

MATERN LAW GROUP, PC
Matthew J. Matern (SBN 159798)
mmatern@maternlawgroup.com
Joshua D. Boxer (SBN 226712)
jboxer@maternlawgroup.com
1230 Rosecrans Avenue, Suite 200
Manhattan Beach, CA 90266
Telephone: (310) 531-1900
Facsimile: (310) 531-1901

MATERN LAW GROUP, PC
Irina A. Kirnosova (SBN 312565)
ikirnosova@maternlawgroup.com
633 West 5th Street, Suite 2818B
Los Angeles, California 90071
Telephone: (310) 531-1900
Facsimile: (310) 531-1901

Attorneys for Plaintiff
JANE ROE

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE CITY AND COUNTY OF SAN FRANCISCO

JANE ROE, an individual,

Plaintiff,

vs.

ZENDESK, INC., a Delaware corporation;
MATTHEW INGEBRIGTSEN, an individual;
and DOES 1 through 50, inclusive,

Defendants.

[Filed under Fictitious Name]

CASE NO.:

COMPLAINT FOR:

1. Pregnancy / Gender Discrimination in Violation of FEHA (Cal. Gov. Code § 12940);
2. Pregnancy / Gender Harassment in Violation of FEHA (Cal. Gov. Code § 12940);
3. Failure to Take All Reasonable Steps Necessary to Prevent Harassment and Discrimination in Violation of FEHA (Cal. Gov. Code § 12940);
4. Retaliation in Violation of FEHA (Cal. Gov. Code § 12940);
5. Violation of Cal. Family Rights Act (Cal. Gov. Code § 12945.2);
6. Negligent Hiring, Supervision, and/or Retention;
7. Intentional Infliction of Emotional Distress;
8. Unfair Business Practices Warranting Injunctive Relief (Cal. Bus. and Prof. Code § 17200)

DEMAND FOR JURY TRIAL

1 **NATURE OF THE ACTION**

2 1. Plaintiff JANE ROE ("PLAINTIFF"), an individual, demanding a jury trial, brings
3 this action against Defendants ZENDSEK, INC., a Delaware corporation; MATTHEW
4 INGEBRIGTSEN ("INGEBRIGTSEN"), an individual; and DOES 1 through 50, inclusive
5 (collectively, "DEFENDANTS"), to remedy DEFENDANTS' employment practices and policies
6 of pregnancy harassment, pregnancy / gender discrimination, retaliation, failure to take all
7 reasonable steps necessary to prevent discrimination and harassment, negligent hiring, supervision
8 or retention, violation of California Family Rights Act, intentional infliction of emotional distress,
9 unfair business practices, and other unlawful and tortious conduct. PLAINTIFF seeks compensatory
10 damages, punitive damages, injunctive relief, attorneys' fees, and costs.

11 **JURISDICTION AND VENUE**

12 2. This Court has jurisdiction in this matter because PLAINTIFF is a resident and a
13 citizen of the State of California and DEFENDANTS are residents and citizens of, and/or regularly
14 conduct business in, the State of California. Further, no federal question is at issue, because the
15 claims are based solely on California law.

16 3. Venue is proper in the City and County of San Francisco, California because
17 PLAINTIFF performed work for DEFENDANTS in the City and County of San Francisco,
18 DEFENDANT ZENDESK is headquartered in the City and County of San Francisco, and
19 DEFENDANTS' unlawful actions and omissions, set forth herein, occurred in the City and County
20 of San Francisco.

21 **PLAINTIFF**

22 4. PLAINTIFF is a female resident and citizen of the State of California. PLAINTIFF
23 has been employed by DEFENDANTS in the County of Los Angeles since about November 2014.

24 **DEFENDANTS**

25 5. On information and belief, PLAINTIFF alleges that Defendant ZENDESK, INC. is,
26 and at all relevant times was, a Delaware corporation organized and existing under the laws of the
27 State of Delaware. PLAINTIFF is further informed and believes, and thereon alleges, that
28 ZENDESK, INC. is authorized to conduct business in the State of California and does conduct

1 business in the State of California. Specifically, upon information and belief, ZENDESK, INC.
2 maintains offices and facilities and conducts business in the City and County of San Francisco

3 6. PLAINTIFF is informed and believes, and based thereon alleges, that Defendant
4 INGEBRIGTSEN is a male resident and citizen of the State of California. At all times relevant
5 herein, INGEBRIGTSEN was an employee of DEFENDANTS. Additionally, INGEBRIGTSEN
6 acted within the course and scope of his employment and/or as an agent of DEFENDANTS during
7 the events described herein, unless alleged otherwise.

8 7. The true names and capacities of Defendants DOES 1 through 50, inclusive, are
9 unknown to PLAINTIFF at this time, and PLAINTIFF therefore sues such Defendants under
10 fictitious names. PLAINTIFF is informed and believes, and thereon alleges that each Defendant
11 designated as a DOE is responsible in some manner for the events and happenings referred to herein,
12 and legally caused the injuries and damages alleged in this Complaint. PLAINTIFF will seek leave
13 of the court to amend this Complaint to allege their true names and capacities when ascertained.

14 8. PLAINTIFF is informed and believes, and based thereon alleges, that at all times
15 mentioned herein, each of the DEFENDANTS was the agent, servant and employee, client, co-
16 venturer and/or co-conspirator of each of the remaining DEFENDANTS, and was at all times herein
17 mentioned, acting within the course, scope, purpose, consent, knowledge, ratification, and
18 authorization of such agency, employment, services, joint venture, and conspiracy.

19 9. Whenever reference is made in this complaint to any act or failure to act by a
20 DEFENDANT or DEFENDANTS, such allegations and references shall also be deemed to mean
21 the acts and failures to act of each Defendant acting individually, jointly, and severally. Whenever
22 reference is made to individuals who are not named as PLAINTIFF or DEFENDANTS in this
23 complaint, but who were employees/agents of DEFENDANTS, such individuals acted on behalf of
24 DEFENDANTS within the course and scope of their employment.

25 10. PLAINTIFF is informed and believes, and thereon alleges, that at all relevant times
26 herein DEFENDANTS, and/or their agents/employees, knew or reasonably should have known that
27 unless they intervened to protect PLAINTIFF, and to adequately supervise, prohibit, control,
28 regulate, discipline, and/or otherwise penalize the conduct of the employees of DEFENDANTS, as

1 set forth herein, the remaining DEFENDANTS and employees perceived the acts and omissions as
2 being ratified and condoned.

3 **FACTUAL ALLEGATIONS**

4 11. PLAINTIFF has been employed by DEFENDANTS from approximately November
5 2014 to the present as an Account Manager. PLAINTIFF performed her job duties competently at
6 all times material to this complaint and was a top sales performer.

7 12. In January 2020, PLAINTIFF learned that her director, Andrew Fox, was leaving the
8 company and that PLAINTIFF was being transitioned to a new Enterprise Account Executive
9 (“EAE”) sales team with a new director. As part of the transition, PLAINTIFF was able to keep
10 certain high-profile accounts from her prior role due to her relationships with these customers, even
11 though they were not part of PLAINTIFF’s geographic territory.

12 13. At the same time, in January 2020, PLAINTIFF learned that she was to report to a
13 new manager, INGEBRIGTSEN. Shortly thereafter, PLAINTIFF informed INGEBRIGTSEN that
14 she was pregnant and that she planned to begin maternity leave in April 2020. Immediately upon
15 learning of PLAINTIFF’s pregnancy and intent to take maternity leave, INGEBRIGTSEN began a
16 campaign of harassment and discrimination against PLAINTIFF because of her pregnancy.

17 14. Since approximately January 2020, PLAINTIFF was subjected to harassing
18 comments by INGEBRIGTSEN on the basis of PLAINTIFF’s pregnancy and gender. Such actions,
19 which were offensive and unwelcome and created a hostile, abusive, and intimidating work
20 environment, include, but are not limited to, the following:

- 21 a. “We call your baby the million-dollar baby because you lost out on a million
22 dollars of wages since you took a full maternity leave.”
- 23 b. “You need to make money and close deals for your baby.”
- 24 c. “Number one focus should be the growing baby inside of you”
- 25 d. “Zendesk needs to figure out who the best person is to close these deals” instead of
26 PLAINTIFF.
- 27 e. “This role just isn't going to fit for some people.”
- 28 f. “I'm going to tell my wife to have a 4th baby so I can get 6 months off.”

1 g. "If you were only gone for three weeks, you could keep your territory."

2 h. When PLAINTIFF indicated that she intended to return to work after her maternity
3 leave, INGEBRIGTSEN responded, "You'd be surprised at the people who don't
4 come back from maternity leave."

5 15. PLAINTIFF complained about these harassing remarks about her gender and
6 pregnancy—and the insinuations that she could not adequately perform her duties as an Account
7 Executive while pregnant—to Aaron Schilke, her new director. However, Mr. Schilke failed to take
8 any action to ensure INGEBRIGTSEN's harassing and discriminatory conduct toward PLAINTIFF
9 stopped immediately. Mr. Schilke simply responded: "Matt just needed coaching, and we'd find a
10 place for you upon my return." However, INGEBRIGTSEN's harassing and discriminatory conduct
11 toward PLAINTIFF continued unabated, and DEFENDANTS failed to offer PLAINTIFF a
12 comparable position upon her return from maternity leave.

13 16. Right after PLAINTIFF informed INGEBRIGTSEN that she was pregnant, and
14 intended to take parental leave, in January 2020, INGEBRIGTSEN told PLAINTIFF that she had
15 to forfeit the accounts she had been permitted to keep outside of her geographic territory after
16 transitioning to the EAE sales team and all of her other accounts. INGEBRIGTSEN then interviewed
17 and hired a replacement for PLAINTIFF without her knowledge. PLAINTIFF's replacement was a
18 young male who was told during the interview process that he would take over all of PLAINTIFF's
19 territory and all accounts, and could retain them even upon her return from maternity leave.
20 INGEBRIGTSEN directed PLAINTIFF to transition all of her large accounts to her male
21 replacement before taking her maternity leave, while she was expected to continue working on deals
22 and trying to close her current opportunities. PLAINTIFF's replacement was permitted to keep all
23 of PLAINTIFF's accounts even though he has less experience in an Account Executive role than
24 PLAINTIFF.

25 17. Men working for DEFENDANTS do not suffer these same indignities. A male
26 counterpart of PLAINTIFF who worked in the same position, but left DEFENDANTS for a
27 competitor in 2020 and returned several months later, was permitted to return to handle the same
28 accounts he had before leaving the company, got a pay raise, and was promoted and given a Senior

1 title. PLAINTIFF questioned INGEBRIGTSEN and other managers about why she was not
2 similarly permitted to return to her accounts after returning from maternity leave. Rather than
3 addressing this shocking disparity in treatment, INGEBRIGTSEN and several other managers and
4 colleagues responded that this male counterpart was just part of the “boys club” and that
5 DEFENDANTS would not do the same for her. Even worse, another male colleague of PLAINTIFF
6 went on paternity leave around the same time when PLAINTIFF took her maternity leave, but
7 DEFENDANTS kept his territory and accounts on hold for him and he was permitted to return to
8 his accounts when he returned from paternity leave.

9 18. PLAINTIFF also requested to take part in the sales team Rising Star program, which
10 was launched in the summer of 2020 and is required for the management track which PLAINTIFF
11 intended to pursue. However, PLAINTIFF was informed by INGEBRIGTSEN that she could not
12 participate in the Rising Star program because she was on maternity leave and would need to wait
13 until the 2021 session to join, though he informed PLAINTIFF at the same time that she would have
14 been accepted into this program if she did not take maternity leave.

15 19. Since PLAINTIFF was not permitted to return to her accounts and territory when she
16 sought to return from maternity leave in October 2020, and her less-experienced male replacement
17 kept her territory and all accounts she had acquired outside of her former territory, there was no
18 territory for PLAINTIFF to work on when she returned to work. There was no option for
19 PLAINTIFF but to interview for another position within the company, which PLAINTIFF was
20 informed by the hiring manager would be at the same pay scale as her position at DEFENDANTS
21 before her maternity leave. However, this proved false.

22 20. PLAINTIFF was only offered a position that was significantly lower paid in terms
23 of base salary, commission, and other forms of compensation. The base salary offered to
24 PLAINTIFF was \$50,000.00 lower than her prior salary and was additionally capped with respect
25 to commission compensation, resulting in pay that was approximately \$200,000 lower than
26 PLAINTIFF earned in the years prior. To make matters worse, PLAINTIFF was informed that she
27 would no longer be eligible for annual equity in her new position, which resulted in PLAINTIFF
28 being demoted from the position she had before taking maternity leave. PLAINTIFF was not even

1 paid the equity to which she was entitled in her prior Account Executive position in early 2020,
2 though she had completed the entire year in the Account Executive role.

3 21. Moreover, even after PLAINTIFF returned from her maternity leave in late 2020,
4 INGEBRIGTSEN continued to make harassing remarks regarding PLAINTIFF's gender,
5 pregnancy, and maternity leave. For instance, INGEBRIGTSEN stated on a team Zoom
6 videoconference: "We call your baby the million-dollar baby because you lost out on a million
7 dollars of wages since you took a full maternity leave." PLAINTIFF was horrified and deeply upset
8 by this comment, which made PLAINTIFF feel that INGEBRIGTSEN sought to make her feel
9 ashamed and guilty for her childbirth and maternity leave, and depriving her family of a million
10 dollars of income from a deal on one of her accounts.

11 22. INGEBRIGTSEN also sought to exclude PLAINTIFF from team activities,
12 excluding PLAINTIFF from the Enterprise Sales Holiday party invite list after PLAINTIFF returned
13 from maternity leave.

14 23. PLAINTIFF began suffering from depression, anxiety, fear, and trouble sleeping,
15 among other emotional distress symptoms as a result of the harassment, discrimination, and
16 retaliation she has experienced on the basis of her gender and pregnancy and for taking protected
17 leave under the California Family Rights Act ("CFRA").

18 24. As a result, PLAINTIFF submitted a complaint of gender and pregnancy
19 discrimination and harassment and retaliation for taking of job-protected leave for her pregnancy to
20 Human Resources. In her written complaint to Human Resources and in her meeting with Ms.
21 Cottrell regarding the complaint, PLAINTIFF implored DEFENDANTS to take remedial action to
22 restore her to her former Account Executive position pay scale, at which she was a top performer
23 before her demotion, and to take all reasonable steps to prevent gender and pregnancy harassment
24 and discrimination from taking place. However, DEFENDANTS failed to take any action following
25 PLAINTIFF's complaint and chose to sweep PLAINTIFF's pleas under the rug.

26 25. During her meeting with Ms. Cottrell, Ms. Cottrell told PLAINTIFF that it was on
27 PLAINTIFF to prove her allegations "beyond a reasonable doubt" and that she did not believe
28 PLAINTIFF met this (artificially-high) standard despite the fact that there are not only Slack

1 messages, but also witnesses to INGEBRIGTSEN's conduct, including his offensive comment that
2 she had a "million dollar baby" because having a child was going to cost her so much.
3 INGEBRIGTSEN's harassing comment is proving strangely prophetic—having a child will in fact
4 cost PLAINTIFF well in excess of a million dollars. The men working for DEFENDANTS do not
5 experience similar losses when they take leaves.

6 26. After reviewing PLAINTIFF's complaint and screenshots of conversations with
7 INGEBRIGTSEN, Cottrell told her that DEFENDANTS "can only partially support [her] claims",
8 but chose not to correct any of them. Ms. Cottrell further acknowledged that DEFENDANTS have
9 a 16-week parental leave offering. The policy states females must take this time all at once, but the
10 males (non-primary caregiver) can split this leave.

11 27. PLAINTIFF subsequently learned that DEFENDANTS rehired another male
12 employee, who left in November 2020, who was given his prior accounts and retained a senior
13 title. Just like the previous rehire of a male employee, he was able to quit, be rehired, and still get
14 back his book of business, while PLAINTIFF had to forfeit hers because of her maternity leave.
15 PLAINTIFF was not only employed in her position for a significantly longer tenure than both of
16 these male employees, but she also outperformed them in her quota attainment.

17 28. DEFENDANTS failed to take immediate and corrective action necessary to ensure
18 that INGEBRIGTSEN's harassing and discriminatory conduct ceased and that PLAINTIFF would
19 not be subjected to further harassment and discrimination. Instead, DEFENDANTS retaliated
20 against PLAINTIFF because of her harassment and discrimination complaints and for taking job-
21 protected CFRA leave by, among other things, demoting her, failing to allow PLAINTIFF to return
22 to her prior position, and significantly cutting PLAINTIFF's salary while not retaliating against
23 similarly-situated men for taking leave.

24 29. DEFENDANTS knew, or should have known, that DEFENDANTS' conduct
25 constituted a continuous pattern of harassment and retaliation for taking protected CFRA leave and
26 reporting discrimination and harassment, but failed to take all reasonable steps necessary to prevent
27 or to correct the ongoing unlawful behavior.

28 30. PLAINTIFF is further informed and believes, and thereon alleges, that

1 DEFENDANTS condoned and ratified the wrongful conduct of Defendant INGEBRIGTSEN,
2 among others, and that DEFENDANTS knew, or should have known, about the continuous pattern
3 of harassment and discrimination against PLAINTIFF, but failed to take all reasonable steps
4 necessary to prevent, to properly investigate, or to correct the ongoing unlawful behavior and failed
5 to reprimand, terminate, or take any appropriate disciplinary action against Defendant
6 INGEBRIGTSEN.

7 31. Defendant INGEBRIGTSEN acted in the course and scope of his employment with
8 DEFENDANTS and engaged in conduct which was designed to intimidate PLAINTIFF from
9 availing herself of her rights protected by the laws of California.

10 32. Prior to filing this action, PLAINTIFF filed a complaint with the California
11 Department of Fair Employment and Housing (“DFEH”) and received a right-to-sue letter issued
12 by the DFEH on May 28, 2021.

13 **INJURIES TO PLAINTIFF**

14 33. As a direct and proximate result of the foregoing unlawful and malicious acts of
15 DEFENDANTS, PLAINTIFF has suffered, and will continue to suffer, great mental and emotional
16 anguish. Additionally, PLAINTIFF has been humiliated and embarrassed as a result of the
17 foregoing acts and omissions of DEFENDANTS.

18 34. As a further direct and proximate result of the foregoing unlawful and malicious acts
19 of DEFENDANTS, PLAINTIFF has suffered monetary damages in an amount subject to proof at
20 trial.

21 **FIRST CAUSE OF ACTION**

22 **Pregnancy / Gender Discrimination**

23 **[Cal. Gov’t Code § 12940(a)]**

24 **(Against Defendant ZENDESK, INC. and DOES 1 through 50, inclusive)**

25 35. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
26 allegations in Paragraphs 1 to 34.

27 36. At all relevant times herein, California Government Code § 12940 was in full force
28 and effect and was binding on DEFENDANTS.

1 37. At all relevant times, California Government Code § 12940 provided that “[i]t is an
2 unlawful employment practice, unless based upon a bona fide occupational qualification, or, except
3 where based upon applicable security regulations established by the United States or the State of
4 California:... (a) [f]or an employer or . . . any other person, because of . . . sex . . . to discharge the
5 person from employment . . . or to discriminate against the person in compensation or in terms,
6 conditions, or privileges of employment.”

7 38. PLAINTIFF is a female person and, therefore, a member of a protected class within
8 the meaning of the aforementioned Government Code sections. During the course of PLAINTIFF’s
9 employment, as alleged above, DEFENDANTS committed discriminatory acts on the basis of
10 PLAINTIFF’s sex or pregnancy, among other things.

11 39. PLAINTIFF believes, and thereon alleges, that her sex or pregnancy was a
12 substantial motivating factor in DEFENDANTS’ wrongful employment actions and practices,
13 including but not limited to failing to respond to PLAINTIFF’s complaints of harassment or to take
14 appropriate corrective action, and demoting PLAINTIFF from her position and substantially
15 decreasing her pay for pretextual reasons. DEFENDANTS took no action against Defendant
16 INGEBRIGTSEN for his harassing and discriminatory conduct toward PLAINTIFF, and instead
17 created pretextual reasons for PLAINTIFF’s demotion. Such discrimination is in violation of
18 Government Code § 12940(a) and has resulted in damage and injury to PLAINTIFF as alleged
19 herein.

20 40. In perpetrating the above-described actions, DEFENDANTS, directly and through
21 their agents and supervisors, discriminated against PLAINTIFF on the basis of her sex or pregnancy,
22 and demoted her and decreased her pay substantially because of her sex or pregnancy, in violation
23 of the California Fair Employment and Housing Act, Government Code § 12940(a).
24 DEFENDANTS knew or should have known of the discriminatory conduct toward PLAINTIFF and
25 failed to take immediate and appropriate corrective action.

26 41. PLAINTIFF has timely filed a complaint against DEFENDANTS with the California
27 Department of Fair Employment and Housing and has received a Right to Sue letter.

28 42. While serving as a supervisor for Defendant ZENDESK, INC., INGEBRIGTSEN

1 harassed and discriminated against PLAINTIFF by engaging in severe and/or pervasive conduct that
2 created a hostile work environment on the basis of PLAINTIFF's sex.

3 43. DEFENDANTS knew, or should have known, of INGEBRIGTSEN's conduct and
4 failed to properly investigate, reprimand, terminate, or take an appropriate disciplinary action
5 against INGEBRIGTSEN for his egregious conduct, thereby ratifying his actions.

6 44. As a proximate result of DEFENDANTS' unlawful acts, practices, and omissions,
7 PLAINTIFF has suffered monetary damages, humiliation, mental anguish, and physical and
8 emotional distress, in an amount subject to proof at trial. PLAINTIFF claims such amount as
9 damages together with prejudgment interest thereon pursuant to California Civil Code §§ 3287,
10 3288, and/or any other applicable provision providing for prejudgment interest.

11 45. By engaging in the aforementioned unlawful acts, practices, and omissions,
12 DEFENDANTS intended to cause injury to PLAINTIFF. DEFENDANTS' conduct was reckless,
13 malicious, and despicable, and was carried on with a conscious and willful disregard of the rights
14 and safety of others. Therefore, an award of punitive damages, sufficient to punish DEFENDANTS
15 and to serve as an example to deter DEFENDANTS from similar conduct in the future, should be
16 made. PLAINTIFF claims such amount as damages to be determined at trial. PLAINTIFF claims
17 such amount as damages together with prejudgment interest thereon pursuant to California Civil
18 Code §§ 3287, 3288 and/or any other applicable provision providing for prejudgment interest.

19 46. Additionally, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
20 against DEFENDANTS pursuant to the California Fair Employment and Housing Act.

21 **SECOND CAUSE OF ACTION**

22 **Pregnancy / Gender Harassment**

23 **[Cal. Gov't Code § 12940(j)]**

24 **(Against all DEFENDANTS)**

25 47. PLAINTIFF hereby incorporates by reference Paragraphs 1 to 46 as if fully set forth
26 herein.

27 48. At all relevant times herein, California Government Code § 12940 was in full force
28 and effect and was binding on DEFENDANTS.

1 49. At all relevant times, California Government Code § 12940 provided that “[i]t is an
2 unlawful employment practice, unless based upon a bona fide occupational qualification, or, except
3 where based upon applicable security regulations established by the United States or the State of
4 California:... (j) [f]or an employer or . . . any other person, because of . . . sex . . . to harass an
5 employee. . .or a person providing services pursuant to a contract. Harassment of an employee...or
6 a person providing services pursuant to a contract by an employee, other than an agent or supervisor,
7 shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this
8 conduct and fails to take immediate and appropriate corrective action.”

9 50. As set forth above, Defendants acts and omissions constitute violations of California
10 Government Code § 12940. In perpetrating the above-described actions, DEFENDANTS, directly
11 and through their agents and supervisors, harassed PLAINTIFF on the basis of her sex and/or
12 pregnancy. Plaintiff has timely filed a complaint against Defendants with the California
13 Department of Fair Employment and Housing and has received a right to sue letter.

14 51. While serving as a supervisor for Defendant ZENDESK, INC., INGEBRIGTSEN
15 harassed PLAINTIFF by engaging in severe and/or pervasive conduct that created a hostile work
16 environment on the basis of PLAINTIFF’s sex and pregnancy.

17 52. DEFENDANTS knew, or should have known, of INGEBRIGTSEN’s conduct and
18 failed to properly investigate, reprimand, terminate, or take an appropriate disciplinary action
19 against INGEBRIGTSEN for his egregious conduct, thereby ratifying his actions.

20 53. As a proximate result of DEFENDANTS’ unlawful acts, practices, and omissions,
21 PLAINTIFF has suffered monetary damages, humiliation, mental anguish, and physical and
22 emotional distress, in an amount subject to proof at trial. PLAINTIFF claims such amount as
23 damages together with prejudgment interest thereon pursuant to California Civil Code §§ 3287,
24 3288, and/or any other applicable provision providing for prejudgment interest.

25 54. By engaging in the aforementioned unlawful acts, practices, and omissions,
26 DEFENDANTS intended to cause injury to PLAINTIFF. DEFENDANTS’ conduct was reckless,
27 malicious, and despicable, and was carried on with a conscious and willful disregard of the rights
28 and safety of others. Therefore, an award of punitive damages, sufficient to punish DEFENDANTS

1 and to serve as an example to deter DEFENDANTS from similar conduct in the future, should be
2 made. PLAINTIFF claims such amount as damages to be determined at trial. PLAINTIFF claims
3 such amount as damages together with prejudgment interest thereon pursuant to California Civil
4 Code §§ 3287, 3288 and/or any other applicable provision providing for prejudgment interest.

5 55. Additionally, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
6 against DEFENDANTS pursuant to the California Fair Employment and Housing Act.

7 **THIRD CAUSE OF ACTION**

8 **Failure to Take Steps Necessary to Prevent Pregnancy / Gender Harassment and**
9 **Discrimination**

10 **[Cal. Gov. Code § 12940(k)]**

11 **(Against Defendant ZENDESK, INC. and DOES 1 through 50, inclusive)**

12 56. PLAINTIFF incorporates the allegations in paragraphs 1 through 55 as if fully set
13 forth herein.

14 57. At all relevant times herein, the Fair Employment and Housing Act was in full force
15 and effect, and was binding on DEFENDANTS. At all relevant times, California Government Code
16 § 12940 provided that that "[i]t is an unlawful employment practice . . . (k) [f]or an employer . . . to
17 fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring."

18 58. As set forth above, DEFENDANTS' acts, practices, and omissions constitute
19 violations of Government Code § 12940(k), inasmuch as DEFENDANTS failed to take all
20 reasonable steps necessary to prevent such harassment and discrimination from occurring.
21 PLAINTIFF has timely filed a complaint with the California Department of Fair Employment and
22 Housing and has received a Right to Sue letter.

23 59. By reason of DEFENDANTS' unlawful acts, practices, and omissions, PLAINTIFF
24 has suffered monetary damages, humiliation, mental anguish, and physical and emotional distress
25 in an amount subject to proof at trial. PLAINTIFF claims such amount as damages together with
26 pre-judgment interest thereon pursuant to California Civil Code §§ 3287, 3288, and any other
27 applicable provision providing for prejudgment interest.

28 60. DEFENDANTS engaged in the aforementioned unlawful acts, practices, and

1 omissions alleged herein, and by ratifying such acts, engaged in intentional, reckless, willful,
2 oppressive, and malicious conduct; acted with willful and conscious disregard of PLAINTIFF's
3 rights, welfare, and safety; and caused great physical and emotional harm to PLAINTIFF.
4 Therefore, an award of punitive damages, sufficient to punish DEFENDANTS and to serve as an
5 example to deter them from similar conduct in the future, should be made. PLAINTIFF claims such
6 amount as damages to be determined at trial. PLAINTIFF claims such amount as damages together
7 with pre-judgment interest thereon pursuant to California Civil Code §§ 3287, 3288, and any other
8 applicable provision providing for prejudgment interest.

9 61. PLAINTIFF will also seek the costs and expenses of this action, including reasonable
10 attorneys' fees pursuant to the California Fair Employment and Housing Act and California Public
11 Policy.

12 **FOURTH CAUSE OF ACTION**

13 **Retaliation**

14 **[Cal. Gov. Code § 12940(h)]**

15 **(Against Defendant ZENDESK, INC. and DOES 1 through 50, inclusive)**

16 62. Plaintiff incorporates herein by specific reference, as though fully set forth, the
17 allegations in Paragraphs 1 through 61.

18 63. At all relevant times herein, the Fair Employment and Housing Act was in full force
19 and effect and was binding on DEFENDANTS. At all relevant times, California Government Code
20 § 12940 provided that "[i]t is an unlawful employment practice . . . (h) [f]or any employer . . . or
21 person to discharge, expel, or otherwise discriminate against any person because the person has
22 opposed any practices forbidden under this or because the person has filed a complaint, testified, or
23 assisted in any proceeding under this part."

24 64. As set forth above, DEFENDANTS' acts and omissions constitute violations of
25 California Government Code § 12940. PLAINTIFF has timely filed a complaint of pregnancy
26 harassment, discrimination, retaliation, and failure to take all reasonable steps to prevent harassment
27 and discrimination against DEFENDANTS with the California Department of Fair Employment and
28 Housing ("FEHA") and has received a Right to Sue letter.

1 65. DEFENDANTS engaged in the aforementioned unlawful acts, practices and
2 omissions alleged herein, and by ratifying such acts, engaged in intentional, reckless and willful,
3 oppressive and malicious conduct, acted with willful and conscious disregard of PLAINTIFF's
4 rights, welfare and safety, and caused great physical and emotional harm to PLAINTIFF.

5 66. PLAINTIFF complained to DEFENDANTS' Human Resources that she had
6 suffered from pregnancy discrimination and harassment during her employment with
7 DEFENDANTS. The DEFENDANTS failed to take immediate and appropriate corrective action in
8 response to PLAINTIFF's complaint. The discriminatory and harassing conduct PLAINTIFF has
9 had to endure was sufficiently severe and/or pervasive as to alter the conditions of PLAINTIFF's
10 employment and to create a hostile, intimidating, and/or abusive work environment.
11 DEFENDANTS permitted such a hostile work environment to exist by failing to immediately and
12 appropriately respond to PLAINTIFF's complaint regarding pregnancy discrimination and
13 harassment.

14 67. As a proximate result of the DEFENDANTS' unlawful acts, practices, and
15 omissions, PLAINTIFF has suffered monetary damages, humiliation, mental anguish, and physical
16 and emotional distress, in an amount subject to proof at trial. PLAINTIFF claims such amount as
17 damages together with prejudgment interest thereon pursuant to California Civil Code §§ 3287,
18 3288, and/or any other applicable provision providing for prejudgment interest.

19 68. DEFENDANTS acted oppressively, fraudulently, and maliciously, in willful and
20 conscious disregard of PLAINTIFF's rights, and with the intention of causing or in reckless
21 disregard of the probability of causing injury and emotional distress to PLAINTIFF when they failed
22 to fully and fairly investigate PLAINTIFF's complaints; and failed to hold INGEBRIGTSEN
23 accountable for his actions, and in so doing approved and ratified his actions in conscious disregard
24 of the harm caused to PLAINTIFF.

25 69. DEFENDANTS engaged in the aforementioned unlawful acts, practices and
26 omissions alleged herein, and by ratifying such acts, engaged in intentional, reckless and willful,
27 oppressive and malicious conduct, acted with willful and conscious disregard of PLAINTIFF's
28 rights, welfare and safety, and caused great physical and emotional harm to PLAINTIFF. Therefore,

1 an award of punitive damages, sufficient to punish DEFENDANTS and to serve as an example to
2 deter DEFENDANTS from similar conduct in the future, should be made. PLAINTIFF claims such
3 amount as damages to be determined at trial. PLAINTIFF claims such amount as damages together
4 with prejudgment interest thereon pursuant to California Civil Code §§ 3287, 3288 and/or any other
5 applicable provision providing for prejudgment interest.

6 70. Additionally, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
7 against DEFENDANTS pursuant to the California Fair Employment and Housing Act and
8 California Public Policy.

9 **FIFTH CAUSE OF ACTION**

10 **Violation of the California Family Rights Act**

11 **[Cal. Gov. Code § 12945.2]**

12 **(Against Defendant ZENDESK, INC. and DOES 1 through 50, inclusive)**

13 71. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
14 allegations in Paragraphs 1 to 70.

15 72. Defendants ZENDESK, INC. and DOES 1 through 50, inclusive, are an employer
16 covered by the California Family Rights Act of 1993 ("CFRA"), Government Code § 12945.2.
17 Plaintiff is an eligible employee under the CFRA.

18 73. Government Code § 12945.2(a) makes it unlawful for a covered employer to refuse
19 to grant a request by an eligible employee to take up to a total of 12 work weeks in any 12-month
20 period for family care and medical leave. Furthermore, Government Code § 12945.2(1) makes it
21 unlawful for an employer to discharge, discriminate against, and/or retaliate against an employee
22 because of the employee's exercise of the right to family care or medical leave under the CFRA.

23 74. DEFENDANTS's conduct as set forth above – including but not limited to
24 harassing, discriminating against, and retaliating against PLAINTIFF demoting PLAINTIFF,
25 depriving PLAINTIFF of the accounts she cultivated, and substantially decreasing PLAINTIFF's
26 compensation for exercising her right to a medical leave of absence for her pregnancy constitute
27 violations of Government Code § 12945.2.

28 75. PLAINTIFF has timely filed a complaint with the California Department of Fair

1 Employment and Housing and has received a Right to Sue letter.

2 76. As a proximate result of DEFENDANTS' unlawful acts, practices, and omissions,
3 PLAINTIFF has suffered monetary damages, humiliation, mental anguish, and physical and
4 emotional distress, in an amount subject to proof at trial. PLAINTIFF claims such amount as
5 damages together with prejudgment interest thereon pursuant to Civil Code §§ 3287, 3288, and/or
6 any other applicable provision providing for prejudgment interest.

7 77. By engaging in the aforementioned unlawful acts, practices, and omissions, and by
8 ratifying such acts, practices, and omissions, Defendants intended to cause injury to Plaintiff.
9 Defendants' conduct was reckless, malicious, and despicable, and was carried out with a conscious
10 and willful disregard of the rights and safety of others. Therefore, Plaintiff seeks an award of
11 punitive damages, sufficient to punish Defendants and to serve as an example to deter similar
12 conduct in the future, in an amount according to proof at trial, together with prejudgment interest
13 thereon pursuant to Civil Code §§ 3287, 3288, and/or any other applicable provision providing for
14 prejudgment interest.

15 78. Additionally, Plaintiff seeks an award of reasonable attorneys' fees and costs
16 against Defendants and each of them, pursuant to the CFRA.

17 **SIXTH CAUSE OF ACTION**

18 **Negligent Hiring, Supervision, and/or Retention**

19 **(Against Defendant ZENDESK, INC. and DOES 1 through 50, inclusive)**

20 79. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
21 allegations in Paragraphs 1 through 78.

22 80. As alleged above, Defendant INGEBRIGTSEN was incompetent and unfit to
23 perform the work for which he was hired or employed.

24 81. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS
25 knew or, in the exercise of reasonable diligence, should have known that the employees, including,
26 but not limited to Defendant INGEBRIGTSEN, who committed the discriminatory, harassing, and
27 retaliatory acts alleged above, were incompetent and unfit to perform the duties for which they
28 were hired, and that an undue risk to persons such as PLAINTIFF would exist because of their

1 employment. Despite this advanced knowledge, DEFENDANTS retained the employees
2 responsible for the acts described above in conscious disregard for the rights and well-being of
3 others, including PLAINTIFF.

4 82. DEFENDANTS had a duty to use reasonable care and to properly supervise their
5 managers, employees, and agents, which they breached, causing injury to PLAINTIFF in the form
6 of discrimination, harassment, and retaliation alleged above.

7 83. DEFENDANTS' negligence in contracting with, hiring, supervising, and/or
8 retaining Defendant INGEBRIGTSEN, among others, was a substantial factor in causing
9 PLAINTIFF's harm.

10 84. As a proximate result of DEFENDANTS' conscious disregard for the rights of
11 PLAINTIFF, and DEFENDANTS' ratification of the wrongful conduct of Defendant
12 INGEBRIGTSEN, DEFENDANTS are liable to PLAINTIFF for the acts of their employees and
13 agents, and each of them, as well as for the damages alleged herein, including punitive damages
14 sufficient to punish DEFENDANTS and to serve as an example to deter similar conduct in the
15 future, in an amount according to proof at trial, together with prejudgment interest thereon
16 pursuant to California Civil Code §§ 3287, 3288, and/or any other applicable provision providing
17 for prejudgment interest.

18 85. Additionally, PLAINTIFF seeks an award of reasonable attorneys' fees and costs
19 against DEFENDANTS pursuant to the California Fair Employment and Housing Act and
20 California Public Policy.

21 **SEVENTH CAUSE OF ACTION**

22 **Intentional Infliction of Emotional Distress**

23 **(Against All DEFENDANTS)**

24 86. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
25 allegations in Paragraphs 1 through 85.

26 87. During all relevant times, INGEBRIGTSEN was employed by DEFENDANT
27 ZENDESK, INC. and DOES 1 through 50 and was acting in his capacity as the supervisory and/or
28 managerial employee of DEFENDANT ZENDESK, INC. and DOES 1 through 50, such that the

1 DEFENDANT ZENDESK, INC. and DOES 1 through 50 are liable for INGEBRIGTSEN's
2 conduct. DEFENDANTS and DOES 1 through 50 knew, or should have known, of
3 INGEBRIGTSEN's conduct and failed to properly investigate, reprimand, terminate, or take an
4 appropriate disciplinary action against INGEBRIGTSEN for his egregious conduct, thereby
5 ratifying his actions.

6 88. INGEBRIGTSEN's conduct, as set forth above, was outrageous in that it was so
7 extreme as to exceed all bounds of decency. Further, DEFENDANTS' conduct would be regarded
8 by any reasonable person as intolerable in a civilized community.

9 89. By engaging in the aforementioned conduct, INGEBRIGTSEN abused his position
10 of authority as a supervisor/manager and knew that his conduct would likely result in harm due to
11 mental distress.

12 90. On information and belief, PLAINTIFF alleges that INGEBRIGTSEN acted with the
13 intent to cause PLAINTIFF emotional distress or, at minimum, acted with reckless disregard of the
14 probability that PLAINTIFF would suffer emotional distress.

15 91. By committing the outrageous and malicious acts and omissions alleged herein,
16 DEFENDANTS knew, or should have known, that such conduct would result in PLAINTIFF's
17 severe emotional distress. Moreover, DEFENDANTS' acts and omissions were perpetrated with
18 the intent of inflicting humiliation, mental anguish, and severe emotional distress upon PLAINTIFF.

19 92. As a direct and proximate result of DEFENDANTS' unlawful acts, practices, and
20 omissions, PLAINTIFF has suffered severe emotional distress, in an amount subject to proof at trial.
21 PLAINTIFF claims such amount as damages together with prejudgment interest thereon pursuant
22 to California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for
23 prejudgment interest.

24 93. DEFENDANTS engaged in the aforementioned unlawful acts, practices, and
25 omissions and/or ratified such acts, practices, and omissions. In doing so, DEFENDANTS engaged
26 in intentional, reckless, willful, oppressive, and malicious conduct, acted with willful and conscious
27 disregard of PLAINTIFF's rights, welfare, and safety, and caused great physical and/or emotional
28 harm to PLAINTIFF. Therefore, an award of punitive damages, sufficient to punish DEFENDANTS

1 and to deter them and others from similar conduct in the future, is appropriate. PLAINTIFF claims
2 such amount as damages to be determined at trial.

3 **EIGHTH CAUSE OF ACTION**

4 **Unfair and Unlawful Business Practices**

5 **[Cal. Business & Professions Code § 17200]**

6 **(Against DEFENDANTS)**

7 94. PLAINTIFF incorporates herein by specific reference, as though fully set forth, the
8 allegations in paragraphs 1 through 93.

9 95. Each and every one of DEFENDANTS' acts and omissions in violation of the
10 California Fair Employment and Housing Act constitutes an unfair and unlawful business practice
11 under Business and Professions Code § 17200 et seq.

12 96. DEFENDANTS' violations of California discrimination laws constitute a business
13 practices because DEFENDANTS' aforementioned acts and omissions were done repeatedly over
14 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFF and other
15 employees.

16 97. As a result of DEFENDANTS' unfair and unlawful business practices,
17 DEFENDANTS have reaped unfair and illegal profits at the expense of PLAINTIFF and members
18 of the public. DEFENDANTS should be made to disgorge their ill-gotten gains and to restore them
19 to PLAINTIFF.

20 98. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFF to seek
21 preliminary and permanent injunctive relief, including but not limited to orders that DEFENDANTS
22 account for, disgorge, and restore to PLAINTIFF the wages and other compensation unlawfully
23 withheld from her. PLAINTIFF is entitled to restitution of all monies to be disgorged from
24 DEFENDANTS in an amount according to proof at the time of trial, but in excess of the jurisdiction
25 of this court.

26 **PRAYER FOR RELIEF**

27 **WHEREFORE**, PLAINTIFF prays for judgment against DEFENDANTS as follows:

28 1. For compensatory damages on PLAINTIFF's economic losses, deprivation of civil

1 rights, humiliation, physical anguish, and mental and emotional distress;

2 2. For injunctive relief permanently enjoining DEFENDANTS and their agents,
3 employees, and successors, and all persons in active conduct or participation with DEFENDANTS
4 from engaging in discriminatory and harassing practices;

5 3. For an award of punitive and exemplary damages on each cause of action as
6 permitted by law;

7 5. For interest accrued to date pursuant to Civil Code §§ 3287, 3288, and/or any other
8 applicable provision providing for prejudgment interest;

9 6. For an award of reasonable attorneys' fees, costs, and expenses, pursuant to the
10 California Fair Employment and Housing Act, Government Code § 12965(b), and all other
11 applicable statutes providing for attorneys' fees and costs;

12 7. Permanently enjoin DEFENDANTS and their agents, employees, and successors,
13 and all persons in active conduct or participation with DEFENDANTS from engaging in
14 discriminatory and harassing practices, and from engaging in the unlawful business practices
15 complained of herein, including but not limited accounting for, disgorging, and restoring to
16 PLAINTIFF the wages and other compensation unlawfully withheld from her; and

17 8. For such other relief as the Court may deem just and proper.

18
19 DATED: September 20, 2021

Respectfully submitted,

20 MATERN LAW GROUP, PC

21
22 By: 

23 MATTHEW J. MATERN
24 JOSHUA D. BOXER
25 IRINA A. KIRNOSOVA
26 Attorneys for Plaintiff
27 JANE ROE
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