaintiff’s fault. He said that Plaintiff had a problem getting along with people and
23 that the firm had done her a favor by not taking action against her. As Plaintiff tried to explain the
24 blatantly racist culture in JONES DAY’s Los Angeles office permitted by McKnight and Miller,
25 Williams immediately defended them and tried to impress upon Plaintiff that they were above
26 reproach. When Plaintiff described the abusive and threatening conduct of Takata and Zamel
27 towards her, Williams only gave excuses for their behavior indicating that he had failed to
28 objectively or genuinely investigate Plaintiff’s complaints. Williams asked Plaintiff what she would

1 like to have done. She asked to at least be relocated to another floor of the office. Williams
2 admitted that he lacked authority to simply relocate Plaintiff to another floor of the office. It quickly
3 became apparent to Plaintiff that Williams' mind was made up before he spoke with her and his so-
4 called investigation was merely a sham. Plaintiff never received a verbal or written follow-up from
5 Williams after her telephone conference with him and never received any assurances from the firm
6 that her complaint had been taken seriously. Instead, Williams sent a threatening letter to Plaintiff
7 about the consequences of any possibly defamatory remarks, without reference to anything
8 specifically said by Plaintiff. This further illustrates the firm's corporate arrogance and propensity to
9 use heavy-handed intimidation tactics against Plaintiff. Plaintiff was left feeling distraught and
10 totally helpless which caused her to remain on medical leave for several months.

11 35. Plaintiff is informed and believes that JONES DAY's Los Angeles office HR
12 is out of control and, in fact, openly operated and condoned a regime of favoritism based on race,
13 and bullied anyone who dared to complain about unfair treatment thereby creating an intimidating
14 and hostile work atmosphere for all employees of color, and towards Plaintiff in particular. For
15 example, JONES DAY implemented a No Fragrance Policy due to complaints from several
16 Caucasian secretaries about an African American secretary's fragrance. When Plaintiff complained
17 confidentially about an attorney's extremely strong perfume under this same policy, Takata and
18 Miller disregarded Plaintiff's request for confidentiality and went directly to and told the attorney
19 that it was Plaintiff who had complained. Thereafter, Plaintiff was confronted by the attorney, who
20 was enraged. Plaintiff asked Takata why she failed to keep her complaint confidential. Takata
21 responded by saying, "If you were a real woman you would have approached the attorney yourself."
22 Then Takata stated that if the partner confronted you "it is your own fault." Plaintiff then took her
23 concerns to McKnight, who said that Plaintiff should not have gone to HR because he knew "They
24 would make a mess of things." It became clear to Plaintiff that McKnight had abdicated his
25 managerial responsibilities and did not take Plaintiff's complaint seriously. His parting remark to
26 Plaintiff was that she should just take the angry attorney to lunch.

27 36. Plaintiff was then summoned over the intercom to a meeting with Miller and
28 Takata about the perfume incident. Miller and Takata grilled Plaintiff while pointing their fingers at

1 her, and were clearly upset that Plaintiff had contacted McKnight about HR's failure to handle her
2 complaint confidentially. When Plaintiff tried to excuse herself from the meeting, she was accused
3 of being insubordinate. Plaintiff explained to Miller and Takata that when other Caucasian
4 employees make complaints, their complaints are handled in a professional and confidential manner
5 while her complaints are either ignored or turned against her. The firm never acted on this
6 information and Plaintiff never received a response.

7 37. Plaintiff believes the reason why Miller, Zamel and Takata have been given a
8 free reign to discriminate and harass Plaintiff and other employees of color is that Miller and
9 McKnight enjoy a close personal relationship, which is common knowledge throughout JONES
10 DAY's Los Angeles office. Plaintiff is informed and believes that many employees of color are
11 afraid to complain because it is well known that Miller can terrorize the workplace with impunity.
12 Those who dare to complain are further subjected to covert and overt acts of retribution by Miller
13 and/or the HR department.

14 38. Takata's palpable bias against Plaintiff is rooted in her openly expressed racist
15 views of African Americans, and her resentment against Plaintiff informing McKnight about her
16 unresolved complaints. The worst aspect of Plaintiff's employment at JONES DAY is that Zamel
17 and Takata have used the full clout of their positions in the HR department and as office managers to
18 orchestrate a racist campaign of unfounded accusations against Plaintiff in an apparent attempt to
19 sabotage her credibility, impugn her reputation, force her to quit and derail any opportunity for
20 Plaintiff to continue her career with JONES DAY. These same individuals engaged in similar
21 campaigns against other employees of color at the firm, which Plaintiff believes were designed to
22 keep African American employees in constant fear of disciplinary action, or to encourage them to
23 leave the firm, in order to maintain a racially homogenous work environment. Plaintiff believes that
24 it is no coincidence that Jones Day's Los Angeles office has relatively few African American
25 support staff, fewer African American associate attorneys and no African American partners – which
26 Plaintiff believes is due to racist hiring, disciplinary and retention practices. Plaintiff is informed
27 and believes that Defendant's office managers have succeeded in maintaining a homogenous, rather
28 than diverse, workplace by marginalizing most employees of color and forcing many to quit.

1 39. Plaintiff filed her initial charge of discrimination, retaliation and harassment
2 with the EEOC on August 29, 2007. Plaintiff was notified that the EEOC referred her complaint to
3 the DFEH. However, since the EEOC assumed responsibility for processing Plaintiff's complaint,
4 the DFEH issued Plaintiff an immediate Notice to Complainant of Right to Sue on August 31, 2007.
5 Plaintiff was issued a Right to Sue Notice from the EEOC on April 16, 2008. Because the EEOC
6 Right to Sue Letter was not issued until April 16, 2008, the DFEH Right to Sue notice permitted the
7 filing of a lawsuit in State court on or before April 16, 2009. Effective April 16, 2009, the parties
8 entered into a tolling agreement, up to and including May 16, 2009.

9 40. After Plaintiff filed her initial charge with the EEOC, she returned to work
10 from a medical leave of absence on June 2, 2008. Thereafter, Plaintiff was subjected to further
11 disparate treatment, harassment, retaliation and ostracism in the following manner:

12 41. When Plaintiff returned to work from a medical leave of absence, she was
13 immediately called into a meeting with Miller, Zamel and Takata. They accused Plaintiff of owing
14 the firm \$1,600 for medical expenses after she had specifically told Zamel that she was not going to
15 continue to receive coverage because of her financial hardship. Zamel displayed such hostility
16 towards Plaintiff that Takata had to intervene. Thereafter, Zamel repeatedly sent Plaintiff harassing
17 emails threatening to initiate collections against Plaintiff and discontinue Plaintiff's use of her
18 expense reports, as well as referring this matter to an outside attorney.

19 42. In September 2008 Plaintiff was scheduled to attend a preliminary training
20 class for secretaries sponsored by the firm. Plaintiff notified Miller that she would have to cancel
21 her attendance due to illness. The next day, Plaintiff received an email from Takata demanding that
22 she meet with Takata and David Boyce, the Office Administrative Partner. Takata was angry and
23 confrontational towards Plaintiff in the meeting despite Plaintiff's apology for not attending and
24 promise to make up the class. Plaintiff attended the make-up class with other employees, but she
25 was the only employee who was singled out for a disciplinary meeting and reprimanded by office
26 management because she missed the class. During the make-up class another non-African employee
27 was allowed to leave early and was told it was no big deal.
28

1 43. On November 3, 2008, shortly after receiving one of Zamel's harassing
2 emails, Plaintiff came to work and discovered that she was blocked from accessing the firm's email
3 system. Plaintiff contacted the firm's information system technician and was informed that her
4 name had been placed in the "termination" file. Plaintiff immediately informed Zamel, whose only
5 explanation was that this was a "typo." Later that day, Plaintiff was informed by a paralegal that a
6 group of secretaries were discussing her termination. Plaintiff also received a telephone call from a
7 head hunter indicating that they had been informed she was terminated. Plaintiff is informed and
8 believes that this entire scenario was orchestrated by Zamel to further harass and annoy Plaintiff and
9 try to get her to quit.

10 44. Jim Childs ("Childs"), a Senior Partner, repeatedly called Plaintiff into his
11 office for alleged "mistakes." On one occasion, Childs called Plaintiff into his office and angrily
12 said, "What is this?" Plaintiff responded, "Mr. Childs, I do not know what you are talking about."
13 Child's then snatched the glasses off of Plaintiff's face while saying "You need to get some new
14 fucking glasses!" Plaintiff was in shock and said, "Mr. Childs please, you do not have to talk to me
15 like this." Childs responded, "Oh Jaki, you don't have to be so sensitive." Plaintiff feared Childs
16 but continued to do his work even though it was impossible to make him happy.

17 45. Sophia Chang, a young associate who worked with Childs, also claimed to
18 have a "problem" with Plaintiff. In January 2009, Chang and Childs called Plaintiff into a meeting
19 and harassed her about a typo in a letter that had been prepared in June 2008. Then Chang accused
20 Plaintiff of taking 30 minutes too long to create file folders with her preferred blue labels – instead
21 of the standard white labels, and then accused Plaintiff of lying and being lazy when she tried to
22 provide an explanation. Plaintiff left the office in tears. The next day, Childs told Plaintiff "I don't
23 want to work with you anymore" and went to Zamel to request a secretarial change.

24 46. Larry Sublet, a non-African American legal secretary who sat next to Plaintiff,
25 was constantly on the internet, made personal phone calls and took extended lunches to work at 24
26 Hour Fitness during business hours in violation of firm policy but was never disciplined. Defendant
27 has a pattern and practice of ignoring other non-African legal secretaries' attendance and tardiness
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1 problems, such as Kathy Conway and Carol Cooper. Plaintiff, on the other hand, has been singled
2 out and unfairly disciplined for these alleged abuses.

3 47. Plaintiff has been ostracized and shunned as a result of filing her EEOC
4 complaints. For example, Elwood Lui, a prominent firm partner, shunned Plaintiff, refused to get on
5 the elevator with her or look in her direction whenever he passed Plaintiff's desk. Lui's secretary
6 told Plaintiff, "Jaki, you know he read your EEOC complaint and he is angry with you."

7 48. Plaintiff informed Hugh Whiting, the firm's Administrative Partner about the
8 discrimination, harassment and retaliation that she was suffering. Whiting apparently assigned
9 Aaron Agenbroad, a partner from the firm's San Francisco office to contact Plaintiff. Plaintiff was
10 under the impression that Agenbroad would independently investigate her allegations. However, to
11 this day, she has never received any information indicating that an investigation took place, or that
12 her complaints were addressed and remedied. In fact, during this so-called investigation, Plaintiff
13 continued to be harassed and retaliated against. However, Plaintiff is informed and believes that
14 Agenbroad concluded that Plaintiff is a credible person and that HR continues to be a major problem
15 in the JONES DAY Los Angeles office.

16 49. Plaintiff reported to Agenbroad that, Bill Mulholland, the Office Services
17 Manager, had arranged a departmental meeting with his staff and told the office services staff to
18 discontinue talking to Plaintiff because she was a "troubled woman". This meeting caused problems
19 for Plaintiff in performing her job duties because the office services employees were hostile to her
20 and resisted helping her. For instance, Fred Phillips, a Caucasian office services employee, was
21 belligerent towards Plaintiff over a "cam number" and frightened her to the point of Plaintiff having
22 to threaten to call the police in order to get him to leave. Plaintiff reported Phillips' hostile behavior
23 to Agenbroad, but her complaint was ignored.

24 50. On March 25, 2009, Plaintiff filed another charge with the EEOC, and
25 concurrently, with the DFEH, due to the continued campaign of retaliation, harassment and
26 discrimination she has experienced. She received a Right to Sue Notice in connection with this
27 charge on July 31, 2009.

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1 51. Notwithstanding that Plaintiff filed a second charge in March of 2009,
2 Defendant's continuing pattern of racial discrimination, harassment and retaliation continued.
3 Subsequent to the filing of her second charge and the First Amended Complaint in the within action,
4 Plaintiff has been subjected to a continuing pattern of racial discrimination, harassment and
5 retaliation, including, *inter alia*: (a) being denied access to her personnel file, in contravention of
6 California law, despite numerous requests that it be made available to her, and then given access to
7 her personnel file only after having her legal counsel subpoena it; (b) being ostracized in that
8 multiple attorneys (some of whom are partners) and other staff members would no longer respond to
9 Plaintiff's greetings or other communications; (c) adverse and unjustified performance reviews being
10 placed in Plaintiff's personnel file without her being provided an opportunity to review or respond to
11 them; (d) being forced to work for Partners of JONES DAY who were named as perpetrators in the
12 within lawsuit; (e) being subjected to JONES DAY's failure to investigate or take corrective action
13 respecting complaints of discrimination, harassment and retaliation; (f) having to report claims of
14 harassment, retaliation and discrimination to Lovrien, one of the partners Plaintiff named in her First
15 Amended Complaint, and one of the partners charged with assisting JONES DAY to prepare its
16 defense to the within action; and (g) being subjected to an offensive, racially-based email, which she
17 reported to Stephen Brogan, Firm Manager, but which went unaddressed.

18 52. The foregoing pattern of racial discrimination, retaliation and harassment
19 culminated on or about June 15, 2010, when Plaintiff's employment was terminated after nearly 18
20 years of service. Notwithstanding that JONES DAY has asserted that Plaintiff was terminated as the
21 result of a "restructuring" of the Los Angeles Office of JONES DAY and that it determined the
22 persons to be terminated by an objective, unbiased process, these assertions are a thinly-veiled
23 pretext to the continuing pattern of discrimination, harassment and retaliation to which Plaintiff has
24 been subjected. The rationale proffered by JONES DAY is demonstrably pretextual because, *inter*
25 *alia*: (a) the initial "ranking" and/or evaluation of persons to be terminated was determined by the
26 very same persons who had harassed, retaliated against and discriminated against Plaintiff in the
27 past, namely Lisa Takata, Patricia Miller and Suzanne Zamel; (b) a secondary review of that
28 "ranking" was done by Lori Bounds, who participated in the initial bogus investigation of the initial

1 claims made by Plaintiff pertaining to Lisa Takata, Patricia Miller and Suzanne Zamel; (c) the
2 ultimate decision about whom to terminate was made by Lovrien and McKnight, both of whom were
3 named in Plaintiff's First Amended Complaint, and both of whom had engaged in discriminatory,
4 harassing and/or retaliatory acts against the Plaintiff; (d) the evaluation of Plaintiff against the so-
5 called "criteria" used to determine who would be terminated was ostensibly based upon Plaintiff's
6 personnel file, which had been filled with negative reviews and false information as part of JONES
7 DAY's discriminatory, harassing and retaliatory campaign against Plaintiff, as well as wholly
8 subjective criteria such as "willingness to take on work" and "willingness to assist others." The
9 evaluation of Plaintiff by persons who had demonstrated a bias against her, based upon a personnel
10 file that had been intentionally saturated with false and unjustifiably negative information, and
11 measured against subjective criteria, created the pretext by which Plaintiff was terminated
12 discriminatorily and in retaliation for reporting illegal and inappropriate conduct.

13 53. Further facts demonstrate that the "process" by which Plaintiff was terminated
14 was a pretext to racial discrimination. Plaintiff is informed and believes that of the nine JONES
15 DAY legal secretaries who were terminated as part of JONES DAY's so-called "restructuring",
16 seven of those secretaries were racial minorities, including two Hispanics, two African-Americans
17 and three Filipinos. Plaintiff is informed and believes that six of the racial minorities terminated had
18 tenure with JONES DAY in excess of 15 years, with at least three of those having tenure in excess of
19 20 years. These numbers are wildly disproportionate to the number and percentage of racial
20 minorities then employed as secretaries in JONES DAY's Los Angeles office. Moreover, Plaintiff is
21 informed and believes that of the six other racial minority secretaries terminated, most of them had
22 befriended Plaintiff, were named as witnesses by her in her claims, or made their own complaints to
23 or about JONES DAY's HR Department. Thus, it appears that JONES DAY attempted to utilize a
24 so-called "restructuring" to clean house of racial minorities, and in particular, Plaintiff, anyone
25 associated with Plaintiff, and anyone who created "trouble" by making claims to or about the HR
26 Department.

27 54. During the time of this continuing course of discriminatory, harassing and
28 retaliatory conduct by JONES DAY; Plaintiff was given fewer promotions, less favorable job duties

1 and significantly lower pay than non-minority legal secretaries at JONES DAY with similar tenure,
2 skills, experience and performance.

3 55. On August 13, 2010, and following her termination, Plaintiff filed a third
4 charge with the DFEH due to the continued campaign of discrimination, retaliation and harassment
5 she has experienced. She received a right to sue letter in connection with this charge on August 19,
6 2010. Therefore, Plaintiff has exhausted all of her administrative remedies.

7 **DAMAGES**

8 56. As a proximate result of the aforesaid acts of Defendant's HR department and
9 office managers Plaintiff has lost, and will continue to lose, earnings and has suffered and/or will
10 suffer medical expenses and other actual, consequential and incidental financial losses, in an amount
11 to be proven at trial. Plaintiff claims such amounts as damages together with prejudgment interest
12 pursuant to Civil Code Section 3287 and/or 3288 and/or any other provision of law providing for
13 prejudgment interest.

14 57. As a proximate and legal result of said wrongful conduct, Plaintiff has
15 suffered and continues to suffer embarrassment, humiliation, mental anguish, emotional and physical
16 distress, and has been injured in mind and body, including but not limited to psychological injury,
17 depression, sleeplessness, anxiety, digestive difficulties, weight gain and panic attacks, and other
18 incidental and consequential damages and expenses in an amount to be proven at trial.

19 58. The acts of Defendant's office managers were carried out in a concerted,
20 deliberate, cold, callous and intentional manner in order to injure and damage Plaintiff, or with
21 malice, fraud or oppression in a willful and conscious disregard of Plaintiff's rights. Such conduct
22 was oppressive and malicious, as defined by Cal. Civ. Code §3294, in that the acts caused Plaintiff
23 to suffer a loss of employment benefits and to suffer physical and emotional injuries, including
24 humiliation, embarrassment, emotional distress and other damages alleged herein. As a result,
25 Plaintiff is entitled to punitive and exemplary damages against each individual Defendant in a sum to
26 be proven at trial.

27 59. The acts of Defendants were carried out in concerted, deliberate, cold, callous
28 and intentional manner in order to injure and damage Plaintiff or with malice, fraud or oppression in

1 a willful and conscious disregard of Plaintiff's rights. Such conduct was oppressive and malicious,
2 as defined by Cal. Civ. Code §3294, in that the acts that caused Plaintiff to suffer a loss of
3 employment benefits and to suffer physical and emotional injuries, including humiliation,
4 embarrassment, emotional distress and other damages alleged herein were ratified by JONES DAY
5 and/or were carried out by managing agents of JONES DAY. Either on the basis of strict liability
6 and/or vicarious liability Defendant is liable for punitive damages in a sum to be proven at trial.

7 60. As a result of Defendant's HR Department and office managers' conduct as
8 alleged herein, Plaintiff has retained counsel to represent her. Plaintiff is therefore entitled to an
9 award based on the reasonable attorneys' fees and costs necessarily incurred in the preparation and
10 prosecution of this action, pursuant to Cal. Govt. Code §12965(b).

11 61. Plaintiff seeks a permanent injunction enjoining Defendant, their partners,
12 owners, officers, management personnel, employees, agents, successors, and assigns, and all persons
13 in active concert or participation with Defendant, from engaging in any employment practice which
14 harass or discriminate on the bases alleged in this Complaint. Plaintiff further seeks an order that
15 Defendant carry out and institute policies, practices and programs providing for equal employment
16 opportunities which would affirmatively eradicate the effects of past and present unlawful
17 employment practices against African American employees, on such terms as the Court may deem
18 suitable.

19 **FIRST CAUSE OF ACTION**

20 **RACIAL HARASSMENT**

21 **IN VIOLATION OF CA. GOVT. CODE §12940 et seq.**

22 **(Against Defendant JONES DAY)**

23 62. Plaintiff incorporates by reference and realleges Paragraphs 1 through 55 as
24 though set forth in full in this cause of action.

25 63. At all times herein mentioned, the California Fair Employment and Housing
26 Act, Government Code § 12940 *et seq.* ("FEHA") was in full force and effect and binding upon
27 Defendant. Plaintiff was at all times material hereto an employee covered by the FEHA. FEHA
28 Section 12940 (j), as well as public policy and other provisions, make it illegal for an employer and

1 its agents to harass an employee in ways that include, but are not limited to, subjecting an employee
2 to harassment and/or discrimination on the basis of race, among other things. The allegations in
3 Paragraphs 1 through 55 represent a continuing violation of Plaintiff's rights under the FEHA.

4 64. Defendant's HR department and office managers engaged in the conduct as
5 alleged above with the intent of harassing Plaintiff on account of her race, in violation of the FEHA.

6 65. The racially harassing conduct which existed in Plaintiff's place of
7 employment, as alleged above, was unwanted and unwelcomed by Plaintiff.

8 66. The pattern of racial harassment, discrimination and retaliation directed at
9 Plaintiff resulted in the denial or loss of tangible employment benefits by Plaintiff.

10 67. Defendant JONES DAY knew or should have known of the harassing actions
11 by Defendant's office managers, including Takata and Zamel. Despite JONES DAY's actual and/or
12 constructive knowledge of the harassment, JONES DAY failed to take immediate and appropriate
13 corrective action to stop the harassment, including conducting an adequate investigation, in violation
14 of the FEHA.

15 68. As a direct and proximate result of Defendant and its managing agents'
16 unlawful conduct, Plaintiff has suffered economic and non-economic damages. Plaintiff restates and
17 incorporates by reference each and every damage allegation contained in Paragraphs 56 through 61
18 as though fully set forth herein.

19 **SECOND CAUSE OF ACTION**

20 **RACE DISCRIMINATION**

21 **IN VIOLATION OF CA. GOVT. CODE §12940 *et seq.***

22 **(Against Defendant JONES DAY)**

23 69. Plaintiff incorporates by reference and realleges Paragraphs 1 through 55, as
24 well as the First Cause of Action set forth above, as though set forth in full in this cause of action.

25 70. The above said acts of Defendant's HR department and office managers
26 constituted race discrimination in violation of California Government Code sections 12940 *et seq.*
27 and California Constitution Article I, Section 8 and the public policy in California prohibiting such
28 conduct in the workplace; such discrimination was a proximate cause of Plaintiff's damages as stated

1 in this Complaint. The allegations in Paragraphs 1 through 55 represent a continuing violation of
2 Plaintiff's rights under the FEHA.

3 71. As a direct and proximate result of Defendant's HR department and office
4 managers' unlawful conduct, Plaintiff has suffered economic and non-economic damages. Plaintiff
5 restates and incorporates by reference each and every damage allegation contained in Paragraphs 56
6 through 61 as though fully set forth herein.

7 **THIRD CAUSE OF ACTION**
8 **FAILURE TO PREVENT UNLAWFUL HARASSMENT,**
9 **DISCRIMINATION AND RETALIATION**
10 **IN VIOLATION OF CA. GOVT. CODE §12940 et seq.**
11 **(Against Defendant JONES DAY)**

12 72. Plaintiff incorporates by reference and realleges Paragraphs 1 through 55, as
13 well as the First and Second Causes of Action set forth above, as though set forth in full in this cause
14 of action

15 73. Defendant violated California Government Code §12940(k) by failing and/or
16 refusing to take any or all reasonable steps necessary to prevent harassment and discrimination from
17 occurring, or with reckless disregard of the consequences to Plaintiff as set forth above, causing
18 Plaintiff to suffer damages.

19 74. As a direct and proximate result of Defendant and its managing agents'
20 unlawful conduct, Plaintiff has suffered economic and non-economic damages. Plaintiff restates and
21 incorporates by reference each and every damage allegation contained in Paragraphs 56 through 61
22 as though fully set forth herein.

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FOURTH CAUSE OF ACTION
FAILURE TO INVESTIGATE RACIAL HARASSMENT
IN VIOLATION OF CA. GOVT. CODE § 12940 et seq.
(Against Defendant JONES DAY)

75. Plaintiff incorporates by reference and realleges Paragraphs 1 through 55, as well as the First, Second and Third Causes of Action set forth above, as though set forth in full in this cause of action.

76. At all times mentioned herein, California Government Code Sections 12940 *et seq.* were in full force and effect and were binding upon Defendant. These sections impose an obligation on an employer to promptly and adequately investigate complaints of unlawful discrimination and/or harassment made by employees and to take prompt and effective remedial action, among other things.

77. Plaintiff repeatedly complained to Defendant's HR department and office managers of unlawful racial harassment and discrimination by various individuals in the Los Angeles office of JONES DAY. Defendant failed to promptly and/or adequately investigate such complaints, or to take prompt and effective remedial action.

78. The above said acts of Defendant's HR department and office managers constituted failure to promptly and/or adequately investigate by Defendant JONES DAY in violation of California Government Code sections 12940 *et seq.*, which was a proximate cause of Plaintiff's damages as stated below.

79. Defendant knew or should have known of the harassing actions by JONES DAY employees and their obligation to conduct a prompt and thorough investigation. Despite Defendant's actual and/or constructive knowledge of the harassment, Defendant failed to take immediate and appropriate corrective action to stop the harassment, including conducting an adequate investigation, in violation of the FEHA. Defendant is strictly liable for the conduct of Defendant's HR department and office managers because they managed and supervised Plaintiff.

1 retaliated against by Zamel constantly sending her threatening letters demanding that she return to
2 work and repay disability benefits she was legitimately entitled to. Upon Plaintiff's return to work
3 from a medical leave of absence, she was shunned, ridiculed and ostracized by HR and others in the
4 workplace, which made it very difficult for Plaintiff to perform her job. Plaintiff also learned that
5 during her absence, Takata and/or Zamel placed various adverse documents in her personnel file
6 without Plaintiff's knowledge and without an opportunity to respond. These documents contained
7 totally fabricated accounts of Plaintiff's job performance and the events preceding her medical leave
8 of absence, which Plaintiff believes were designed to impugn her reputation and force her to quit.

9 85. Defendants' shoddy investigation of Plaintiff's complaints and failure to
10 provide an adequate response or assurance that she would not be subjected to a hostile work
11 environment were actions caused by and in retaliation for the protected activity engaged in by
12 Plaintiff as set forth above.

13 86. As a direct and proximate result of Defendant and its managing agents'
14 unlawful conduct, Plaintiff has suffered economic and non-economic damages. Plaintiff restates and
15 incorporates by reference each and every damage allegation contained in Paragraphs 56 through 61
16 as though fully set forth herein.

17 **SIXTH CAUSE OF ACTION**

18 **TORTIOUS DISCHARGE IN VIOLATION OF PUBLIC POLICY**

19 **(Against Defendant JONES DAY)**

20 87. Plaintiff incorporates by reference and realleges Paragraphs 1 through 55, as
21 well as the First, Second, Third, Fourth and Fifth Causes of Action, as though set forth in full in this
22 cause of action.

23 88. JONES DAY has engaged in a discriminatory, harassing and continuing
24 course of conduct toward Plaintiff as a result of her race, her complaints about illegal and
25 inappropriate conduct, her filing of charges with the EEOC and the DFEH, and the within action.
26 As set forth above, this continuing course of conduct consisted of, *inter alia*: (a) harassing and
27 negative comments from attorneys and others that clearly indicated that Plaintiff was unwelcome
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1 and that she had a less favorable status with JONES DAY; (b) less favorable treatment, including
2 ostracism, embarrassment and undue criticism in the workplace; (c) changes in working conditions,
3 e.g., relegating Plaintiff to floater status rather than assigning her to a permanent desk; (d) reductions
4 in duties, responsibilities and status, including placing her in positions where she had little or no
5 work; (e) placing Plaintiff under unprecedented, unwarranted and intrusive surveillance, including of
6 her computer use, internet use, telephone use and parking garage use; (f) fewer promotions and
7 significantly lower pay than non-minority legal secretaries with similar tenure, skills, experience
8 and performance; (g) adverse and unjustified performance reviews being placed in Plaintiff's
9 personnel file without her being provided an opportunity to review or respond to them; (h) being
10 forced to work for Partners of JONES DAY who were named as perpetrators in the within lawsuit;
11 (i) being subjected to JONES DAY's failure to investigate or take corrective action respecting
12 complaints of discrimination, harassment and retaliation; (j) having to report claims of harassment,
13 retaliation and discrimination to Lovrien, one of the partners Plaintiff named in her First Amended
14 Complaint, and one of the partners charged with assisting JONES DAY to prepare its defense to the
15 within action; (k) being subjected to an offensive, racially-based email, which she reported to
16 Stephen Brogan, Firm Manager, but which went unaddressed; and (l) terminating her without
17 warning, for pretextual reasons. Plaintiff's termination was in contravention of the substantial public
18 policy embodied in codes, statues and regulations such as Government Code §12940 *et seq.* and
19 California Code of Regulations, title 2, §7285 *et seq.*, and the Constitution of the State of California,
20 which prohibit retaliation against an employee because the employee has, *inter alia*, opposed
21 unlawful practices under state or federal law or participated in another employee's claims under
22 FEHA.

23 89. As a direct and proximate result of Defendant and its managing agents'
24 unlawful conduct, Plaintiff has suffered economic and non-economic damages. Plaintiff restates and
25 incorporates by reference each and every damage allegation contained in Paragraphs 56 through 61
26 as though fully set forth herein.
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SEVENTH CAUSE OF ACTION
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Against Defendant JONES DAY)

90. Plaintiff incorporates by reference and realleges Paragraphs 1 through 55, as well as the First, Second, Third, Fourth, Fifth and Sixth Causes of Action set forth above, as though set forth in full in this cause of action.

91. The conduct by Defendant's HR department and office managers was intentional and done for the purpose of causing Plaintiff to suffer lost wages, humiliation, mental anguish, physical harm and emotional distress. Defendant's HR department and office managers' conduct was done with knowledge that Plaintiff would suffer emotional and physical distress and was done with a wanton and reckless disregard of the consequences to Plaintiff. These acts cannot be expected to normally occur in the workplace.

92. The outrageousness of the above-alleged conduct is amplified due to the Defendant's HR department and office managers' abuse of their management and HR positions, which gives actual and apparent authority over Plaintiff, such as is commonly found in employment relationships.

93. As a direct and proximate result of Defendant's HR department and office managers' unlawful conduct, Plaintiff has suffered damages. Plaintiff restates and incorporates by reference each and every damage allegation contained in Paragraphs 56 through 61 as though fully set forth herein.

EIGHTH CAUSE OF ACTION
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(Against Defendant JONES DAY)

94. Plaintiff incorporates by reference and realleges all allegations in Paragraphs 1 through 55, as well as the First, Second, Third, Fourth, Fifth, Sixth and Seventh Causes of Action, as though set forth in full in this cause of action.

95. The conduct by Defendant's HR department and office managers negligently caused Plaintiff to suffer lost wages, humiliation, mental anguish, physical harm and emotional

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605 West Fifth Street, 21st Floor
Los Angeles, CA 90013
213.308.5474

1 distress. It was reasonably foreseeable that Defendant's HR department and office managers'
2 conduct would cause Plaintiff to suffer emotional and physical distress and was done with a wanton
3 and reckless disregard of the consequences to Plaintiff. These acts cannot be expected to normally
4 occur in the workplace.

5 96. As a direct and proximate result of Defendant's HR department and office
6 managers' unlawful conduct, Plaintiff has suffered economic and non-economic damages. Plaintiff
7 restates and incorporates by reference each and every damage allegation contained in Paragraphs 56
8 through 61 as though fully set forth herein.

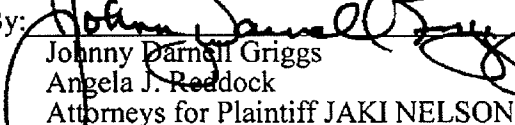
9 **PRAYER**

10 WHEREFORE, Plaintiff prays for judgment against Defendant, as follows:

- 11 1. For general and compensatory damages according to proof, but in excess of
12 \$25,000;
- 13 2. For interest on compensatory damages at the legal rate from the date of injury
14 or pursuant to Code of Civil Procedure §3291;
- 15 3. For other compensatory damages for emotional distress and other economic
16 and non-economic losses;
- 17 4. For punitive and exemplary damages;
- 18 5. For attorney's fees to the extent allowed by law and according to proof;
- 19 6. For costs of suit herein incurred;
- 20 7. For injunctive relief; and,
- 21 8. For such other and further relief as the court may deem proper.

22
23
24 Dated: September 21, 2010

Respectfully submitted,
REDDOCK, WELLS & GRIGGS, LLP

25
26 By: 
Johnny Darnell Griggs
Angela J. Reddock
Attorneys for Plaintiff JAKI NELSON

PROOF OF SERVICE
(CCP § 1013(a) and 2015.5)

I, the undersigned, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; am employed with the law offices of Reddock, Wells & Griggs, LLP and my business address is The Gas Company Tower, 555 West 5th Street, 31st Floor, Los Angeles, CA 90013.

On September 21, 2010, I served the foregoing document entitled **PLAINTIFF JAKI NELSON'S SECOND AMENDED COMPLAINT** on all the appearing and/or interested parties in this action by placing *the original* *a true copy* thereof in a sealed envelope addressed as follows:

Tracey A. Kennedy, Esq. Jason Kearnaghan, Esq. Jonathan Barker, Esq. Sheppard, Mullin, Richter & Hampton LLP 333 South Hope Street, 48 th Floor Los Angeles, CA 90071-1448 (213) 620-1780 (ph) (213) 620-1398 (fax)	<i>Attorneys for Defendants JONES DAY</i>
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[by MAIL] I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day after date of deposit for mailing this affidavit.

[by FAX] I caused the aforementioned document(s) to be telefaxed to the aforementioned facsimile number(s). *The facsimile machine I used complied with California Rules of Court, Rule 2003(3) and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2005(i), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.*

[by PERSONAL SERVICE] I caused to be delivered by messenger such envelope(s) by hand to the office of the addressee(s).

[STATE] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 21, 2010, at Los Angeles, California.

Johnny Darnell Griggs
Print Name

By:


Signature