

1 **MATERN LAW GROUP, PC**
Matthew J. Matern (SBN 159798)
2 mmatern@maternlawgroup.com
Joshua D. Boxer (SBN 226712)
3 jboxer@maternlawgroup.com
Clare E. Moran (SBN 340539)
4 cmoran@maternlawgroup.com
1230 Rosecrans Avenue, Suite 200
5 Manhattan Beach, CA 90266
Telephone: (310) 531-1900
6 Facsimile: (310) 531-1901

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

11 Attorneys for Plaintiffs
JANE ROE, JANE DOE I, JANE DOE II, and
12 JANE DOE III, individually and on behalf of
others similarly situated
13

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

16 JANE ROE, JANE DOE I, JANE DOE II, and
JANE DOE III, individually and on behalf of
17 others similarly situated,
18 Plaintiffs,
19 vs.
20 ZENDESK, INC., a Delaware corporation;
and DOES 1 through 50, inclusive,
21 Defendants.
22

[Filed under Fictitious Names]

CASE NO.:

CLASS ACTION COMPLAINT FOR:

1. Violation of California Equal Pay Act (Labor Code §§ 1197.5 *et seq.*, 1194.5)
2. Unfair and Unlawful Business Practices (Bus. and Prof. Code § 17200)

DEMAND FOR JURY TRIAL

23
24
25
26
27
28

1 **NATURE OF THE ACTION**

2 1. Plaintiffs JANE ROE, JANE DOE I, JANE DOE II, and JANE DOE III
3 (“PLAINTIFFS”), on behalf of themselves and others similarly situated, demanding a jury trial,
4 bring this action against Defendants ZENDSEK, INC. (“ZENDESK”), a Delaware corporation; and
5 DOES 1 through 50, inclusive (collectively, “DEFENDANTS”), to remedy DEFENDANTS’
6 employment practices and policies of discriminating against women by systematically failing to pay
7 them equally to men in violation of the California Equal Pay Act. PLAINTIFFS seek compensatory
8 damages, punitive damages, injunctive relief, attorneys’ fees, and costs.

9 **JURISDICTION AND VENUE**

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

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

19 **PLAINTIFFS**

20 4. PLAINTIFF JANE ROE (“PLAINTIFF ROE”) is a female resident and citizen of
21 the State of California. PLAINTIFF ROE has been employed by DEFENDANTS in the County of
22 San Francisco since approximately November 2014.

23 5. PLAINTIFF JANE DOE I (“PLAINTIFF DOE”) is a female resident and citizen of
24 the state of California. PLAINTIFF DOE I was employed by DEFENDANTS in the City and
25 County of San Francisco between approximately from approximately June 2019 to January 2021.

26 6. PLAINTIFF JANE DOE II (“PLAINTIFF DOE II”) is a female resident and citizen
27 of the state of California. PLAINTIFF DOE II was employed by DEFENDANTS in the City and
28 County of San Francisco between approximately August 2018 and April 2022.

1 7. PLAINTIFF JANE DOE III (“PLAINTIFF DOE III”) is a female resident and citizen
2 of the state of Oregon. PLAINTIFF DOE III was employed by DEFENDANTS in the City and
3 County of San Francisco from approximately October 2016 to April 2021.

4 **DEFENDANTS**

5 8. On information and belief, PLAINTIFFS allege that Defendant ZENDESK is, and at
6 all relevant times was, a Delaware corporation organized and existing under the laws of the State of
7 Delaware. PLAINTIFFS are further informed and believe, and thereon allege, that ZENDESK is
8 authorized to conduct business in the State of California and does conduct business in the State of
9 California. Specifically, upon information and belief, ZENDESK maintains offices and facilities
10 and conducts business in the City and County of San Francisco.

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

17 10. PLAINTIFFS are informed and believe, and based thereon allege, that at all times
18 mentioned herein, each of the DEFENDANTS was the agent, servant and employee, client, co-
19 venturer and/or co-conspirator of each of the remaining DEFENDANTS, and was at all times herein
20 mentioned, acting within the course, scope, purpose, consent, knowledge, ratification, and
21 authorization of such agency, employment, services, joint venture, and conspiracy.

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

28 12. PLAINTIFFS are informed and believe, and thereon allege, that at all relevant times

1 herein DEFENDANTS, and/or their agents/employees, knew or reasonably should have known that
2 unless they intervened to protect PLAINTIFFS, and to adequately supervise, prohibit, control,
3 regulate, discipline, and/or otherwise penalize the conduct of the employees of DEFENDANTS, as
4 set forth herein, the remaining DEFENDANTS and employees perceived the acts and omissions as
5 being ratified and condoned.

6 **FACTUAL ALLEGATIONS**

7 13. PLAINTIFFS are informed and believe, and thereon allege, that DEFENDANTS
8 maintain a uniform set of policies and/or procedures that determine employees' wages throughout
9 the state of California, including policies and/or practices for setting initial pay and policies and/or
10 practices for giving employees pay raises.

11 14. Throughout the Class Period, DEFENDANTS had a policy and/or practice of not
12 adjusting employees' initial wage rates to account for sex-based discrepancies in the wage rates paid
13 to its female and male employees for comparable work.

14 15. DEFENDANTS have engaged in and continue to perpetuate discriminatory practices
15 regarding pay, assignment, promotion, and other terms and conditions of employment which
16 negatively affect female employees.

17 16. These discriminatory practices began at hire, when women were offered lower
18 compensation and less lucrative job assignments and opportunities than their male counterparts.
19 DEFENDANTS paid female employees significantly less in starting pay than their male
20 counterparts at hire. These policies and/or practices continued throughout employment.

21 17. Women were offered less stock and incentive pay opportunities. Female employees
22 were overwhelmingly assigned into lower job levels without stock and incentive pay opportunities,
23 or with fewer opportunities. Female employees also received less stock and incentive compensation
24 than male employees. These policies and/or practices continued throughout employment.

25 18. DEFENDANTS knew or should have known that it paid female employees less than
26 they paid their male counterparts for performing comparable work, yet DEFENDANTS took no
27 steps to eliminate their discriminatory practices.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CLASS ACTION ALLEGATIONS

19. PLAINTIFFS bring their first through third causes of action on behalf of themselves and on behalf of the following proposed class:

All women employed by ZENDESK in California at any time during the time period beginning four years prior to the filing of this Complaint (“Class Period”).

20. This action is appropriately suited for a class action because:

- a. The proposed Class is numerous and ascertainable. The proposed Class includes hundreds of current and former ZENDESK employees located across California, and therefore joinder of all individual Class members would be impractical.
- b. This action involves question of law and fact common to PLAINTIFFS and all Class members, including but not limited to: (a) whether ZENDESK has a systemic policy and/or practice of paying its female employees wages lower than those paid to its male employees performing substantially similar work under similar conditions; (b) whether ZENDESK’s systemic policy and/or practice of paying its female employees at wage rates lower than those paid to their male counterparts violates the California Equal Pay Act, Cal. Lab. Code § 1197.5 *et seq.*; and (c) whether ZENDESK’s systemic policy and/or practice of paying its female employees at wage rates lower than those paid to their male counterparts was willful. These common questions of law and fact predominate over any questions affecting only individual class members in this action.
- c. PLAINTIFFS ROE, DOE I, DOE II, and DOE III’s claims are typical of Class members’ claims because they are women who were employed by ZENDESK in California during the Class Period in one or more of the Covered Positions. Upon information and belief, ZENDESK has applied uniform wage rate policies and practices to its employees throughout California at all times throughout the Class Period.
- d. PLAINTIFFS ROE, DOE I, DOE II, and DOE III are able to fairly and adequately protect the interests of all members of the class because it is in

1 PLAINTIFFS' best interests to prosecute the claims alleged herein to obtain full
2 compensation due to the Class for all work performed, and to obtain injunctive
3 relief to protect the Class from further discriminatory wage rates going forward.
4 Counsel for Plaintiffs have the requisite resources and ability to prosecute this
5 case as a class action and are experienced labor and employment attorneys who
6 have successfully litigated other cases involving similar issues, including in class
7 actions.

- 8 e. This suit is properly maintained as a class action under C.C.P. § 382 because
9 ZENDESK has implemented an unlawful wage rate scheme that is generally
10 applicable to the Class, making it appropriate to issue final injunctive relief and
11 corresponding declaratory relief with respect to the Class as a whole. The suit is
12 also properly maintained as a class action because the common questions of law
13 and fact predominate over any questions affecting only individual members of
14 the class. For these and other reasons, a class action is superior to other available
15 methods for the fair and efficient adjudication of the controversy set forth herein.

16 **FIRST CAUSE OF ACTION**

17 **Violation of the California Equal Pay Act**

18 **[Cal. Labor Code §§ 1197.5 *et seq.*, 1194.5]**

19 **(Against all DEFENDANTS)**

20 21. PLAINTIFFS incorporate herein by specific reference, as though fully set forth, the
21 factual allegations in the foregoing paragraphs.

22 22. DEFENDANTS have discriminated against PLAINTIFFS and CLASS MEMBERS
23 in violation of California Labor Code § 1197.5 *et seq.* by paying their female employees at wage
24 rates less than the wage rates paid to male employees for substantially similar work, when viewed
25 as a composite of skill, effort, responsibility, and working conditions.

26 23. DEFENDANTS caused, attempted to cause, contributed to, or caused the
27 continuation of, the wage rate discrimination based on sex described herein, in violation of
28 California Labor Code § 1197.5. DEFENDANTS willfully violated California Labor Code § 1197.5

1 by intentionally, knowingly, and deliberately paying women less than men for substantially similar
2 work.

3 24. As a result of DEFENDANTS' conduct and/or DEFENDANTS' willful, knowing,
4 and intentional discrimination, PLAINTIFFS and CLASS MEMBERS have suffered and will
5 continue to suffer harm, including but not limited to lost earnings, lost benefits, and other financial
6 loss, as well as non-economic damages.

7 **SECOND CAUSE OF ACTION**

8 **Unfair and Unlawful Business Practices**

9 **[Cal. Bus. & Prof. Code §§ 17200 *et seq.*]**

10 **(Against all DEFENDANTS)**

11 25. PLAINTIFFS incorporate herein by specific reference, as though fully set forth, the
12 factual allegations in the foregoing paragraphs.

13 26. Each and every one of DEFENDANTS' acts and omissions in violation of the
14 California Fair Employment and Housing Act constitutes an unfair and unlawful business practice
15 under Business and Professions Code § 17200 *et seq.*

16 27. DEFENDANTS' violations of California discrimination laws constitute business
17 practices because DEFENDANTS' aforementioned acts and omissions were done repeatedly over
18 a significant period of time, and in a systematic manner, to the detriment of PLAINTIFFS and other
19 employees.

20 28. As a result of DEFENDANTS' unfair and unlawful business practices,
21 DEFENDANTS have reaped unfair and illegal profits at the expense of PLAINTIFFS and members
22 of the public. DEFENDANTS should be made to disgorge their ill-gotten gains and to restore them
23 to PLAINTIFFS.

24 29. DEFENDANTS' unfair and unlawful business practices entitle PLAINTIFFS to seek
25 preliminary and permanent injunctive relief, including but not limited to orders that DEFENDANTS
26 account for, disgorge, and restore to PLAINTIFFS the wages and other compensation unlawfully
27 withheld from them. PLAINTIFFS are entitled to restitution of all monies to be disgorged from
28 DEFENDANTS in an amount according to proof at the time of trial, but in excess of the jurisdiction

1 of this court.

2 **PRAYER FOR RELIEF**

3 **WHEREFORE**, PLAINTIFFS pray for judgment against DEFENDANTS as follows:


- 4 1. For an order certifying this action as a class action;
- 5 2. For an order appointing PLAINTIFFS ROE, DOE I, DOE II, and DOE III as class
6 representatives, and appointing PLAINTIFFS' counsel as class counsel;
- 7 3. For compensatory damages pursuant to California Labor Code § 1197.5(h) in an
8 amount to be ascertained at trial;
- 9 4. For restitution of all monies due to PLAINTIFFS and CLASS MEMBERS, as well
10 as disgorged profits from DEFENDANTS' unfair and unlawful business practices;
- 11 5. For liquidated damages pursuant to California Labor Code § 1197.5(h);
- 12 6. For interest on the unpaid wages at 10% per annum pursuant to California Labor
13 Code §§ 218.6, 1194, 2802, California Civil Code §§ 3287, 3288, and/or any other applicable
14 provision providing for pre-judgment interest;
- 15 7. For statutory and civil penalties according to proof, including but not limited to all
16 waiting time penalties pursuant to California Labor Code § 203;
- 17 8. For declaratory relief;
- 18 9. For preliminary and permanent injunctive relief enjoining DEFENDANTS from
19 violating California Labor Code § 1197.5 *et seq.* by discriminatorily paying its female employees
20 lower wage rates than those paid to their male counterparts, and from engaging in the unfair and
21 unlawful practices alleged herein;
- 22 10. For reasonable attorneys' fees and costs pursuant to California Labor Code §§ 1194,
23 2699, 2802, California Civil Code § 1021.5, and any other applicable provisions providing for
24 attorneys' fees and costs; and
- 25 11. For such further relief that the Court may deem just and proper.

26 ///
27 ///
28 ///

1 DATED: May 27, 2022

Respectfully submitted,

2 MATERN LAW GROUP, PC

3
4 By: 
5 MATTHEW J. MATERN
6 JOSHUA D. BOXER
7 IRINA A. KIRNOSOVA
8 CLARE E. MORAN
9 Attorneys for Plaintiffs
10 JANE ROE, JANE DOE I, JANE DOE II, and
11 JANE DOE III

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand a jury trial with respect to all issues triable of right by jury.

DATED: May 27, 2022

Respectfully submitted,

MATERN LAW GROUP, PC

By: 

MATTHEW J. MATERN
JOSHUA D. BOXER
IRINA A. KIRNOSOVA
CLARE E. MORAN
Attorneys for Plaintiffs
JANE ROE, JANE DOE I, JANE DOE II, and
JANE DOE III