

EXHIBIT A

1 Michael Zelman (SBN 297682)
mzelman@scllgpc.com
2 Taylor M. Prainito (SBN 286965)
tprainito@scllgpc.com
3 **SOUTHERN CALIFORNIA LABOR LAW GROUP, PC**
1875 Century Park East, Suite 480
4 Los Angeles, CA 90067
Telephone: (424) 231-2366
5 Facsimile: (323) 319-5148

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

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BY Daisy Bailon
DAISY BAILON, DEPUTY

6 Attorneys for Plaintiff,
7 RENEÉ MILLER

8
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN BERNARDINO**

11
12 RENEÉ MILLER,

13
14 vs.

15 HILTI, INC., an Oklahoma Corporation;
16 HILTI US MANUFACTURING, INC.,
17 a California Corporation; MARTIN
RUF, an Individual; DIARRA POLK,
18 an Individual and DOES 1-100,
inclusive,

19 Defendants.

Case No.: **CIV SB 2130801**

**PLAINTIFF RENEÉ MILLER'S
COMPLAINT FOR DAMAGES FOR:**

- (1) **DISCRIMINATION ON THE BASIS OF GENDER IN VIOLATION OF FEHA;**
- (2) **HARASSMENT ON THE BASIS OF GENDER IN VIOLATION OF FEHA;**
- (3) **DISCRIMINATION ON THE BASIS OF DISABILITY IN VIOLATION OF FEHA;**
- (4) **HARASSMENT ON THE BASIS OF DISABILITY IN VIOLATION OF FEHA;**
- (5) **FAILURE TO PROVIDE REASONABLE ACCOMMODATION IN VIOLATION OF FEHA;**
- (6) **FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;**
- (7) **RETALIATION FOR ENGAGING IN A PROTECTED ACTIVITY IN VIOLATION OF FEHA;**
- (8) **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT AND RETALIATION IN VIOLATION**

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- OF FEHA;
 - (9) WRONGFUL TERMINATION OF EMPLOYMENT IN VIOLATION OF PUBLIC POLICY;
 - (10) VIOLATION OF LABOR CODE § 1102.5;
 - (11) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
- DEMAND FOR JURY TRIAL**

Plaintiff, RENEE MILLER, alleges, on the basis of personal knowledge and/or information and belief:

SUMMARY

This is an action by RENEE MILLER, (“plaintiff” or “MILLER”), whose employment with defendants HILTI, INC., an Oklahoma Corporation; HILTI US MANUFACTURING, INC., a California Corporation; MARTIN RUF, an Individual; DIARRA POLK, an Individual, was wrongfully terminated. Plaintiff brings this action against defendants for economic, non-economic, compensatory, and punitive damages, pursuant to Civil Code section 3294, pre-judgment interest pursuant to Code of Civil Procedure section 3291, and costs and reasonable attorneys’ fees pursuant to Government Code section 12965(b) and Code of Civil Procedure section 1021.5.

PARTIES

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2 1. *Plaintiff:* Plaintiff RENEE MILLER is, and at all times mentioned in this Complaint
3 was, a resident of the County of Los Angeles, California.

4 2. *Defendants:*

5 a. Defendant Hilti, Inc., is an Oklahoma Corporation, that is, and at all times
6 mentioned in this Complaint was, authorized to operate by the State of California and the United
7 States government and authorized and qualified to do business in California.

8 b. Defendant Hilti US Manufacturing, Inc., is a California Corporation, that is, and
9 at all times mentioned in this Complaint was, authorized to operate by the State of California and
10 the United States government and authorized and qualified to do business in California.

11 c. Defendant Hilti, Inc., Hilti US Manufacturing, Inc., is a Delaware Corporation, that
12 is, and at all times mentioned in this Complaint was, authorized to operate by the State of
13 California and the United States government and authorized and qualified to do business in
14 California.

15 d. Defendant Martin Ruf, is believed to be, and at all times mentioned in this
16 complaint to have been, a resident of the County of San Bernardino, California.

17 e. Defendant Diarra Polk is believed to be, and at all times mentioned in this
18 complaint to have been, a resident of the County of San Bernardino, California.

19 f. Defendants Does 1 through 100 are sued under fictitious names pursuant to Code
20 of Civil Procedure section 474. Plaintiff is informed and believes, and on that basis alleges, that
21 each of the defendants sued under fictitious names is in some manner responsible for the wrongs
22 and damages alleged below, in so acting was functioning as the agent, servant, partner, and
23 employee of the co-defendants, and in taking the actions mentioned below was acting within the
24 course and scope of her or her authority as such agent, servant, partner, and employee, with the
25 permission and consent of the co-defendants.

26 2. Hilti, Inc., Hilti US Manufacturing, Inc., Martin Ruf, Diarra Polk, and Doe defendants
27 1 to 100 may be collectively referred to as “defendants.”

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1 3. *Relationship of defendants:*

2 a. All defendants and all Doe defendants directly and/or indirectly employed plaintiff,
3 as defined under the regulations, statutes, and interpreting case law, including California
4 Government Code section 12926(d).

5 b. All defendants and all Doe defendants compelled, coerced, aided, and/or abetted
6 the discrimination, retaliation, and harassment alleged throughout, which is prohibited under
7 California Government Code section 12940(i).

8 c. All defendants and all Doe defendants were acting as the agents of all other
9 defendants and employers, as defined under the regulations, statutes, and interpreting case law,
10 including California Government Code section 12926(d).

11 d. All actions of all defendants were taken by employees, supervisors, executives,
12 officers, and directors during employment with all defendants, on behalf of all defendants, and
13 engaged in, authorized, ratified, and approved of the conduct of all other defendants.

14 e. Plaintiff is informed and believes, and on that basis alleges, that, at all times
15 relevant hereto, all defendants, and each of them, were the principals, agents, servants, employers,
16 employees, partners, joint venturers, predecessors in interest, successors in interest, and/or
17 authorized representatives of each of the other defendants, were at all times relevant herein acting
18 within the purpose, course and scope of their agency, service, employment, partnership, joint
19 venture, and/or representation, and were doing so with the knowledge, permission, and consent
20 of their principals, employers, partners, joint venturers, and co-defendants, and each of them.
21 Plaintiff further alleges that each and every defendant was negligent, careless, and legally liable
22 in the selection and hiring of each and every other defendant as its agent, servant, employee,
23 consultant, assistant, representative, partner, and/or joint venturer.

24 f. All defendants compelled, coerced, aided, and/or abetted the discrimination,
25 retaliation, and harassment alleged in this Complaint, which conduct is prohibited under
26 California Government Code section 12940(i). All defendants were responsible for the events
27 and damages alleged herein, including on the following bases: (a) defendants committed the acts
28 alleged; (b) at all relevant times, one or more of the defendants was the agent or employee, and/or

1 acted under the control or supervision of, one or more of the remaining defendants and, in
2 committing the acts alleged, acted within the course and scope of such agency and employment
3 and/or is or are otherwise liable for plaintiff’s damages; (c) at all relevant times, there existed a
4 unity of ownership and interest between or among two or more of the defendants such that any
5 individuality and separateness between or among those defendants has ceased, and defendants
6 are the alter egos of one another. Defendants exercised domination and control over one another
7 to such an extent that any individuality or separateness of defendants does not, and at all times
8 herein mentioned did not, exist. Adherence to the fiction of the separate existence of defendants
9 would permit abuse of the corporate privilege and would sanction fraud and promote injustice.
10 All actions of all defendants were taken by employees, supervisors, executives, officers, and
11 directors during employment with all defendants, were taken on behalf of all defendants, and
12 were engaged in, authorized, ratified, and approved of by all other defendants.

13 g. Defendants directly and indirectly employed plaintiff MILLER, as defined in the
14 Fair Employment and Housing Act (“FEHA”) at Government Code section 12926(d).

15 h. In addition, defendants compelled, coerced, aided, and abetted the discrimination,
16 which is prohibited under California Government Code section 12940(i).

17 4. Finally, at all relevant times mentioned herein, all defendants acted as agents of all other
18 defendants in committing the acts alleged herein.

19
20 **VENUE**

21 5. Some of the actions at issue in this case occurred in the State of California, in the County
22 of San Bernardino. Under the California Fair Employment and Housing Act, this case can
23 alternatively, at plaintiff’s choice, be filed:

24 [I]n any county in the state in which the unlawful practice is alleged to have
25 been committed, in the county in which the records relevant to the practice
26 are maintained . . . or in the county in which the aggrieved person would
have worked . . .

27 California Government Code § 12965(b) (emphasis added).

28 6. Plaintiff worked in California, and at times, conducted certain job duties in the County

1 of San Bernardino.
2

3 **FACTS COMMON TO ALL CAUSES OF ACTION**

4 7. *Plaintiff's protected status and activity:*

- 5 a. Plaintiff is a female.
6 b. Plaintiff suffered from a disability and/or medical condition.
7 c. Plaintiff made good faith complaints about the discrimination and harassment she
8 experienced while employed by defendants to defendants' human resources department and to
9 her supervisors and/or managers.

10 8. Renee Miller, a Hispanic female, began working as a full-time Account Manager for
11 Defendants on August 30, 2014. Upon her hiring, Miller worked under the supervision of Nick
12 Demonico ("Demonico") on the Industrial Team, where she proved to be an outstanding
13 employee. Miller excelled in her position; she was reliable, diligent and conscientious. She never
14 received a disciplinary or performance write-up. Throughout Miller's tenure, she and Demonico
15 had an amicable relationship, and Miller felt the support of her supervisor. Demonico repeatedly
16 provided Miller with high marks and positive feedback about her work ethic. In or around 2017,
17 Martin Ruf took over the Industrial Team and became Miller's new supervisor. Demonico was
18 transferred to Building and Construction. Prior to the change in management, Demonico
19 informed Ruf that Miller was next in line for a promotion and eligible to begin ELP schooling, a
20 course requirement for the Project Manager position Miller sought.

21 9. In his first interaction with Miller, Ruf expressed to Miller that his expectations were
22 high. As the only female on the Industrial Team, Miller was prepared for and welcomed the
23 challenge, though she was apprehensive due to the general dynamic projected at Defendants.
24 Females at Defendant saw the company as a sort of "boys club" where females were rarely, if
25 ever, promoted to management. Miller was aware of only one female employee that had achieved
26 a management position and she had been with the company for over 15 years. Nevertheless,
27 Miller was optimistic and hoped to learn from Ruf, thus she expressed to Ruf that she was
28 extremely motivated to grow into a Project Manager.

1 10. In 2017, Martin began forcing Miller to do regular ride-alongs (Van Rides) at which
2 time Martin berated Miller’s performance. Though she was a top performer, Martin insisted on
3 the ride-alongs with Miller much more frequently than employees who were struggling to meet
4 their performance goals. Miller believed she was being targeted due to her gender since her
5 performance exemplary. Additionally, Martin made gender biased comments to her, stating that
6 she was “too emotional” and that her “emotions hindered her ability to perform”. Miller was
7 offended as her passion for the job and actually caring was the secret to her performing so well
8 and maintaining lasting relationships with her clients. Nevertheless, Martin embraced every
9 opportunity to get Miller one on one and critique her.

10 11. The months of discriminatory and harassing conduct created great stress for Miller,
11 leading to a devastating bout with shingles. Her medical condition required Miller to request a
12 short leave of absence, during which Miller was forced to postpone a scheduled meeting with her
13 assigned mentor, LaDena Schultz. Miller provided immediate notice to Schultz prior to the
14 meeting. When Ruf discovered that Miller missed the meeting due to a medical need, he and
15 Schultz retaliated, terminating the mentorship. Ruf also removed her from the committee,
16 resulting in Miller losing her eligibility for promotion or ELP schooling. The remaining
17 committee consisted entirely of males.

18 12. In addition to creating a hostile work environment for Miller, Ruf also reassigned
19 Miller’s good standing accounts to male sales staff with no explanation. Though Miller had no
20 recourse against Ruf’s discriminatory, harassing and retaliatory acts towards her, many of her
21 accounts complained and demanded to be reassigned to Miller. Not only did Ruf’s reassignment
22 of accounts act indirectly as theft of Miller’s commissions, but it also created the opportunity for
23 Ruf to assign Miller the most difficult and demanding clients. It was clear to Miller that Ruf
24 intentionally placed more burden on her while males benefitted financially and in a lighter work
25 load, handling lower maintenance accounts Miller had curated. Additionally, Ruf gave Miller a
26 heavier load than her coworkers received in number of accounts, all the while berating her for
27 her work. Miller was also required to report to Ruf every week, while the male team members
28 were not required to do so. Ruf increased Miller’s forecast for DDAT more than anyone else,

1 creating the contradictory position that (1) he had higher expectations for her than anyone and
2 yet (2) he was the most critical of her performance.

3 13. While Miller had approximately \$1 million in sales, Ruf was grooming a male
4 employee for the promotion Miller had been first in line for despite his paltry sales numbers of
5 \$45,000. Though Miller was meeting her goals every month, Ruf still attacked Miller,
6 admonishing her for “not selling to my standards”.

7 14. In or around January 2017, Miller complained to Christine Clauson (“Clauson”) in
8 Human Resources regarding Ruf’s discriminatory and harassing treatment. Miller was aware of
9 two other female employees, Amber and Haley, had complained about Ruf’s discriminatory
10 treatment. Amber transferred to another department and Haley resigned rather than face Ruf’s
11 harassment. Rather than investigate Miller’s complaint or take corrective action, Clauson
12 shockingly “blamed the victim”, instructing her to read the book “The Art of Not Giving a Fuck”
13 by Mark Manson. Miller felt helpless learning that HR’s response was that she learn to live with
14 the harassment and hostile work environment. She requested and applied for a new position
15 outside of Ruf’s supervision but she was denied.

16 15. On or around June 17, 2017, due to Ruf’s discriminatory, retaliatory and harassing
17 conduct, Miller required a medical leave of absence to receive psychiatric treatment at Riverside
18 Psychiatric. When Miller returned from her leave, Miller noticed Ruf’s immediate refusal to
19 communicate with her, instead creating an even more hostile and retaliatory environment. Miller
20 felt afraid and unwelcome as she tried to carry out her duties. Ruf applied more rules and
21 instructions, forcing her to communicate with him more than any other colleague.

22 16. In or around in 2018, Miller complained again to Diarra Polk (“Polk”) in Human
23 Resources about the continuous harassment and the ongoing hostility from Ruf. Once Miller
24 mentioned Ruf’s name, Polk immediately interrupted her and said, “...if this is another complaint
25 about Martin, I don’t want to hear it...other women have already complained about him...”
26 Hearing Polk say this made Miller feel helpless and desperate with no options.

27 17. Despite all the obstacles created by Ruf, Miller continued to excel in sales in
28 comparison to most of her colleagues. In or around December 2018, Miller was notified she

1 would be receiving an award for her performance and would be rewarded with a trip to Hawaii
2 with some of her higher performing colleagues. Shortly thereafter, during a family vacation over
3 Christmas, Miller received a call from Ruf stating that he had evaluated her work and was
4 revoking the award the company had given to her to award another employee. Miller felt attacked
5 to be accused of providing unsatisfactory work and she jumped into action even on her family
6 vacation to deal with his accusations. Miller immediately felt stress anxiety and frustration due
7 to Ruf's efforts to sabotage her career, all in a year in which her sales were \$1 million or more.

8 18. Nevertheless, Ruf was aware of her excitement regarding Hawaii so he successfully
9 sabotaged Miller's trip by forcing her to go to Cozumel instead, denying her the opportunity to
10 celebrate with the team members she worked with day to day. Miller was devastated.

11 19. Prior to the trip, every team leader recognized their top sellers in a ceremony with the
12 whole company. In a clear display of discriminatory animus and retaliation, Ruf refused to
13 acknowledge Miller for her work even as she was given the Masters Club award for being top
14 sales associate.

15 20. In early 2019, due to the stress caused by Ruf, Miller experienced a flareup of
16 fibromyalgia that caused Miller to experience migraines, body pains, fatigue and anxiety. Miller
17 was afraid to disclose this information to Defendants as she was previously reprimanded for her
18 absence due to shingles. Miller felt that the only way to cope with her fibromyalgia and avoid
19 any scrutiny from Defendants, especially Ruf, was to seek counseling.

20 21. On or around March 15, 2019, Miller suffered from a back injury after unloading
21 several boxes of stainless steel anchors for a client. Miller did not receive any worker's
22 compensation treatment until March 25, 2019. On March 27, 2019 Miller was placed on medical
23 leave of absence to recover from her work related injury. During her leave, Miller was harassed
24 and pressured by Polk and Ruf via email and text message to return to her job. They constantly
25 asked her about her about her return, even though they were aware of the severity of her injury,
26 as Miller had emailed her work status reports. Though Miller was concerned about the hostile
27 work environment, she returned to work on or about July 12, 2019. Miller requested
28 accommodations in the form of less driving during shifts, working from home once a week, and

1 refraining from using demo tools that could aggravate her injuries. Defendants refused to
2 accommodate her.

3 22. In November 2019, Miller returned to complain to Polk again regarding Ruf’s hostility
4 towards her. Polk then suggested Ruf and Miller begin counseling together, where she
5 encouraged both of them to participate in a zoom conference. Miller was very uncomfortable and
6 explained to Polk that confrontation with Ruf made her anxious. Polk knew of Miller’s anxiety,
7 stating “its ok I’ll be right there with you.” Polk even forced to her to fill out a “Personal
8 declaration worksheet”, which required Miller to provide personal family information about her
9 children to Ruf, who had been harassing her for years.

10 23. As a result of debilitating migraine headaches caused Ruf’s harassing conduct, Miller’s
11 doctor suggested she take another leave of absence in late 2019 to allow her to recuperate. Miller
12 was on a medical leave of absence until May 16, 2020 when she received a phone call from Polk,
13 at which time Defendants informed her that they would no longer accommodate her medical
14 leave of absence and terminated her employment.

15 24. Rather than accommodate Miller, Defendants discriminated against her due to her
16 medical condition, gender, request for accommodations and complaints of gender discrimination
17 by callously terminating her employment. Miller was devastated after years of dedication to the
18 company. As a result, Miller continues to suffer from anxiety and depression. She has been unable
19 to obtain similar employment.

20 25. Defendants’ stated reason for terminating was false and mere pretext as defendants’
21 real reason for terminating MILLER’s employment was for wrongful, illegal, discriminatory
22 and/or retaliatory purposes related to her medical condition/disability, age, requests for
23 accommodation and her good faith complaints regarding discrimination, harassment, retaliation,
24 and/or other conduct that MILLER reasonably believed to be illegal.

25 26. Following the termination, MILLER suffered severe symptoms of emotional distress
26 including, but not limited to depression, anxiety, stress, headaches, and weight loss.

27 27. *Economic damages:* As a consequence of defendants’ conduct, plaintiff has suffered
28 and will suffer harm, including lost past and future income and employment benefits, stock

1 options, damage to her career, and lost wages, overtime, unpaid expenses, and penalties, as well
2 as interest on unpaid wages at the legal rate from and after each payday on which those wages
3 should have been paid, in a sum to be proven at trial.

4 28. *Non-economic damages:* As a consequence of defendants' conduct, plaintiff has
5 suffered and will suffer psychological and emotional distress, humiliation, and mental and
6 physical pain and anguish, in a sum to be proven at trial.

7 29. *Punitive damages:* Defendants' conduct constitutes oppression, fraud, and/or malice
8 under California Civil Code section 3294 and, thus, entitles plaintiff to an award of exemplary
9 and/or punitive damages.

10 a. *Malice:* Defendants' conduct was committed with malice within the meaning of
11 California Civil Code section 3294, including that (a) defendants acted with intent to cause injury
12 to plaintiff and/or acted with reckless disregard for plaintiff's injury, including by terminating
13 plaintiff's employment and/or taking other adverse job actions against plaintiff because of her
14 age, disability, and/or good faith complaints, and/or (b) defendants' conduct was despicable and
15 committed in willful and conscious disregard of plaintiff's rights, health, and safety, including
16 plaintiff's right to be free of discrimination, harassment, retaliation, and wrongful employment
17 termination.

18 b. *Oppression:* In addition, and/or alternatively, defendants' conduct was committed
19 with oppression within the meaning of California Civil Code section 3294, including that
20 defendants' actions against plaintiff because of her age, disability, and/or good faith complaints
21 were "despicable" and subjected plaintiff to cruel and unjust hardship, in knowing disregard of
22 plaintiff's rights to a work place free of discrimination, harassment, retaliation, and wrongful
23 employment termination.

24 c. *Fraud:* In addition, and/or alternatively, defendants' conduct, as alleged, was
25 fraudulent within the meaning of California Civil Code section 3294, including that defendants
26 asserted false (pretextual) grounds for terminating plaintiff's employment and/or other adverse
27 job actions, thereby to cause plaintiff hardship and deprive her of legal rights.

28 30. *Attorneys' fees:* Plaintiff has incurred and continues to incur legal expenses and

1 attorneys' fees.

2 31. *Exhaustion of administrative remedies:* Prior to filing this action, plaintiff exhausted
3 her administrative remedies by filing a timely administrative complaint with the Department of
4 Fair Employment and Housing (“DFEH”) and receiving a DFEH right-to-sue letter.

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6 **FIRST CAUSE OF ACTION**

7 **(Violation of FEHA (Government Code § 12900, et seq.)**
8 **(Sex/Gender Discrimination)—Against Defendants Hilti, Inc.,**
9 **Hilti US Manufacturing, Inc., and Does 1 to 100, Inclusive)**

10 32. The allegations set forth in paragraphs 1 through 3 are re-alleged and incorporated
11 herein by reference.

12 33. At all times herein mentioned, FEHA, Government Code section 12940, *et seq.*, was in
13 full force and effect and was binding on defendants. This statute requires defendant to refrain
14 from discriminating against any employee due to their sex/gender. Within the time provided by
15 law, plaintiff filed a complaint with the DFEH, in full compliance with administrative
16 requirements, and received a right-to-sue letter.

17 34. During plaintiff’s employment with defendants, defendants had a pattern and practice
18 of discriminating against female employees. During plaintiff’s employment with defendants,
19 defendants, through their supervisors, engaged in actions that had a negative impact on the
20 treatment of female employees. Specifically, defendants discharged female employees with
21 greater frequency than male employees, hired fewer female employees, demoted female
22 employees who complained about the actions of male employees such as sexual harassment, and
23 gave better jobs and benefits to male employees.

24 35. Plaintiff was a qualified employee at the time of the termination of her employment.
25 Defendants continued to hire employees to replace female employees whom they were
26 discharging or otherwise forcing out of the company. All of defendants’ conduct raises an
27 inference of discrimination.

28 36. Defendants, through their managers and supervisors, made a number of comments to

1 and about plaintiff and made staffing decisions and/or transfers that exhibited sexist motivations,
2 intentions, and consciousness. Plaintiff believes and, on that basis, alleges that defendants' real
3 motivation was to discharge her because of her gender.

4 37. Defendants' conduct, as alleged, violated FEHA, and defendants committed unlawful
5 employment practices, including by the following, separate bases for liability:

6 a. Discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or
7 otherwise discriminating against plaintiff, in whole or in part on the basis of plaintiff's gender
8 and/or other protected characteristics, in violation of Government Code section 12940(a);

9 b. Harassing plaintiff and/or creating a hostile work environment, in whole or in part
10 on the basis of plaintiff's gender and/or other protected characteristics, in violation of
11 Government Code section 12940(j);

12 c. Failing to take all reasonable steps to prevent discrimination and harassment based
13 on gender and/or other protected characteristics, in violation of Government Code section
14 12940(k);

15 d. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA
16 and/or opposing defendants' failure to provide such rights, in violation of Government Code
17 section 12940(h).

18 38. On the basis of the above, plaintiff believes and alleges that her gender was a substantial
19 motivating factor in defendants' termination of her employment.

20 39. As a proximate result of defendants' willful, knowing, and intentional discrimination
21 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
22 other employment benefits.

23 40. As a proximate result of defendants' willful, knowing, and intentional discrimination
24 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
25 mental and physical pain and anguish, all to her damage in a sum according to proof.

26 41. Defendants' discrimination was done intentionally, in a malicious, fraudulent,
27 oppressive manner, entitling plaintiff to punitive damages.

28 Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Pursuant to

1 Government Code section 12965(b), plaintiff is entitled to recover reasonable attorneys' fees and
2 costs (including expert costs) in an amount according to proof.

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4 **SECOND CAUSE OF ACTION**

5 **(Violation of FEHA (Government Code § 12900, *et seq.*) (Gender**
6 **Harassment)—Against All Defendants and Does 1 to 100,**
7 **Inclusive)**

8 42. The allegations set forth in paragraphs 1 through 41 are re-alleged and incorporated
9 herein by reference.

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

13 a. Harassing plaintiff and/or creating a hostile work environment, in whole or in part
14 on the basis of plaintiff's gender and/or other protected characteristics, in violation of
15 Government Code section 12940(j);

16 b. Failing to take all reasonable steps to prevent discrimination, harassment, and
17 retaliation based on gender, in violation of Government Code section 12940(k).

18 44. As a proximate result of defendants' willful, knowing, and intentional harassment of
19 plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and other
20 employment benefits.

21 45. As a proximate result of defendants' willful, knowing, and intentional harassment of
22 plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
23 physical and mental pain and anguish, all to her damage in a sum according to proof.

24 46. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
25 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
26 attorneys' fees and costs (including expert costs) in an amount according to proof.

27 47. Defendants' misconduct was committed intentionally, in a malicious, fraudulent,
28 despicable, oppressive manner, entitling plaintiff to punitive damages against defendants.

THIRD CAUSE OF ACTION

(Violation of FEHA (Government Code § 12900, *et seq.*)

(Disability Discrimination)—Against Defendants Hilti, Inc., Hilti

US Manufacturing, Inc. and Does 1 to 100, Inclusive)

48. The allegations set forth in paragraphs 1 through 47 are re-alleged and incorporated herein by reference.

49. Plaintiff’s actual, perceived, and/or history of disability and/or other characteristics protected by FEHA, Government Code section 12900, *et seq.*, were motivating factors in defendants’ decision to terminate plaintiff’s employment, not to retain, hire, or otherwise employ plaintiff in any position, to refuse to accommodate plaintiff, to refuse to engage in the interactive process, and/or to take other adverse job actions against plaintiff.

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

a. Discharging, barring, refusing to transfer, retain, hire, select, and/or employ, and/or otherwise discriminating against plaintiff, in whole or in part on the basis of plaintiff’s actual, perceived, and/or history of disability and/or other protected characteristics, in violation of Government Code section 12940(a);

b. Failing to accommodate plaintiff’s actual, perceived, and/or history of disability, in violation of Government Code section 12940(m);

c. Failing to engage in a timely, good faith interactive process to determine reasonable accommodation, in violation of Government Code section 12940(n);

d. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation based on actual, perceived, and/or history of disability, in violation of Government Code section 12940(k);

e. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA and/or opposing defendants’ failure to provide such rights, including rights of reasonable accommodation, rights of interactive process, leave rights, and/or the right to be free of

1 discrimination, in violation of Government Code section 12940(h);

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

5 51. As a proximate result of defendants' willful, knowing, and intentional discrimination
6 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
7 other employment benefits.

8 52. As a proximate result of defendants' willful, knowing, and intentional discrimination
9 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
10 physical and mental pain and anguish, all to her damage in a sum according to proof.

11 53. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
12 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
13 attorneys' fees and costs (including expert costs) in an amount according to proof.

14 54. Defendants' misconduct was committed intentionally, in a malicious, despicable,
15 oppressive manner, and fraudulent manner, entitling plaintiff to punitive damages against
16 defendants.

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19 **FOURTH CAUSE OF ACTION**

20 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

21 **(Medical Condition and/or Disability Harassment—Hilti, Inc.,**

22 **Hilti US Manufacturing, Inc., Martin Ruf and Diarra Polk, and**

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

24 55. The allegations set forth in paragraphs 1 through 54 are re-alleged and incorporated
25 herein by reference.

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

1 a. Harassing plaintiff and/or creating a hostile work environment, in whole or in part
2 on the basis of plaintiff’s actual, perceived, and/or history of disability and/or other protected
3 characteristics, in violation of Government Code section 12940(j);

4 b. Failing to take all reasonable steps to prevent discrimination, harassment, and
5 retaliation based on actual, perceived, and/or history of medical condition and/or physical
6 disability, in violation of Government Code section 12940(k).

7 57. As a proximate result of defendants’ willful, knowing, and intentional harassment of
8 plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and other
9 employment benefits.

10 58. As a proximate result of defendants’ willful, knowing, and intentional harassment of
11 plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
12 physical and mental pain and anguish, all to her damage in a sum according to proof.

13 59. Plaintiff has incurred and continues to incur legal expenses and attorneys’ fees.
14 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
15 attorneys’ fees and costs (including expert costs) in an amount according to proof.

16 60. Defendants’ misconduct was committed intentionally, in a malicious, fraudulent,
17 despicable, oppressive manner, entitling plaintiff to punitive damages against defendants.

18
19 **FIFTH CAUSE OF ACTION**

20 **(Violation of FEHA (Government Code § 12940(a), (i),**

21 **(m), (n)) (Failure to Provide Reasonable**

22 **Accommodation)—Against Defendants Hilti, Inc., Hilti**

23 **US Manufacturing, Inc. and Does 1 to 100, Inclusive)**

24 61. The allegations set forth in paragraphs 1 through 61 are re-alleged and incorporated
25 herein by reference.

26 62. At all times herein mentioned, FEHA, Government Code section 12940(a), (i), (m), and
27 (n), was in full force and effect and was binding on defendants. This statute requires defendants
28 to provide reasonable accommodations to known disabled employees. Within the time provided

1 by law, plaintiff filed a complaint with the DFEH, in full compliance with administrative
2 requirements, and received a right-to-sue letter.

3 63. Defendants wholly failed to attempt any reasonable accommodation of plaintiff's
4 known disability. Defendants used plaintiff's disability and her need to take medical leave as an
5 excuse for terminating plaintiff's employment.

6 64. Plaintiff believes and, on that basis, alleges that her disability and the need to ac-
7 commodate her disability were substantial motivating factors in defendants' termination of her
8 employment.

9 65. As a proximate result of defendants' willful, knowing, and intentional misconduct,
10 plaintiff has sustained and continues to sustain substantial losses of earnings and other
11 employment benefits.

12 66. As a proximate result of defendants' willful, knowing, and intentional misconduct,
13 plaintiff has suffered and continues to suffer humiliation, emotional distress, and physical and
14 mental pain and anguish, all to her damage in a sum according to proof.

15 67. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
16 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
17 attorneys' fees and costs (including expert costs) in an amount according to proof.

18 68. Defendants' misconduct was committed intentionally, in a malicious, despicable,
19 oppressive manner, and fraudulent manner, entitling plaintiff to punitive damages against
20 defendants.

21
22 **SIXTH CAUSE OF ACTION**

23 **(Violation of FEHA (Government Code § 12900, *et seq.*) (Failure**
24 **to Engage in Interactive Process)—Against Defendants Hilti,**
25 **Inc., Hilti US Manufacturing, Inc. and Does 1 to 100, Inclusive)**

26 69. The allegations set forth in paragraphs 1 through 68 are re-alleged and incorporated
27 herein by reference.

28 70. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900,

1 *et seq.*, and defendants committed unlawful employment practices, including by the following
2 bases for liability: failing to engage in a timely, good faith interactive process to determine
3 reasonable accommodation, in violation of Government Code section 12940(n).

4 71. As a proximate result of defendants' willful, knowing, and intentional discrimination
5 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings
6 and other employment benefits.

7 72. As a proximate result of defendants' willful, knowing, and intentional discrimination
8 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress,
9 and physical and mental pain and anguish, all to her damage in a sum according to proof.

10 73. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
11 Plaintiff is at present unaware of the precise amounts of these expenses and fees and will seek
12 leave of court to amend this Complaint when the amounts are fully known.

13 74. Defendants' misconduct was committed intentionally, in a malicious, despicable,
14 oppressive manner, and fraudulent manner, entitling plaintiff to punitive damages against
15 defendants.

16
17
18 **SEVENTH CAUSE OF ACTION**

19 **(Violation of FEHA (Government Code § 12900, *et seq.*)**

20 **(Retaliation for Engaging in a Protected Activity)—Against**

21 **Defendants Hilti, Inc., Hilti US Manufacturing, Inc. and Does 1**

22 **to 100, Inclusive)**

23 75. The allegations set forth in paragraphs 1 through 74 are re-alleged and incorporated
24 herein by reference.

25 76. Plaintiff's engagement in protected activity, including good faith complaints and/or
26 opposition to discrimination and harassment based on age, disability, and/or good faith
27 complaints protected by FEHA, Government Code section 12900, *et seq.*, as well as to
28 defendants' failure to accommodate her disability and failure to engage in the interactive process,

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

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

7 a. Demoting, discharging, barring, refusing to retain, refusing to transfer, hire, select,
8 and/or employ, and/or otherwise discriminating against plaintiff, in whole or in part on the basis
9 of plaintiff's age, disability, good faith complaints and/or other protected characteristics by
10 FEHA, Government Code section 12900, *et seq.*, in violation of Government Code section
11 12940(a);

12 b. Harassing plaintiff and/or creating a hostile work environment, in whole or in part
13 on the basis of plaintiff's age, disability, good faith complaints and/or other protected
14 characteristics, in violation of Government Code section 12940(j);

15 c. Failing to take all reasonable steps to prevent discrimination, harassment, and
16 retaliation based on age, disability, and/or good faith complaints in violation of Government Code
17 section 12940(k);

18 d. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA
19 and/or opposing defendants' failure to provide such rights, including rights of reasonable
20 accommodation, rights of interactive process, leave rights, and/or the right to be free of
21 discrimination, in violation of Government Code section 12940(h);

22 e. Failing to accommodate plaintiff's actual, perceived, and/or history of disability, in
23 violation of Government Code section 12940(m);

24 f. Failing to engage in a timely, good faith interactive process to determine reasonable
25 accommodation, in violation of Government Code section 12940(n);

26 g. Creating a hostile work environment, in whole or in part on the basis of plaintiff's
27 actual, perceived, and/or history of disability and/or other protected characteristics, in violation
28 of Government Code section 12940(j);

1 h. Retaliating against plaintiff for seeking to exercise rights guaranteed under FEHA
2 and/or opposing defendants’ failure to provide such rights, including rights of reasonable
3 accommodation, rights of interactive process, leave rights, and/or the right to be free of
4 discrimination, in violation of Government Code section 12940(h);

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

8 78. As a proximate result of defendants’ willful, knowing, and intentional retaliation
9 against plaintiff, plaintiff has sustained and continues to sustain substantial losses of earnings and
10 other employment benefits.

11 79. As a proximate result of defendants’ willful, knowing, and intentional retaliation
12 against plaintiff, plaintiff has suffered and continues to suffer humiliation, emotional distress, and
13 physical and mental pain and anguish, all to her damage in a sum according to proof.

14 80. Plaintiff has incurred and continues to incur legal expenses and attorneys’ fees.
15 Pursuant to Government Code section 12965(b), plaintiff is entitled to recover reasonable
16 attorneys’ fees and costs (including expert costs) in an amount according to proof.

17 81. Defendants’ misconduct was committed intentionally, in a malicious, fraudulent,
18 despicable, oppressive manner, entitling plaintiff to punitive damages against defendants.

19
20 **EIGHTH CAUSE OF ACTION**

21 **(Failure to Prevent Discrimination, Harassment, and**
22 **Retaliation in Violation of FEHA (Government Code**
23 **§ 12940(k))—Against Defendants Hilti, Inc., Hilti US**
24 **Manufacturing, Inc. and Does 1 to**
25 **100, Inclusive)**

26 82. The allegations set forth in paragraphs 1 through 81 are re-alleged and incorporated
27 herein by reference.

28 83. At all times herein mentioned, FEHA, Government Code section 12940(k), was in full

1 force and effect and was binding on defendants. This statute states that it is an unlawful
2 employment practice in California for an employer “to fail to take all reasonable steps necessary
3 to prevent discrimination and harassment from occurring.” Prior to filing the instant Complaint,
4 plaintiff filed a timely administrative charge with the DFEH and received a right-to-sue notice.

5 84. During the course of plaintiff’s employment, defendants failed to prevent their
6 employees from engaging in intentional actions that resulted in plaintiff’s being treated less
7 favorably because of plaintiff’s protected status (*i.e.*, her age, disability, and/or participation in
8 protected activities and/or her good faith complaints and opposition). During the course of plain-
9 tiff’s employment, defendants failed to prevent their employees from engaging in unjustified
10 employment practices against employees on the basis of such protected classes. During the
11 course of plaintiff’s employment, defendants failed to prevent a pattern and practice by their
12 employees of intentional discrimination on the basis of engagement in protected activity and
13 protected status.

14 85. Plaintiff believes and on that basis alleges that her protected status and/or engagement
15 in a protected activity was a substantial motivating factor in defendants’ employees’
16 discrimination and retaliation against her.

17 86. As a proximate result of defendants’ willful, knowing, and intentional misconduct,
18 plaintiff has sustained and continues to sustain substantial losses of earnings and other
19 employment benefits.

20 87. As a proximate result of defendants’ willful, knowing, and intentional misconduct,
21 plaintiff has suffered and continues to suffer humiliation, emotional distress, and physical and
22 mental pain and anguish, all to her damage in a sum according to proof.

23 88. Plaintiff has incurred and continues to incur legal expenses and attorneys’ fees.
24 Plaintiff is at present unaware of the precise amounts of these expenses and fees and will seek
25 leave of court to amend this Complaint when the amounts are fully known.

26 89. Defendants’ misconduct was committed intentionally, in a malicious, fraudulent,
27 oppressive manner, entitling plaintiff to punitive damages against defendants.

NINTH CAUSE OF ACTION

(Retaliation for Reporting A Workplace Injury and/or

Filing Worker’s Compensation Claim

In Violation of Cal. Labor Code §6310(a))

(Against Hilti, Inc., Hilti US Manufacturing, Inc., and Does 1-100, Inclusive)

90. The allegations set forth in paragraphs 1 through 89 are re-alleged and incorporated herein by reference.

91. At all times herein mentioned, California Labor Code § 6310(a) was in full force and effect and binding on Defendants. This statute requires Defendants to refrain from discharging or in any matter discriminating against an employee for engaging in protected activities including but not limited to: (a) making an oral or written complain to government agencies with reference to her employer, (b) instituting any proceeding under or relating to employees’ rights, (c) reporting a work-related fatality, injury, or illness, or (d) requesting access to occupational injury or illness reports and records.

92. Here, Defendants discriminated and retaliated against plaintiff, in part, because plaintiff suffered an injury at the work place and reported the injur(ies). Plaintiff also filed a worker’s compensation claim against Defendants related to a work place injur(ies). Thereafter, Defendants wrongfully terminated plaintiff.

93. As a proximate result of Defendants' willful, knowing and intentional retaliation against plaintiff, plaintiff has lost employment earnings and benefits, past and future, according to proof.

94. As a proximate result of said wrongful termination, plaintiff has suffered emotional distress, physical and mental injuries and general damages, past and future, in a sum according to proof.

95. As a proximate result of said wrongful termination, plaintiff has incurred, and will continue to incur, attorney’s fees and costs.

96. Defendants’ misconduct was committed intentionally, in a malicious, fraudulent, despicable, oppressive manner, entitling plaintiff to punitive damages against defendants.

TENTH CAUSE OF ACTION

(Wrongful Termination of Employment in Violation of Public Policy (Labor Code § 1102.5; FEHA, Government Code § 12900, et seq.)—Against Defendants Hilti, Inc., Hilti US Manufacturing, Inc., and Does 1 to 100, Inclusive)

97. The allegations set forth in paragraphs 1 through 96 are re-alleged and incorporated herein by reference.

98. Defendants terminated plaintiff’s employment in violation of various fundamental public policies underlying both state and federal laws. Specifically, plaintiff’s employment was terminated in part because of her protected status (*i.e.*, her age, disability, and/or good faith complaints). These actions were in violation of FEHA, the California Constitution, and California Labor Code section 1102.5.

99. As a proximate result of defendants’ wrongful termination of plaintiff’s employment in violation of fundamental public policies, plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

100. As a result of defendants’ wrongful termination of her employment, plaintiff has suffered general and special damages in sums according to proof.

101. Defendants’ wrongful termination of plaintiff’s employment was done intentionally, in a malicious, fraudulent, oppressive manner, entitling plaintiff to punitive damages.

102. Plaintiff has incurred and continues to incur legal expenses and attorneys’ fees. Pursuant to Code of Civil Procedure sections 1021.5 and 1032, *et seq.*, plaintiff is entitled to recover reasonable attorneys’ fees and costs in an amount according to proof.

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ELEVENTH CAUSE OF ACTION

(Violations of Labor Code § 1102.5, et seq.—

Against All Defendants and Does 1 to 100, Inclusive)

103. The allegations set forth in paragraphs 1 through 102 are re-alleged and incorporated herein by reference.

104. At all relevant times, Labor Code section 1102.5 was in effect and was binding on defendants. This statute prohibits defendants from retaliating against any employee, including plaintiff, for raising complaints of illegality.

105. Plaintiff raised complaints of illegality while she worked for defendants, and defendants retaliated against her by terminating her employment.

a. Specifically, plaintiff reported the unlawful discrimination and retaliation she was experiencing from defendants on the basis of her age, disability and/or good faith complaints.

b. Plaintiff also reported what she reasonably believed to be unsafe working conditions in violation of OSHA and/or other state laws, rules, codes, and/or regulations.

106. As a proximate result of defendants’ willful, knowing, and intentional violations of Labor Code section 1102.5, plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in a sum according to proof.

107. As a result of defendants’ adverse employment actions against plaintiff, plaintiff has suffered general and special damages in sums according to proof.

108. Defendants’ misconduct was committed intentionally, in a malicious, fraudulent, oppressive manner, entitling plaintiff to punitive damages against defendants.

TWELFTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress—Against All

Defendants and Does 1 to 100, Inclusive)

109. The allegations set forth in paragraphs 1 through 108 are re-alleged and incorporated herein by reference.

110. Defendants’ discriminatory, harassing, and retaliatory actions against plaintiff

1 constituted severe and outrageous misconduct and caused plaintiff extreme emotional distress.

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

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

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

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

13
14 **PRAYER**

15 WHEREFORE, plaintiff, RENEE MILLER, prays for judgment against defendants as
16 follows:

- 17 1. For general and special damages according to proof;
- 18 2. For exemplary damages, according to proof;
- 19 3. For pre-judgment and post-judgment interest on all damages awarded;
- 20 4. For reasonable attorneys' fees;
- 21 5. For costs of suit incurred;
- 22 6. For injunctive relief;
- 23 7. For such other and further relief as the Court may deem just and proper.

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1 ADDITIONALLY, plaintiff, RENEE MILLER, demands trial of this matter by jury. The
2 amount demanded exceeds \$25,000.00 (Government Code § 72055).

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Dated: October 25, 2021

**SOUTHERN CALIFORNIA
LABOR LAW GROUP, P.C.**

By: 

Michael Zelman, Esq.
Taylor M. Prainito, Esq.
Attorneys for Plaintiff,

RENEE MILLER