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Electronically FILED by
Superior Court of California,
County of Los Angeles
9/17/2026 1:28 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Tarasyuk, Deputy Clerk

Attorneys for Defendants Big Indie Pictures, Big Indie Gemini,
Inc., Metro-Goldwyn-Mayer Studios Inc., Amazon.com Services
LLC, Ed Brubaker, and Philipp Barnett

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

IJAAZ NOOHU, an individual,

Plaintiff,

v.

BIG INDIE PICTURES, a New York
corporation; BIG INDIE GEMINI, INC., a
New York corporation; METRO-GOLDWYN-
MAYER STUDIOS INC., a
Delaware corporation; AMAZON.COM
SERVICES LLC, a Delaware limited
liability company; ED BRUBAKER, an
individual; PHILLIP BARNETT, an
individual; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 26STCV27919

**NOTICE OF DEMURRER AND DEMURRER TO
COMPLAINT; MEMORANDUM OF POINTS
AND AUTHORITIES;**

[Filed concurrently herewith: (1) Declaration of Kevin
T. May in Support of Demurrer and Motion to Strike;
(2) [Proposed] Order Sustaining Demurrer; and (3)
Notice of Motion and Motion to Strike Portions of
Plaintiff's Complaint; Memorandum of Points and
Authorities]

Date: October 15, 2026
Time: 9:30 a.m.
Dept.: 621
Judge: Hon. William Fahey

Complaint Filed: September 2, 2026
Trial Date: Not Set

Reservation ID: 770845356058

1 **TO THE COURT, PLAINTIFF IJAAZ NOOHU, AND HIS ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on October 15, 2026 at 9:30 a.m., or as soon thereafter as the
3 matter may be heard, in Department 621 of the above-entitled court, located at 111 N. Hill St., Los
4 Angeles, CA 90012, Defendants Big Indie Pictures, Big Indie Gemini, Inc., Metro-Goldwyn-Mayer
5 Studios Inc., Amazon.com Services LLC, Ed Brubaker, and Philipp Barnett (collectively, “Defendants”) will, and hereby do, demur to the Complaint of Plaintiff Ijaaz Noohu, filed on or about September 2, 2026,
6 on the grounds stated in the accompanying Demurrer and Memorandum of Points and Authorities.
7

8 This Demurrer is made on the ground that each challenged cause of action fails to state facts
9 sufficient to constitute a cause of action against the demurring Defendant and is uncertain, pursuant to
10 Code of Civil Procedure section 430.10, subdivisions (e) and (f). Code Civ. Proc. § 430.10(e)-(f). For the
11 reasons outlined in the accompanying demurrers and Memorandum, Defendants respectfully request that
12 the Court sustain the demurrer as follows:

- 13 • As to the **First Cause of Action**: sustained as to all Defendants for failure to allege severe or
14 pervasive conduct, and separately as to Defendant Barnett because the Complaint alleges no
15 harassing conduct by him;
- 16 • As to the **Second Cause of Action**: sustained as to all Defendants for failure to allege severe or
17 pervasive conduct, and separately as to Defendant Barnett because the Complaint alleges no
18 harassing conduct by him;
- 19 • As to the **Third Cause of Action**: sustained as to all Defendants on its harassment theory for
20 failure to allege severe or pervasive conduct, sustained as to all Defendants on its discrimination
21 theory for failure to allege an adverse employment action, and separately as to the individual
22 Defendants on its discrimination theory;
- 23 • As to the **Fourth Cause of Action**: sustained as to all Defendants as derivative of the failed
24 harassment and discrimination claims, and separately as to all Defendants to the extent it rests on a
25 failure to prevent retaliation;
- 26 • As to the **Fifth Cause of Action**: sustained as to all Defendants for failure to allege an adverse
27 employment action, and separately as to the individual Defendants because FEHA imposes no
28 individual liability for discrimination;

- As to the **Sixth Cause of Action**: sustained as to all Defendants as barred by workers' compensation exclusivity, and separately as to Defendant Barnett because the Complaint alleges no extreme and outrageous conduct by him;
- As to the **Seventh and Eighth Causes of Action**: sustained as to the Corporate Defendants;
- As to the **Ninth Cause of Action**: sustained as to all Defendants, without leave to amend;
- As to the **Tenth Cause of Action**: sustained as to all Defendants;
- As to the **Eleventh Cause of Action**: sustained as to Defendant Brubaker as duplicative of the First Cause of Action without leave to amend; and
- As to the **Twelfth Cause of Action**: sustained as to Defendant Barnett.

This Demurer is based on this Notice, the accompanying Demurrer, the following Memorandum of Points and Authorities, the concurrently filed Declaration of Kevin T. May regarding the parties' meet and confer efforts pursuant to Code of Civil Procedure section 430.41, the pleadings and records on file in this action, and any argument the Court may permit.

Dated: September 17, 2026

Respectfully submitted,
GREENBERG TRAURIG, LLP



By: _____

Ryan Bykerk
Kevin May
Attorneys for Defendants

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Demurrer to the First Cause of Action
(Sexual Harassment, Gov. Code § 12940(j)) by Defendant Philipp Barnett

(Sexual Harassment, Gov. Code § 12940(j)) by Defendant Philipp Barnett

2. The First Cause of Action fails to state facts sufficient to constitute a cause of action against Defendant Barnett and is uncertain. Code Civ. Proc. § 430.10(e), (f). An individual is personally liable under FEHA only for harassment the individual personally perpetrated (Gov. Code § 12940(j)(3); *Jones v. Lodge at Torrey Pines P'ship*, 42 Cal. 4th 1158, 1163 (2008)), and the Complaint alleges no sexually harassing conduct by Barnett.

(Racial/National Origin Harassment, Gov. Code § 12940(j)) by Defendant Philipp Barnett; and, in the Alternative, by All Defendants

2. The Second Cause of Action separately fails to state facts sufficient to constitute a cause of action against Defendant Barnett and is uncertain. Code Civ. Proc. § 430.10(e), (f). The Complaint attributes the alleged racial and national-origin conduct to “Brubaker and others” and pleads no such conduct by Barnett. Gov. Code § 12940(j)(3); *Jones*, 42 Cal. 4th at 1163.

(Religious Harassment/Discrimination, Gov. Code § 12940) by All Defendants

2. To the extent the Third Cause of Action alleges religious discrimination, it fails to state facts sufficient to constitute a cause of action as to all Defendants because the Complaint alleges no adverse employment action materially affecting the terms, conditions, or privileges of employment, and no nexus between any such action and Plaintiff's religion. Code Civ. Proc. § 430.10(e); *Guz v. Bechtel Nat'l, Inc.*, 24 Cal. 4th 317, 355 (2000); *Yanowitz v. L'Oreal USA, Inc.*, 36 Cal. 4th 1028, 1051 (2005).

3. To the extent the Third Cause of Action alleges religious discrimination, it separately fails to state facts sufficient to constitute a cause of action against the individual Defendants Ed Brubaker and Philipp Barnett, because FEHA imposes no personal liability on individuals for discrimination. Gov. Code § 12940(a); *Reno v. Baird*, 18 Cal. 4th 640, 643 (1998); *Jones*, 42 Cal. 4th at 1164.

(Failure to Prevent, Gov. Code § 12940(k)) by All Defendants

1. The Fourth Cause of Action fails to state facts sufficient to constitute a cause of action as to all Defendants because a claim for failure to prevent harassment or discrimination is derivative of an actionable underlying FEHA violation, and the Complaint fails to state a viable claim for harassment or discrimination. Code Civ. Proc. § 430.10(e); Gov. Code § 12940(k); *Trujillo v. N. Cnty. Transit Dist.*, 63 Cal. App. 4th 280, 289 (1998); *Carter v. California Dep't of Veterans Affs.*, 38 Cal. 4th 914, 925 (2006).

2. The Fourth Cause of Action fails to state facts sufficient to constitute a cause of action against the individual Defendants. The statutory duty to take reasonable steps to prevent harassment and discrimination runs only against an employer, not against individual supervisors. Gov. Code § 12940(k); *Fiol v. Doellstedt*, 50 Cal. App. 4th 1318, 1326 (1996).

3. The Fourth Cause of Action separately fails to state facts sufficient to constitute a cause of action, as to all Defendants, to the extent it rests on a failure to prevent retaliation, because a Section

1 12940(k) claim is derivative of an actionable underlying violation and the Complaint pleads no cause of
2 action for retaliation under section 12940(h). Code Civ. Proc. § 430.10(e); Gov. Code § 12940(k); *Carter*
3 *v. California Dep't of Veterans Affs.*, 38 Cal. 4th 914, 925 (2006); *Paleny v. Fireplace Prods. U.S., Inc.*,
4 103 Cal. App. 5th 199, 213 (2024).

5 **Demurrer to the Fifth Cause of Action**

6 **(Disparate Treatment/Discrimination, Gov. Code § 12940(a)) by All Defendants; and by Defendants**

7 **Ed Brubaker and Philipp Barnett**

8 1. The Fifth Cause of Action fails to state facts sufficient to constitute a cause of action as to
9 all Defendants because the Complaint alleges no adverse employment action materially affecting the
10 terms, conditions, or privileges of employment, and no nexus between any such action and Plaintiff's
11 membership in a protected class. Code Civ. Proc. § 430.10(e); *Guz*, 24 Cal. 4th at 355; *Yanowitz*, 36 Cal.
12 4th at 1051.

13 2. The Fifth Cause of Action separately fails to state facts sufficient to constitute a cause of
14 action against the individual Defendants. FEHA's discrimination prohibition reaches only an "employer,"
15 and neither the "agent" language of Section 12926 nor the aiding-and-abetting provision imposes
16 individual liability for discrimination. Gov. Code § 12940(a); *Reno*, 18 Cal. 4th at 643 (1998); *Jones*, 42
17 Cal. 4th at 1164.

18 **Demurrer to the Sixth Cause of Action**

19 **(Intentional Infliction of Emotional Distress) by All Defendants**

20 1. The Sixth Cause of Action fails to state facts sufficient to constitute a cause of action as to
21 all Defendants because it seeks recovery for emotional distress arising at the worksite in the normal course
22 of the employer-employee relationship and is therefore barred by the workers' compensation exclusivity
23 rule. Lab. Code §§ 3600 et seq.; *Miklosy v. Regents of Univ. of California*, 44 Cal. 4th 876, 902 (2008);
24 *Shoemaker v. Myers*, 52 Cal. 3d 1, 15 (1990).

25 2. As to Defendant Barnett, the cause of action separately fails because it pleads no extreme
26 and outrageous conduct by Barnett himself. *Light v. Dep't of Parks & Recreation*, 14 Cal. App. 5th 75,
27 101 (2017).

(Assault) by Defendants Big Indie Pictures, Big Indie Gemini, Inc., Metro-Goldwyn-Mayer Studios Inc., and Amazon.com Services LLC

Demurrer to the Eighth Cause of Action

1. The Eighth Cause of Action fails to state facts sufficient to constitute a cause of action against the corporate Defendants, for the same reason stated in the demurrer to the Seventh Cause of Action. Lab. Code § 3602(b)(1).

(Negligence) by All Defendants

2. It fails as to Defendant Barnett because a supervisor owes an employee no common-law duty to prevent workplace harassment; that duty runs only to the employer. *Fiol*, 50 Cal. App. 4th at 1326.

Demurrer to the Tenth Cause of Action

1. The Tenth Cause of Action fails to state facts sufficient to constitute a cause of action and is uncertain. It does not plead the specific words or the substance of any allegedly defamatory statement,

1 the speaker, the recipient, or the time of publication. Code Civ. Proc. § 430.10(e), (f); *Comstock v. Aber*,
2 212 Cal. App. 4th 931, 948 (2012); *Gilbert v. Sykes*, 147 Cal. App. 4th 13, 31 (2007).

3 **Demurrer to the Eleventh Cause of Action**

4 **(Sexual Harassment Not Motivated by Sexual Desire, Gov. Code § 12940(j)(4)(C)) by Defendant Ed**
5 **Brubaker**

6 1. The Eleventh Cause of Action fails to state facts sufficient to constitute a separate cause of
7 action and is uncertain, because section 12940(j)(4)(C) states a rule of law applicable to the First Cause of
8 Action rather than an independent claim, and it re-pleads the same conduct already alleged in the First
9 Cause of Action. Code Civ. Proc. § 430.10(e), (f).

10 **Demurrer to the Twelfth Cause of Action**

11 **(Aiding and Abetting Harassment, Gov. Code § 12940(i)) by Defendant Philipp Barnett**

12 1. The Twelfth Cause of Action fails to state facts sufficient to constitute a cause of action
13 against Defendant Barnett to the extent it rests on his alleged inaction, because a non-harassing
14 supervisor's failure to prevent harassment is not "substantial assistance or encouragement" and does not
15 constitute aiding and abetting. Gov. Code § 12940(i); *Fiol*, 50 Cal. App. 4th at 1326.

16 Respectfully submitted,

17 Dated: September 17, 2026

GREENBERG TRAURIG, LLP

18
19 

20 By: _____

Ryan C. Bykerk

Kevin May

Attorneys for Defendants

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. INTRODUCTION

3 Plaintiff Ijaaz Noohu was a junior employee with a senior sense of himself. Big Indie hired him in
4 February 2023 as a Production Assistant—an entry-level role—on the series *Criminal*. As his work on the
5 production drew to its natural close and his last day of work was agreed upon, Noohu did not ask to keep
6 his current job; he demanded a much better one. In a September 11, 2024 email titled “Why You Should
7 Not Fire Me, and Promote Me Instead (a short essay),” Noohu claims that things have “slipped through
8 cracks” on showrunner Ed Brubaker’s watch and suggests that, to remedy Brubaker’s supposed failings,
9 Noohu should be elevated from Production Assistant to Executive Producer (Philipp Barnett’s position),
10 to work alongside Brubaker. According to Noohu, he is “uniquely qualified, experienced, and talented . . .
11 . I know it, and you know it.” He describes his promotion as “the smart play” because “it will make the
12 show better.” His closing can only be quoted:

13 And... here’s the best part:

14 For the rest of your life, you’ll get to say: “I’m the guy who discovered
15 Ijaaz Noohu.” Has a nice ring to it, doesn’t it?

16 Brubaker politely declined. Noohu waited almost two years and then, as *Criminal* approached release, he
17 recast these facts into a fiction in which he would play the role of victim.

18 While Noohu’s allegations must be treated as true on demurrer, the evidence in this case will
19 ultimately and overwhelmingly demonstrate that he is an opportunist, not a victim, and that his claims are
20 meritless. Noohu twice acknowledged Big Indie’s policy requiring the immediate reporting of harassment
21 and completed anti-harassment training requiring the same. The daily Call Sheet gave him six separate
22 ways to report misconduct, including an anonymous hotline. He used none of them. Nor did anyone else
23 report any harassment of Noohu. His contemporaneous emails and texts—including the one begging to
24 keep working closely with Brubaker, his supposed harasser—breathe not a word of harassment,
25 discrimination, or distress. Nor did Noohu ever hold himself out as religious or as sensitive to sexual
26 content on a production he knew was based on mature, adult subject matter as a matter of course. And his
27 most sensational allegation—that Brubaker pointed a *functional* firearm *at his face* and pulled the trigger—
28 is pure invention. Had that happened, every person in the room, Noohu included, had a duty to report it,

1 and in a post-*Rust* industry on high alert to firearms, someone would have. No one did. Defendants first
2 learned of the supposed incident when Noohu reemerged peddling the story and demanding a payday.

3 The timing of that election gives the game away. Noohu sat on these supposed claims for twenty
4 months and filed suit on the eve of the press circuit for *Criminal*. That is the conduct of an opportunist
5 timing his leverage, not a victim seeking redress. To be sure, the evidence will ultimately confirm that
6 Noohu's claims lack merit. Evidence is not needed, however, to sustain the demurrer. As set forth below,
7 even accepting every allegation of the Complaint as true, the challenged causes of action fail to state facts
8 sufficient to constitute a cause of action, and the Court should sustain the demurrer.

9 **II. NOOHU'S ALLEGATIONS**

10 Noohu alleges that in or around February 2023 he was hired as a production assistant to
11 showrunner Ed Brubaker on the series *Criminal*, and that Big Indie Pictures, Big Indie Gemini, Inc.,
12 Metro-Goldwyn-Mayer Studios Inc., and Amazon.com Services LLC were his joint employers. (Compl.
13 ¶¶ 1, 8-11.) His employment ended on or about September 20, 2024. (*Id.* ¶ 31.)

14 Noohu alleges that Brubaker subjected him to sexual harassment. The harassment supposedly
15 included Brubaker commenting about running his hands through Noohu's hair, nonconsensual back-
16 rubbing (also pled as battery), intrusive questions about his private life, jokes about rape, and directing
17 him to a "bikini barista" establishment as a prank. (*Id.* ¶¶ 2, 23-24.) No dates are alleged for any of this.

18 Noohu also claims that he is a Sri Lankan American (*id.* ¶ 7) and that "Brubaker and others"
19 subjected him to racial and national-origin stereotypes, including by making references to curry, "Tiger
20 Mom," "Never Have I Ever," presumed mathematical ability, and being called "Indian" (*id.* ¶¶ 3, 25).
21 Noohu identifies no conduct by any Defendant but Brubaker, and he pleads no dates, frequency, or effect
22 on his work performance. (*Id.*) As to religion, Noohu states he is Muslim (*id.* ¶ 7) and alleges a single
23 comment questioning whether he "supports Hamas" and no other religiously based conduct (*id.* ¶¶ 3, 26).

24 Noohu also claims that Brubaker pointed a functional firearm at his face and pulled the trigger —
25 conduct he pleads as assault. (*Id.* ¶¶ 2, 27.) The Complaint does not allege that this incident was connected
26 to Noohu's sex, race, national origin, or religion, nor does it allege any date.

27 Noohu alleges that Barnett, an executive producer, "did nothing to stop the abuse," "deliberately
28 ignored" it, directed others "to avoid documenting complaints," and said, "Don't say that in front of me."

(*Id.* ¶¶ 4, 29, 105.) He does not allege that Barnett made any sexual, racial, national-origin, or religious remark to him. And though he attributes the failure to “maintain a safe workplace” to Barnett alone (*id.* ¶ 86), he asserts his Ninth Cause of Action for negligence against “all defendants” (*id.* p. 21).

Noohu alleges that based on his race/national origin, he was singled out and admonished for ordinary behavior such as reading at video village (*id.* ¶¶ 28, 64), and that after he requested a promotion, Defendants denied it, barred him from set, stripped him of equipment and benefits, accelerated his exit date, and later denied him credit “in the industry’s premier professional database” (*id.* ¶¶ 5, 31).

Noohu seeks to allege a defamation claim, claiming “[o]n information and belief” only that Brubaker and Barnett made unspecified “false and disparaging statements” to unidentified persons “in the entertainment industry,” pleading no statement, speaker, recipient, or date. (*Id.* ¶ 92.)

As for damages, Noohu claims emotional distress described as “panic attacks and psychological damage.” (*Id.* ¶ 32.) He seeks punitive damages against the Corporate Defendants, but his claim rests on the conclusory allegation that the conduct was “carried out and/or ratified by supervisors and managing agents,” without identifying any officer, director, or managing agent, or any act of ratification. (*Id.* ¶ 32.)

The Complaint was filed September, 2026 — nearly two years after employment ended. (*Id.* ¶ 31.)

III. LEGAL STANDARD

On demurrer, the court assumes all *properly* pled material facts to be true, but not contentions, deductions or conclusions of fact or law. *See Zelig v. County of Los Angeles*, 27 Cal. 4th 1112, 1126 (2002); *see also Dyer v. Northbrook Prop. & Cas. Ins. Co.*, 210 Cal. App. 3d 1540, 1542-43 (1989) (on demurrer, properly pleaded facts are considered, but “contentions, deductions or conclusions” are not).

Merely “parroting the language” from the statute does not state a claim. *Hawkins v. TACA Internat. Airlines, S.A.*, 223 Cal. App. 4th 466, 478 (2014). Rather, to survive a demurrer, a plaintiff must show that the complaint alleges facts sufficient to establish every element of each cause of action. *Rakestraw v. Cal. Phys. Serv.*, 81 Cal. App. 4th 39, 43 (2000); *see also Doheny Park Terr. Homeowners Ass’n, Inc. v. Truck Ins. Exch.*, 132 Cal. App. 4th 1076, 1099 (2005) (on demurrer, after disregarding conclusions, the pleading must “set forth the essential facts of his case with reasonable precision and with particularity sufficient to acquaint a defendant with the nature, source and extent of his cause of action”).

This is particularly true of statutory employment claims, which “must be pleaded with

1 **particularity.**” *Carter v. Prime Healthcare Paradise Valley LLC*, 198 Cal. App. 4th 396, 407 (2011)))
2 (emphasis added) (holding facts “‘must be pleaded with particularity’ in accordance with the pleading
3 rules governing statutory claims.”) (quoting *Covenant Care, Inc. v. Superior Ct.*, 32 Cal. 4th 771, 790
4 (2004; *see also Rakestraw*, 81 Cal. App. 4th at 43 (“If the complaint fails to plead . . . any essential
5 element of a particular cause of action, this court should affirm the sustaining of a demurrer”).

6 **IV. LEGAL DISCUSSION**

7 **A. Noohu’s Harassment Conclusions (Counts 1-3) Fail to State a Claim.**

8 To plead a claim for sexual harassment, a plaintiff must allege facts showing that: “(1) plaintiff
9 belongs to a protected group; (2) plaintiff was subject to unwelcome sexual harassment; (3) the
10 harassment complained of was based on sex; (4) the harassment complained of was sufficiently pervasive
11 so as to alter the conditions of employment and create an abusive working environment; and
12 (5) respondeat superior.” *Fisher v. San Pedro Peninsula Hospital*, 214 Cal. App. 3d 590, 608-09 (1989).
13 The elements of racial, national origin, and religious harassment follow the same pattern. *Thompson v.*
14 *City Of Monrovia*, 186 Cal. App. 4th 860, 876 (2010).

15 Whatever the alleged motive, to be actionable, harassment must be “‘sufficiently severe or
16 pervasive to alter the conditions of the victim’s employment and create an abusive working
17 environment.’” *Serri v. Santa Clara Univ.*, 226 Cal. App. 4th 830, 869 (2014) (citations omitted). The
18 standard is disjunctive—“severe or pervasive,” Gov. Code § 12923(c)—and an isolated incident is
19 actionable only if “extremely serious.” *Bailey v. San Francisco Dist. Attorney’s Office*, 16 Cal. 5th 611,
20 629-30 (2024). Thus, “harassment focuses on situations in which the social environment of the workplace
21 becomes intolerable because the harassment (whether verbal, physical, or visual) communicates an
22 offensive message to the harassed employee.” *Roby v. McKesson Corp.*, 47 Cal. 4th 686, 706 (2009). The
23 totality of the circumstances governs, “including the frequency of the discriminatory conduct; its severity;
24 whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it
25 unreasonably interferes with an employee’s work performance”; “merely offensive” comments are not
26 actionable. *Lyle*, 38 Cal. 4th at 283.

27 The standards for judging what constitutes a “hostile” work environment “are sufficiently
28 demanding to ensure that” harassment jurisprudence “does not become a ‘general civility code,’” and,

1 “[p]roperly applied, they will filter out complaints attacking ‘the ordinary tribulations of the workplace,
2 such as the sporadic use of abusive language, [gender- or race-] related jokes, and occasional teasing.’”
3 *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998) (cleaned up).¹ In other words, the “conduct
4 must be extreme to amount to a change in the terms and conditions of employment.” *Id.* “[A]llegations of
5 a racially [or sexually] hostile work-place must be assessed from the perspective of a reasonable person
6 belonging to the racial or ethnic group [or sex] of the plaintiff.” *McGinest v. GTE Serv. Corp.*, 360 F.3d
7 1103, 1115–16 (9th Cir. 2004).

8 Critically, “an employee generally cannot recover for harassment that is occasional, isolated,
9 sporadic, or trivial”; the employee “must show a concerted pattern of harassment of a repeated, routine, or
10 a generalized nature,” and “liability for [] harassment may not be imposed based on a single incident that
11 does not involve egregious conduct akin to a physical assault or the threat thereof.” *Lyle*, 38 Cal. 4th at
12 283–284; accord *Galvan v. Dameron Hospital Ass’n*, 37 Cal. App. 5th 549, 564 (2019) (harassment
13 “cannot be occasional, isolated, sporadic, or trivial”).

14 **1. Noohu’s harassment claims fail as to all Defendants because he alleges only the**
15 **unsupported conclusion that the harassment was severe or pervasive.**

16 Noohu fails to allege facts showing the fourth element—that the supposed harassment (sexual,
17 racial, or religious) was sufficiently severe or pervasive to alter the conditions of his employment.

18 **First**, as to sexual harassment, Noohu offers a brief list of supposed occurrences, most of them
19 conclusory, and with no indication of frequency or severity. He alleges Brubaker made comments about
20 running his hands through Noohu’s hair, and he alleges the *conclusion* that this was a “sexual comment[],”
21 but without any context to suggest that it was, and no facts to suggest when, how, or how often this
22 occurred. (Compl. ¶ 37.) He alleges Brubaker “rub[bed] his back without consent,” but no facts are pled to
23 show this was a sexual touching, that Noohu conveyed the supposed non-consent to Brubaker, or when,
24 how, or how often this occurred. *Id.* He alleges Brubaker “pr[ied] into” Noohu’s sex life with “intrusive
25 and inappropriate questions,” but no facts are pled to support the *conclusion* that the supposed questions
26 were “intrusive and inappropriate” and no dates or frequency are offered. (*Id.*) He alleges “joking about

27
28 ¹ Because FEHA’s harassment prohibition is patterned on Title VII, “California courts frequently seek guidance from Title VII decisions when interpreting the FEHA and its prohibitions against sexual harassment.” *Lyle v. Warner Bros. Television Prods.*, 38 Cal. 4th 264, 278 (2006).

1 rape,” but again provides no context. He alleges Brubaker texted Noohu, sending him to a coffee shop
2 where the baristas wear bikinis, but the pled facts—including that Noohu responded “lol” (shorthand for
3 “laughing out loud”)—do not support his conclusion that this “prank” was “designed to demean and
4 sexualize Ijaaz’s work environment.” (Compl. ¶ 24.)

5 **Second**, concerning racial and national origin harassment, the Complaint is similarly threadbare.
6 Noohu alleges only the *conclusion* that he encountered “demeaning ethnic stereotypes about curry,
7 comments invoking the ‘Tiger Mom’ trope, references to the show ‘Never Have I Ever,’ and assumptions
8 about his presumed facility with mathematics.” (Compl. ¶ 45.) Not one *actual statement* is alleged, let
9 alone the date, frequency, duration, context, or other facts showing this had any impact on work
10 performance. As alleged, these are at most “merely offensive” utterances rather than “a concerted pattern
11 of harassment of a repeated, routine, or a generalized nature.” *Lyle*, 38 Cal. 4th at 283–84.

12 **Third**, regarding religious harassment, the only purportedly religious-based conduct alleged is a
13 single comment by an unidentified person “questioning whether [Noohu] supports Hamas.” (Compl. ¶¶ 4,
14 26.) The allegation cannot support a claim for harassment in the first instance because it is not attributed to
15 anyone. And, without conceding that this is a religious or negative comment, the Complaint fails to allege
16 any facts showing that this single comment unreasonably interfered with Noohu’s work performance or
17 created a hostile working environment. Noohu’s allegation that the remark should be assessed “in
18 combination with the other harassing conduct” (Compl. ¶ 53) does not cure the defect: the remaining
19 conduct is directed at sex and race, not religion, and cannot supply the severity or pervasiveness the
20 religious-harassment theory itself lacks. *Lyle*, 38 Cal. 4th at 283.

21 In sum, Noohu’s inuendo and conclusions do not satisfy his burden that statutory claims, like
22 FEHA harassment claims, “must be pleaded with particularity.” *Carter*, 198 Cal. App. 4th at 407. The
23 threadbare pled facts do not show conduct that “sufficiently offend[ed], humiliate[d], distresse[d], or
24 intrude[d] upon” Noohu “so as to disrupt [his] emotional tranquility in the workplace, affect [his] ability to
25 perform the job as usual, or otherwise interfere with and undermine [his] personal sense of well-being”—
26 particularly where Noohu was “lol’ing” rather than displaying offense. Gov. Code § 12923(a). A
27 Complaint that contains not *one* reference to the frequency of the supposed acts, or even a single date,
28 cannot show that the conduct was “sufficiently severe or pervasive to alter the conditions of [Noohu’s]

1 employment and create an abusive work environment.” *Bailey*, 16 Cal. 5th at 627. Nor can the
2 Complaint’s failure to plead pervasiveness be cured by severity: an isolated incident is actionable only if it
3 is “extremely serious,” and none of the conduct alleged here approaches that threshold. *Id.* at 629–30. Nor
4 does Noohu allege an alteration of the “conditions of employment”—only the naked *conclusion* that this
5 happened. (Compl. ¶ 46.) It is Noohu’s burden to state facts clearly “so that nothing is left to surmise.”
6 *Ankeny v. Lockheed Missile & Space Co.*, 88 Cal. App. 3d 531, 537 (1979). The Complaint asks the Court
7 to “surmise” nearly everything. The Court should sustain the demurrer in full.

8 **2. Noohu’s harassment claims fail as to Barnett because Noohu does not allege**
9 **Barnett participated in any harassment.**

10 Even if the Court concludes the allegations against Brubaker survive demurrer, it should sustain
11 the demurrer as to Barnett because the Complaint alleges no harassing conduct by him. Individual
12 harassment liability under FEHA attaches only to harassment “perpetrated by the employee.” Gov. Code
13 § 12940(j)(3); *Jones v. Lodge at Torrey Pines Partnership*, 42 Cal. 4th 1158, 1162-63 (2008) (subdivision
14 (j)(3) is “clear language imposing personal liability on all employees for their own harassing actions”). A
15 supervisor is personally liable only where he “personally engages in” the harassing conduct or
16 “substantially assists or encourages” it. *Fiol v. Doellstedt*, 50 Cal. App. 4th 1318, 1327 (1996).
17 Harassment liability thus turns on the defendant’s own conduct—conduct “outside the scope of necessary
18 job performance.” *Janken v. GM Hughes Electronics*, 46 Cal. App. 4th 55, 63 (1996).

19 The Complaint pleads no such conduct by Barnett. The First Cause of Action attributes every
20 supposed act of sexual harassment to Brubaker alone. (*See, e.g.*, Compl. ¶ 37.) The Second Cause of
21 Action attributes racial and national-origin conduct to “Brubaker and others,” identifying no act by
22 Barnett. (*See, e.g., id.*, ¶ 45.) The Third Cause of Action does not allege who made the single comment
23 upon which it is based. At a minimum, a demurrer to these claims must be sustained as to Barnett.

24 **B. Noohu’s Discrimination Conclusions (Counts 3 and 5) Fail to State a Claim.**

25 **1. Noohu’s discrimination claims fail because neither alleges an adverse**
26 **employment action nor a nexus to Noohu’s membership in a protected class.**

27 To state a claim for discrimination, a plaintiff must allege that he suffered “an adverse employment
28 action, such as termination, demotion, or denial of an available job” and that “circumstance suggests

discriminatory motive” for the adverse action. *Guz v. Bechtel Nat’l. Inc.*, 24 Cal. 4th 317, 355 (2000). Specifically, a plaintiff must factually allege a “set of circumstances that, if unexplained, permit an inference that it is more likely than not the employer intentionally treated the employee less favorably than others on prohibited grounds.” *Jones v. Dep’t of Corr. & Rehab.*, 152 Cal. App. 4th 1367, 1379 (2007). Neither of Noohu’s purported discrimination causes of action state a claim.

The Third Cause of Action for supposed “Religious Harassment / Discrimination”² is based on the solitary allegation that an unstated person, at an unstated time and place, made “a comment questioning whether he supports Hamas.” (Compl. ¶ 52.) The Fifth Cause of Action for “Disparate Treatment / Discrimination” based on Noohu’s membership in “multiple protected classes” rests entirely on Noohu’s allegation that he, and not “crew members of different races and national origins” was reprimanded for “ordinary conduct—such as reading at video village.” (Compl. ¶ 64.)

Neither cause of action states a claim because Noohu alleges no “adverse employment action.” An adverse employment action is an action that “materially affects the terms, conditions, or privileges of employment.” *Yanowitz v. L’Oreal USA, Inc.*, 36 Cal. 4th 1028, 1051 (2005). Neither being subjected to an offensive comment or being “singled out and admonished” are pleasant, but Noohu does not plead facts showing that either event materially affected the terms, conditions, or privileges of his employment. In fact, though Defendants deny Noohu was subjected to unfair reprimand, it would not be actionable if he was. Courts have found that “employers have the right to unfairly and harshly criticize their employees, to embarrass them in front of other employees, and to threaten to terminate or demote the employee.” *Thompson v. Tracor Flight Sys., Inc.*, 86 Cal. App. 4th 1156, 1171 (2001).

Nor does either cause of action allege facts showing a nexus between any unstated adverse employment action and Noohu being Sri Lankan American or Muslim. We expect Noohu to point to his allegation elsewhere that he was “barred from set, stripped of equipment and benefits, had his exit date accelerated, and was ultimately denied credit for eighteen months of work on Criminal,” as if this is the adverse employment action at issue. (Compl. ¶ 5.) But the Complaint precludes that argument: Noohu

² Although Noohu styles his Third Cause of Action as one for “Religious Harassment / Discrimination” there is no such thing. Harassment and discrimination are distinct legal concepts. The cause of action does not state a claim for religious harassment for the reasons noted above (See Part IV.A.), and it does not state a claim for discrimination for the reasons discussed here.

1 expressly attributes these acts to supposed “retaliation” for his letter to Brubaker in which he “advocated
2 for himself and requested a promotion.” (*Id.*) This judicial admission is binding, and it cannot be
3 disavowed in this pleading or any amended pleading.

4 **2. Noohu’s discrimination claims fail as to Brubaker and Barnett because**
5 **individuals cannot be liable for discrimination.**

6 FEHA draws a line between harassment and discrimination: it imposes personal liability on an
7 individual for harassment, Gov. Code § 12940(j)(3), but liability for discrimination applies only to “an
8 employer,” Gov. Code § 12940(a), (k). The Supreme Court held in *Reno v. Baird* that FEHA “allows
9 persons to sue and hold liable their employers, but not individuals,” for discrimination. 18 Cal. 4th 640,
10 643 (1998). It confirmed in *Jones v. Lodge at Torrey Pines Partnership* that neither the “person acting as
11 an agent” language nor the aiding-and-abetting provision imposes personal liability for discrimination. 42
12 Cal. 4th at 1163. As such, Noohu’s Third and Fifth Causes of Action fail as to Brubaker and Barnett.

13 **C. Noohu’s “Failure to Prevent” Conclusions (Count 4) Fails to State a Claim.**

14 The Fourth Cause of Action fails because it rests on allegations of harassment and discrimination
15 that fail. *Trujillo v. N. Cnty. Transit Dist.*, 63 Cal. App. 4th 280, 289 (1998) (holding there is “no logic that
16 says an employee who has not been discriminated against can sue an employer for not preventing
17 discrimination that didn’t happen”). With no viable harassment or discrimination claim, this claim fails.

18 It also fails as to Brubaker and Barnett because the statutory duty to prevent is imposed on the
19 employer alone. Section 12940(k) makes it unlawful only “[f]or an employer . . . to fail to take all
20 reasonable steps necessary to prevent discrimination and harassment from occurring.” Cal. Gov’t Code §
21 12940 (emphasis added). That duty does not run to individual supervisors. *Fiol v. Doellstedt*, 50 Cal. App.
22 4th at 1326 (“a supervisory employee owes no duty to his or her subordinates to prevent sexual
23 harassment in the workplace. That is a duty owed only by the employer”).

24 It further fails insofar as it rests on a failure to prevent *retaliation*. Section 12940(k) does not apply
25 by its terms to preventing retaliation. Moreover, although the *word* retaliation appears in the Fourth Cause
26 of Action (Compl. ¶¶ 57, 58), and in the background allegations about the denied promotion and
27 accelerated exit (*see, e.g.*, Compl. ¶ 5), the Complaint pleads no cause of action for retaliation. With no
28 retaliation claim, this derivative claim for failure to prevent retaliation necessarily fails. *Carter v.*

1 *California Dep't of Veterans Affs.*, 38 Cal. 4th 914, 925 n. 4 (2006) (“courts have required a finding of
2 actual discrimination or harassment under FEHA before a plaintiff may prevail” on a failure-to-prevent
3 claim).

4 **D. Noohu’s IIED Allegations (Count 6) Fail.**

5 **1. Noohu’s IIED allegations are barred by workers’ compensation exclusivity.**

6 Workers’ compensation ordinarily provides the exclusive remedy for an injury sustained by an
7 employee in the course of employment and compensable under the workers’ compensation law. Cal. Lab.
8 Code, §§ 3600, et seq.; *Charles J. Vacanti, M.D., Inc. v. State Comp. Ins. Fund*, 24 Cal. 4th 800, 812–13
9 (2001). The workers’ compensation exclusivity rule also encompasses any injury ““collateral to or
10 derivative of”” an injury compensable under the workers’ compensation law. *Id.* at 813. The California
11 Supreme Court has held that IIED claims occurring in the workplace are barred by this exclusivity rule.
12 *Shoemaker v. Myers*, 52 Cal. 3d 1 (1990) (workers’ compensation remedy barred IIED claim for plaintiff
13 who alleged he had been terminated in retaliation for reporting illegal practices); *Miklosy v. Regents of the*
14 *Univ. of California*, 44 Cal. 4th 876 (2008) (workers’ compensation remedy barred IIED claim when
15 plaintiffs terminated for raising critical safety concerns with nations’ nuclear stockpile).

16 In *Miklosy*, the Court explained that the exclusivity rule does not bar express statutory actions and
17 actions based upon violation of fundamental public policy, but it *does* bar claims for “severe emotional
18 distress” arising from “outrageous conduct” that occurred “at the worksite, in the normal course of the
19 employer-employee relationship,” even if the conduct was “intentional, unfair or outrageous.” 44 Cal. 4th
20 at 902; *see also Shoemaker*, 52 Cal. 3d at 15 (exclusivity applies even if employer’s conduct is “manifestly
21 unfair, outrageous, harassment, or intended to cause emotional disturbance resulting in disability.”)

22 Several courts have held this applies to claims based on allegations of workplace harassment and
23 mistreatment. In *Yau v. Allen*, 229 Cal. App. 4th 144, 161 (2014), the Court of Appeal applied *Miklosy* to
24 bar an IIED claim despite plaintiff’s assertion that his termination violated public policy and FEHA.
25 Similarly, in *Singh v. Southland Stone, U.S.A., Inc.*, 186 Cal. App. 4th 338, 366-67 (2010), the Court of
26 Appeal held that the exclusivity rule barred, as a matter of law, claims for IIED based on allegations that
27 plaintiff’s supervisor (and the company’s president) “berated and humiliated him, criticized his job
28 performance, and insulted him with profanities on a regular basis,” and was physically rough with him. In

1 *Light v. Department of Parks & Recreation*, the court held that a claim for IIED might survive when based
2 on FEHA violations if and only if it also met the extreme requirements of the tort, relying on a common
3 law exception to the exclusivity rule for wrongs that “contravene[] [a] fundamental public policy.” 14 Cal.
4 App. 5th 75, 97 (2017). However, in *Miklosy*, the California Supreme Court clarified that the reference to
5 “fundamental public policy” applies specifically to a claim for wrongful termination brought under
6 *Tameny v. Atl. Richfield Co.*, 27 Cal. 3d 167 (1980). *Yau* and *Singh* are the better reasoned decisions—and
7 the Court should follow them here and find that Plaintiff’s claims, as pleaded, are barred by the Workers’
8 Compensation Act.

9 **2. Noohu’s IIED claim fails as to Barnett.**

10 Intentional infliction of emotional distress requires “extreme or outrageous conduct by the
11 defendant” himself. *Light*, 14 Cal. App. 5th at 102. The Complaint alleges only that Barnett stood by
12 while others engaged in misconduct. Even if true (it is not), such inaction is not outrageous conduct. If the
13 claim survives at all, it should be dismissed as to Barnett.

14 **E. The Assault and Battery Allegations (Counts 7 & 8) Fail as to the Corporate Defendants.**

15 Although the Seventh and Eighth Causes of Action are captioned against Brubaker, they expressly
16 allege that “Brubaker committed the foregoing acts within the course and scope of his employment . . .
17 [and] the corporate Defendants are therefore vicariously liable, and . . . further ratified the conduct.”
18 (Compl. ¶¶ 20–21.) Against an employer, workers’ compensation is the exclusive remedy for such injuries
19 unless they fall within the narrow exception for injury “proximately caused by a willful physical assault
20 by the employer.” Lab. Code § 3602(b)(1). That exception requires a willful assault by the employer itself;
21 vicarious liability for a supervisor’s act—or after-the-fact “ratification”—does not satisfy it. The demurrer
22 to the Seventh and Eighth Causes of Action should be sustained as to the Corporate Defendants.

23 **F. Noohu’s Negligence Allegations (Count 9) Fail and the Demurrer Should Be**
24 **Sustained Without Leave to Amend.**

25 Noohu’s negligence count, asserted against “all Defendants,” rests on a single theory: that Barnett
26 breached a duty “to maintain a safe workplace free from abusive, harassing, and dangerous conduct” and
27 to “address known misconduct.” (Compl. ¶ 86.) That theory fails against each category of Defendant for a
28

1 distinct, independently dispositive reason. Because each defect appears on the face of the Complaint and
2 cannot be cured by amendment, no leave should be granted. *Blank v. Kirwan*, 39 Cal. 3d 311, 318 (1985).

3 **1. The negligence claim is barred as to the Corporate Defendants by the workers’**
4 **compensation exclusivity rule.**

5 In the employment relationship, workers’ compensation is the “sole and exclusive remedy” of the
6 employee against the employer for a work-related injury. Lab. Code § 3602(a). That bar squarely reaches
7 a negligence theory. In *Livitsanos v. Superior Court*, 2 Cal. 4th 744, 747 (1992), the Supreme Court held
8 that “claims for intentional or negligent infliction of emotional distress are preempted by the exclusivity
9 provisions of the workers’ compensation law, notwithstanding the absence of any compensable physical
10 disability.” The Court reaffirmed that framework in *King v. CompPartners, Inc.*, 5 Cal. 5th 1039, 1051-52
11 (2018), explaining that the exclusivity provisions “preempt not only those causes of action premised on a
12 compensable workplace injury, but also those . . . ‘collateral to or derivative of’ such an injury.”

13 The Complaint alleges that each Corporate Defendant was Plaintiff’s employer or joint employer
14 (Compl. ¶¶ 8–11), and that the injuries—“severe emotional distress,” “psychological damage,” and
15 “economic losses”—arose in the course of that employment (Compl. ¶ 32). A negligence claim seeking
16 recovery for those injuries is precisely the kind of claim exclusivity bars.

17 **2. The negligence claim against Barnett fails because no supervisory duty to**
18 **prevent harassment runs to subordinate employees.**

19 Even if exclusivity did not apply, the negligence count’s “duty” theory fails against Barnett as a
20 matter of law. It is, in substance, the same failure-to-prevent-harassment theory pleaded in the Fourth
21 Cause of Action. Just as FEHA imposes no duty to prevent harassment on individual supervisors, the
22 common law recognizes no such duty—a supervisor “is not liable to third parties for the acts of his or her
23 subordinates” and “owes no duty to his or her subordinates to prevent sexual harassment in the
24 workplace”; that “is a duty owed only by the employer.” *Fiol*, 50 Cal. App. 4th at 1326. Plaintiff cannot
25 create in negligence a supervisory duty that FEHA itself withholds.

26 Nor can the count survive recharacterization as negligent infliction of emotional distress.
27 California recognizes “no independent tort of negligent infliction of emotional distress,” and “[t]he tort is
28 negligence, a cause of action in which a duty to the plaintiff is an essential element.” *Potter v. Firestone*

1 *Tire & Rubber Co.*, 6 Cal. 4th 965, 984 (1993). Unless a defendant “has assumed a duty to plaintiff in
2 which the emotional condition of the plaintiff is an object”—which the Complaint does not allege as to
3 Barnett—emotional-distress damages are recoverable only where “the emotional distress arises out of the
4 defendant’s breach of some other legal duty.” *Id.* at 984–85. The Complaint alleges only that Barnett, “as
5 an Executive Producer with supervisory authority,” failed to prevent and address the misconduct of others.
6 (Compl. ¶¶ 86-87.) Because Barnett owed Plaintiff no such duty as a matter of law, the negligence count
7 states no claim against him. The demurrer should be sustained as to Barnett without leave to amend.

8 **3. The negligence claim against Brubaker fails for want of any pleaded negligent**
9 **act and, independently, under co-employee immunity.**

10 The negligence count is defective as to Brubaker on two independent grounds. First, every
11 allegation of breach concerns Barnett. (Compl. ¶ 84-89.) Noohu pleads no negligent act by Brubaker, so
12 he fails to state facts sufficient to constitute a cause of action against him. Code Civ. Proc. § 430.10(e).

13 Second, even if a negligence theory could be inferred, workers’ compensation is the exclusive
14 remedy against a co-employee for injuries caused while “acting within the scope of his or her
15 employment.” Lab. Code § 3601(a). In *Hendy v. Losse*, 54 Cal. 3d 723, 734 (1991), the Supreme Court
16 confirmed that section 3601 “protects employees from damage actions by coemployees, but only if the
17 defendant was acting within the scope of employment when [his] conduct injured the plaintiff.” The
18 Complaint expressly alleges that Brubaker “at all relevant times . . . acted within the course and scope of
19 his employment and/or agency with the corporate Defendants.” (Compl. ¶ 12.) The narrow co-employee
20 exception—for injury “proximately caused by the willful and unprovoked physical act of aggression of the
21 other employee,” Lab. Code § 3601(a)(1)—requires an intent to injure and reaches only intentional torts; it
22 cannot rescue a negligence theory. *Torres v. Parkhouse Tire Serv., Inc.*, 26 Cal. 4th 995, 1008 (2001). The
23 demurrer should be sustained as to Brubaker without leave to amend.

24 **G. The Tenth Cause of Action for Defamation Is Not Pled with the Required Specificity.**

25 A defamation plaintiff “must set forth ‘either the specific words or the substance of’ the allegedly
26 defamatory statements.” *Comstock v. Aber*, 212 Cal. App. 4th 931, 948 (2012) An allegation of “‘a
27 provably false factual assertion . . . is indispensable to any claim for defamation.’” *Id.* For libel, “the
28 words constituting an alleged libel must be specifically identified, if not pleaded verbatim, in the

complaint.” *Gilbert v. Sykes*, 147 Cal. App. 4th 13, 31 (2007). Vague conclusions do “not even come close to the specificity required to state an actionable libel claim.” *Id.* at 32.

The Complaint alleges only, “[o]n information and belief,” that Brubaker and Barnett “made false and disparaging statements of fact concerning Plaintiff to multiple third persons, including others in the entertainment industry.” (Compl. ¶ 22.) It quotes no statement, names no speaker as to any particular utterance, identifies no recipient, and supplies no date. This pleading is materially indistinguishable from the allegations condemned in *Comstock v. Aber*, where the plaintiff alleged on information and belief that the defendant “orally published false statements . . . to third parties, including but not limited to friends, employees”—which the court rejected as “generic . . . unsupported by any specific detail—not as to what was said, not as to whom.” 212 Cal. App. 4th at 945. The Court in *Industrial Waste & Debris Box Service, Inc. v. Murphy* applied the same rule to a similar pleading, holding that a complaint “assert[ing] in the most conclusory fashion that unidentified defendants made ‘numerous’ unspecified ‘false statements’” was “not even minimally adequate to state a claim for defamation.” 4 Cal. App. 5th 1135, 1155 n. 13 (2016).

Any amendment would also face the qualified common-interest privilege, which extends to communications made without malice among persons sharing a common interest, including in the employment context. Civ. Code § 47(c); *Noel v. River Hills Wilsons, Inc.*, 113 Cal. App. 4th 1363, 1369 (2003) (privilege is a “complete defense” once the privileged occasion is shown, unless the plaintiff proves actual malice). The demurrer to the Tenth Cause of Action should be sustained.

H. Count 11 Is Duplicative of Count 1 and Should Be Dismissed.

Noohu repleads in the Eleventh Cause of Action the same sexual-harassment conclusions he alleges in the First Cause of Action—the hair comments, supposed touching, and “bikini barista” prank—and adds only the observation that the conduct “need not be motivated by sexual desire.” (Compl. ¶ 24.) That observation states a rule of law already governing the First Cause of Action. It does not create a separate, independent claim. Because the Eleventh Cause of Action is subsumed in the First, it is duplicative and uncertain and the demurrer should be sustained without leave to amend.

1 **I. Noohu’s “Aiding and Abetting” Allegations (Count 12) Fail Because Barnett’s Alleged**
2 **Inaction Is Not Actionable.**

3 Aiding-and-abetting liability under FEHA requires that the defendant give “substantial assistance
4 or encouragement” to the harasser. Gov. Code § 12940(i). “[M]ere knowledge that a tort is being
5 committed and the failure to prevent it does not constitute aiding and abetting,” and “a supervisory
6 employee is not personally liable under the FEHA, as an aider and abettor of the harasser, for failing to
7 take action to prevent” harassment. *Fiol*, 50 Cal. App. 4th at 1326.

8 The Twelfth Cause of Action rests principally on Barnett’s alleged inaction—that he “did nothing
9 to stop the abuse” and “deliberately ignored” it. (Compl. ¶¶ 29, 87.) That is nonfeasance, not the
10 affirmative “substantial assistance or encouragement” that section 12940(i) requires. Noohu separately
11 alleges that Barnett “directed others to avoid documenting complaints.” (Compl. ¶¶ 29, 87, 105.)
12 Defendants deny this occurred, but even if that allegation is treated as affirmative conduct rather than
13 inaction, it is not “substantial assistance or encouragement” of harassment. It bears on after-the-fact
14 record-keeping, not on the harassing conduct itself, and does not make Barnett a participant in the alleged
15 harassment. Gov. Code § 12940(i). To the extent Plaintiff relies on Barnett’s alleged statement—“Don’t
16 say that in front of me” (Compl. ¶ 105)—those words reflect avoidance of knowledge, not encouragement
17 of harassment, and fall short of the affirmative assistance the statute demands.

18 **V. CONCLUSION**

19 For the foregoing reasons, Defendants respectfully request that the Court sustain the demurrer in
20 its entirety.

21
22
23 Dated: September 17, 2026

Respectfully submitted,

GREENBERG TRAURIG, LLP

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26 By: _____

Ryan C. Bykerk

Kevin May

Attorneys for Defendants
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is **101 Second Street, Suite 2200, San Francisco, California 94105-3668.**

On September 17, 2026, I served:

NOTICE OF DEMURRER AND DEMURRER TO COMPLAINT; MEMORANDUM OF POINTS AND AUTHORITIES; [PROPOSED] ORDER

on the interested parties in this action by placing the true copy thereof, enclosed in a sealed envelope, postage prepaid, addressed as follows:

Fahim Rahman, Esq. F. RAHMAN LAW, APC 2155 Burbank Boulevard, Suite 120 Woodland Hills, CA 91367 email: fahim@frahmanlaw.com Attorneys for Plaintiff,	
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☒ **(BY E-MAIL)**

I caused a true copy of the foregoing document to be served by e-mail at the e-mail addresses set forth above. Each email was complete and no reports of error were received.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Signature

Karen D. Davis

Print Name



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Make a Reservation

IJAAZ NOOHU vs BIG INDIE PICTURES, et al.

Case Number: 26STCV27919 Case Type: Civil Unlimited Category: Other Employment Complaint Case

Date Filed: 2026-09-02 Location: Stanley Mosk Courthouse - Department 621

Reservation

Case Name: IJAAZ NOOHU vs BIG INDIE PICTURES, et al.	Case Number: 26STCV27919
Type: Demurrer - with Motion to Strike (CCP 430.10)	Status: RESERVED
Filing Party: AMAZON.COM SERVICES LLC, a Delaware Limited Liability Company (Defendant)	Location: Stanley Mosk Courthouse - Department 621
Date/Time: 10/15/2026 9:30 AM	Number of Motions: 1
Reservation ID: 770845356058	Confirmation Code: CR-D5GDD3T5TK5YNWHW6

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TOTAL			\$0.00

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