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BRIAN GILTON

ELECTRONICALLY

FILED

*Superior Court of California,
County of San Francisco*

04/13/2023

Clerk of the Court

BY: JEFFREY FLORES

Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

BRIAN GILTON, an individual,

Plaintiff,

vs.

INTUIT INC., a Delaware corporation;
and DOES 1-50, inclusive,

Defendants.

Case No.:

CGC-23-605831

COMPLAINT FOR:

1. VIOLATION OF LABOR CODE
SECTION 1101;
2. VIOLATION OF LABOR CODE
SECTION 1102; and
3. VIOLATION OF LABOR CODE
SECTION 98.6

DEMAND FOR JURY TRIAL

Plaintiff, BRIAN GILTON, hereby brings his employment complaint against the above-named Defendants and states and alleges as follows:

PRELIMINARY ALLEGATIONS

1. At all times mentioned herein, BRIAN GILTON was a resident of the state of California.

2. At all times mentioned herein, Defendant INTUIT INC. was a Delaware corporation, licensed to do business under the laws of the state of California, in the county of San Francisco, at 22 4th Street, in the city of San Francisco. At the time the causes of action arose, Defendant was Plaintiff's employer.

3. The true names and capacities, whether individual, corporate, associate or otherwise of DOES 1 through 50 are unknown to Plaintiff who therefore sues these defendants under said fictitious names. Plaintiff is informed and believes that each of the defendants named as a Doe defendant is legally responsible in some manner for the events referred to in this Complaint, is either negligently, willfully, wantonly, recklessly, tortuously, strictly liable, statutorily liable or otherwise, for the injuries and damages described below to this Plaintiff. Plaintiff will in the future seek leave of this court to show the true names and capacities of these Doe defendants when it has been ascertained.

4. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.

5. Hereinafter in the Complaint, unless otherwise specified, reference to a Defendant or Defendants shall refer to all Defendants, and each of them.

ALLEGATIONS

6. On or about May 29, 2019, Defendant hired Plaintiff as a full-time employee. His most recent position with Defendant was as a Senior Content Designer.

7. Throughout his employment, Plaintiff performed exceptionally well and was repeatedly commended for his performance through positive evaluations and performance-based bonuses.

8. Plaintiff is a passionate 37-year old white male who regularly exercises his rights to participate in political activity, including political speech.

9. On June 14, 2022, Plaintiff posted the following on his Instagram page:

1 “The pendulum swing used to get talked about a lot but I’m not hearing much
2 about it these days. Especially culturally, consider the pendulum swing.
3 Remember the Reagan cultural conservatives who suggested that homosexuality
4 was just a slippery slope to some kind of sexual perversion down the road? This
5 is a patently unfair judgement, and, understandably, of course, because reactivity
6 and pendulum-swinging is such a deeply ingrained collective bad habit the sexual
7 liberation front got angry, and reacted, and now, 40 years later, we’ve got 2-year-
8 old babies at drag shows, and contemporary leftists are cheering it on to prove
9 how “progressive” they are – “progressive” at all costs. When you react, you
10 make a mistake – such is the pendulum swing. These deeply, deeply lost leftists
11 who are cheering on drag queen hour for 3-year-olds are lost in a planet-sized
12 collective reaction to 40-year-old cultural conservatism. I’m not excusing the
13 mental disorder of modern leftism – I’m just saying the pendulum is the problem;
14 reactivity, instead of thoughtful response, is the problem. Homosexuality is not
15 wrong. It never was. It never will be. Similarly, bringing 2-year-olds to strip
16 clubs filled with naked sexual explicit adult behavior is wrong. It always has
17 been. It always will be. Let’s get it to-fucking-gether here, friends.”

18 10. On June 28, 2022, Plaintiff posted the following on his Instagram page:
19 “Do you guys remember the time when it was supposedly the political right that
20 was telling you how you should live your life under the threat of cultural
21 ostracization, judgement, and career-destruction? For instance, “Do as God says
22 or burn!” Remember that? Remember how that used to be the *right* that
23 supposedly did that sort of thing? And now, if you don’t fall in line with
24 whatever new craze reactionary psychotic mouth-foaming public tirade
25 propagated by the far-leftist globalist corporate media and their automatons in
26 leftist culture, you have your career destroyed, you’re canceled, you’re erased
27 from society, and you’re deemed a bigot, a racist, a “hate” monger, a pariah, all
28 because you didn’t do as you were told by leftist mob? This, my friends, is the
phenomenon of the collective cultural reaction – the pendulum swing of political
warefare. The real truth, of course, lies on neither extreme. You’re not a
degenerate if you don’t follow the Bible. And you’re not a bigot if you don’t
want your three-year-old getting dry humped by a cross dresser. Let’s get it to-
fucking-gether here, friends.”

11. In or around July 2022, Plaintiff received a phone call that Defendant was performing
an investigation into Plaintiff’s Instagram posts of June 14, 2022 and June 28, 2022.

12. On August 16, 2022, Plaintiff was told that his employment was terminated for his
Instagram posts of June 14, 2022 and June 28, 2022.

13. Plaintiff is informed and believes, and thereon alleges, that the real reason for his
termination was because of his participation in political activity, including political speech.

FIRST CAUSE OF ACTION
VIOLATION OF LABOR CODE § 1101
(Against All Defendants)

14. Plaintiff hereby restates and incorporates all preceding paragraphs as though fully set forth herein.

15. At all times herein mentioned, California Labor Code § 1101 was in full force and effect and was binding on Defendant.

16. California Labor Code § 1101 prohibits employers from making, adopting, or enforcing any rule, regulation, or policy that forbids or prevents employees from engaging or participating in politics or from controlling or directing, or tending to control or direct the political activities or affiliations of employees.

17. Plaintiff engaged in protected activity under California Labor Code section 1101 when he participated in politics or political activity by engaging in political speech online.

18. As a result of Plaintiff's engagement in protected activity, Defendant terminated his employment.

19. As a proximate result of the aforesaid acts of Defendant, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in his field and damage to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages pursuant to California Civil Code § 3287 and/or § 3288 and/or any other provision of law providing for prejudgment interest.

20. As a proximate result of the wrongful acts of Defendant, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes, and thereupon alleges, that he will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

21. As a proximate result of the wrongful acts of Defendant, Plaintiff has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under the California Labor Code.

22. In committing the acts alleged herein, Defendant has engaged in oppression, fraud and/or malice pursuant to California Civil Code § 3294, thereby entitling Plaintiff to punitive damages in a sum appropriate under the law. The acts of oppression, fraud and/or malice were engaged in by the officers, directors and/or employees of Defendant. As such, Plaintiff should be awarded exemplary and punitive damages against Defendant in an amount that is appropriate to punish Defendant and deter others from engaging in such conduct.

SECOND CAUSE OF ACTION
VIOLATION OF LABOR CODE § 1102
(Against ALL Defendants)

23. Plaintiff hereby restates and incorporates all preceding paragraphs as though fully set forth herein.

24. At all times herein mentioned, California Labor Code § 1102 was in full force and effect and was binding on Defendant.

25. California Labor Code § 1102 prohibits employers from coercing or influencing or attempting to coerce or influence employees through or by means of threat of discharge or loss of employment to adopt or follow or refrain from adopting or following any particular course or line of political action or political activity.

26. Plaintiff engaged in protected activity under California Labor Code section 1102 when he engaged in political activity by posting political speech online.

27. As a result of Plaintiff's engagement in protected activity, Defendant terminated his employment.

28. As a proximate result of the aforesaid acts of Defendant, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary

and benefits, and the intangible loss of employment related opportunities in his field and damage to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages pursuant to California Civil Code § 3287 and/or § 3288 and/or any other provision of law providing for prejudgment interest.

29. As a proximate result of the wrongful acts of Defendant, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes, and thereupon alleges, that he will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

30. As a proximate result of the wrongful acts of Defendant, Plaintiff has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under the California Labor Code.

31. In committing the acts alleged herein, Defendant has engaged in oppression, fraud and/or malice pursuant to California Civil Code § 3294, thereby entitling Plaintiff to punitive damages in a sum appropriate under the law. The acts of oppression, fraud and/or malice were engaged in by the officers, directors and/or employees of Defendant. As such, Plaintiff should be awarded exemplary and punitive damages against Defendant in an amount that is appropriate to punish Defendant and deter others from engaging in such conduct.

THIRD CAUSE OF ACTION

VIOLATION OF LABOR CODE § 98.6

(Against ALL Defendants)

32. Plaintiff hereby restates and incorporates all preceding paragraphs as though fully set forth herein.

33. At all times herein mentioned, California Labor Code § 98.6 was in full force and effect and was binding on Defendant.

34. California Labor Code § 98.6(a) provides, "A person shall not discharge an

employee or in any manner discriminate, retaliate, or take any adverse action against any employee ... because the employee or applicant engaged in any conduct delineated in this chapter, including the conduct described in subdivision (k) of Section 96...

35. California Labor Code § 98.6(b)(1) provides, “Any employee who is discharged, threatened with discharge, demoted, suspended, retaliated against, subjected to an adverse employment action, or in any other manner discriminated against in the terms and conditions of his or her employment because the employee engaged in any conduct delineated in this chapter, including the conduct described in subdivision (k) of Section 96 ... shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by those acts of the employer.

36. California Labor Code § 98.6(b)(3) provides, “In addition to other remedies available, an employer who violates this section is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee for each violation of this section, to be awarded to the employee or employees who suffered the violation.”

37. California Labor Code § 96(k) provides that it is illegal for an employer to discharge an employee for engaging in lawful conduct occurring during nonworking hours away from the employer’s premises.

38. Plaintiff engaged in lawful conduct, including online political speech, during nonworking hours away from Defendant’s premises.

39. As a result of Plaintiff’s engagement in said lawful conduct, Defendant terminated his employment.

40. As a proximate result of the aforesaid acts of Defendant, Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment related opportunities in his field and damage to his professional reputation, all in an amount subject to proof at the time of trial. Plaintiff

claims such amounts as damages pursuant to California Civil Code § 3287 and/or § 3288 and/or any other provision of law providing for prejudgment interest.

41. As a proximate result of the wrongful acts of Defendant, Plaintiff has suffered and continues to suffer emotional distress, humiliation, mental anguish and embarrassment, as well as the manifestation of physical symptoms. Plaintiff is informed and believes, and thereupon alleges, that he will continue to experience said physical and emotional suffering for a period in the future not presently ascertainable, all in an amount subject to proof at the time of trial.

42. As a proximate result of the wrongful acts of Defendant, Plaintiff has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under the California Labor Code.

43. In committing the acts alleged herein, Defendant has engaged in oppression, fraud and/or malice pursuant to California Civil Code § 3294, thereby entitling Plaintiff to punitive damages in a sum appropriate under the law. The acts of oppression, fraud and/or malice were engaged in by the officers, directors and/or employees of Defendant. As such, Plaintiff should be awarded exemplary and punitive damages against Defendant in an amount that is appropriate to punish Defendant and deter others from engaging in such conduct.

44. Plaintiff is also entitled to a civil penalty not exceeding ten thousand dollars (\$10,000).

WHEREFORE, Plaintiff prays for judgment as follows:

1. For general damages, according to proof;
2. For special damages, according to proof;
3. For attorney fees and costs of suit;
4. For prejudgment and post-judgment interest, according to law;
5. For punitive and/or exemplary damages;
6. For civil penalties; and

1 7. For such other and further relief as the court may deem just and proper.
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4 **DEMAND FOR JURY TRIAL**

5 Plaintiff hereby demands a trial by jury.
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8 DATED: April 13, 2023

JML LAW, A Professional Law Corporation

11 By: Cathryn Fund

12 CATHRYN G. FUND

13 DINA A. ISSAGHOLI

14 Attorneys for Plaintiff
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