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[Counsel listed on next page]

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County of Santa Clara,  
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Case #18CV321529  
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA – UNLIMITED JURISDICTION**

JAMES DAMORE, DAVID GUDEMAN,  
MANUEL AMADOR, STEPHEN  
MCPHERSON, and MICHAEL BURNS,  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

GOOGLE, LLC, a Delaware limited liability  
company; and DOES 1-10,

Defendants.

Case No.: 18CV321529

**JOINT CASE MANAGEMENT  
STATEMENT**

Date: October 19, 2018

Time: 10:00 a.m.

Dept.: 1

Judge: Hon. Brian C. Walsh

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Attorneys for Defendant Google LLC



1 Pursuant to this Court’s August 16, 2018 Notice of Further Case Management Conference,  
2 Plaintiffs James Damore, David Gudeman, Manuel Amador, Stephen McPherson, and Michael Burns,  
3 on behalf of themselves and all others similarly situated (“Plaintiffs”), and Defendant Google LLC  
4 (“Defendant” or “Google,” and, collectively, “Parties”), by and through their respective counsel of  
5 record, submit this Joint Case Management Statement:

6 1. **Additional Parties/Claims:** Plaintiffs state that Doe defendants may be identified  
7 through discovery and thereafter named as defendants in this lawsuit; at this time, Plaintiffs do not  
8 seek to join additional defendants. The Parties propose a deadline of March 8, 2019 to serve any such  
9 Doe defendants.

10 2. **Service List:** As ordered by the Court, Plaintiff Damore will be responsible for  
11 maintaining the service list identifying all primary and secondary counsel and their contact  
12 information. The service list is currently comprised of the following:

13 **Counsel for Plaintiffs:**

14 Harmeet K. Dhillon (SBN: 207873)  
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3. **Discovery:** On January 9, 2018, this Court issued an order staying discovery in this matter. Accordingly, the Parties have not engaged in any discovery, pending further order from the Court.

Plaintiffs state that subjects on which discovery may be needed include: the size and composition of the putative class and subclasses; correspondence between and among the Defendant, its employees, and the putative class members; documentary evidence pertaining to Defendant’s employment practices and policies; and deposition of Defendant regarding the same.

Defendant states that discovery should be stayed pending the resolution of Defendant’s demurrer and/or motion to strike Plaintiffs’ First Amended Complaint (*see* Section 8, *infra*).

The Parties agree that, unless a different form is sought in the discovery requests, electronically stored information will be produced in a.pdf or .tif format, to the extent possible.

The Parties will soon seek entry of a stipulated protective order that will govern the Parties’ treatment of information identifying Google employees in connection with this litigation, pursuant to this Court’s July 13, 2018 Order, as well as a protective order governing the exchange of sensitive discoverable information.

At this time, the Parties do not believe any modification to the limitations on discovery imposed by Code of Civil Procedure and Local Rules is necessary or desirable.

**Arbitration:** The parties stipulate to submit the claims asserted by Plaintiffs James Damore



1 and David Gudeman to arbitration pursuant to arbitration agreements. Plaintiffs state that in light of  
2 Google’s demand that Plaintiff Manuel Amador also arbitrate his claims pursuant to an arbitration  
3 agreement, Amador instead seeks dismissal of his claims (in both individual and putative class  
4 representative capacities), without prejudice. The parties will file a joint stipulation requesting a  
5 partial stay of this Action as to all claims asserted by Damore and Gudeman pending completion of  
6 those arbitrations, and dismissal without prejudice of all claims asserted by Amador in this Action.  
7 The only remaining claims will be individual and putative class claims on behalf of applicants denied  
8 employment by Google, as described below.

9 4. **Related Litigation:** The Parties are not aware of any related cases.

10 5. **Facts and Legal Issues:**

11 Plaintiffs’ Statement: Plaintiffs McPherson and Burns, and other class members, were denied  
12 employment because of their actual and perceived conservative political activities and affiliations, and  
13 their status as actual or perceived Asian or Caucasian male job applicants. Google purposefully  
14 perpetuates and preserves its pattern of discrimination, harassment, and retaliation against persons  
15 belonging to these groups by rejecting applicants who are, or who appear to be, conservative,  
16 white/Caucasian, Asian, or male, particularly where those applicants might speak out against Google’s  
17 unlawful employment practices. Google also employs illegal hiring quotas to fill its desired  
18 percentages of women and racially-favored minority candidates and openly shames managers of  
19 business units who fail to meet their quotas—in the process, denigrating employees who are, or are  
20 perceived to be, male and/or a member of a Google-disfavored race. Google created an environment  
21 of protecting employees who harassed individuals who spoke out against Google’s intolerant  
22 viewpoint.

23 Plaintiffs bring this action on behalf of themselves and all similarly situated job applicants of  
24 Google that were discriminated against by Google because of their actual or perceived conservative  
25 political views and activities; their male gender; and/or their membership to a Google-disfavored race.  
26 Plaintiffs McPherson and Burns assert seven claims against Google for political discrimination and  
27 coercing or influencing job applicants’ political activities in violation of Labor Code §§ 1101, 1102;  
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1 discrimination on the basis of race and gender in violation of the Fair Employment and Housing Act  
2 (“FEHA”); disparate impact discrimination on the basis of race and gender in violation of FEHA;  
3 failure to prevent harassment, discrimination, and retaliation in violation of FEHA; unfair business  
4 practices in violation of Bus. & Prof. Code, § 17200; and for declaratory relief.

5 Since the filing of the First Amended Complaint in this Action, the parties have agreed that the  
6 claims asserted by former employees Damore and Gudeman will be submitted to arbitration, and  
7 claims asserted by Amador will be dismissed without prejudice. Accordingly, the remainder of this  
8 case shall concern only those claims asserted by the job-applicant Plaintiffs, McPherson and Burns,  
9 and the putative classes and subclasses of job applicants they represent.

10 Plaintiffs have considered Google’s request for further amendment of the pleadings in good  
11 faith, but have not been provided with enough details to understand the nature of the request, or what  
12 such an amendment would achieve. The First Amended Complaint identifies each Plaintiff, Class,  
13 and/or subclasses who asserts each claim, and the anticipated arbitration of claims brought by Damore  
14 and Gudeman do not affect the claims asserted by McPherson and Burns. It is Plaintiffs’ position that  
15 the job-applicant Plaintiffs are asserting claims only on behalf of job-applicant class members, not  
16 employee class members, and that any necessary narrowing of the proposed class definitions may be  
17 made in conjunction with Plaintiffs’ class certification motion.

18 Defendant’s Statement: James Damore (the former Google employee who drafted and  
19 circulated within Google a memo contending that women are inherently less qualified for, and less  
20 interested in, technology jobs and leadership positions because of their gender) and his co-plaintiffs  
21 filed this putative class action for supposed discrimination against employees and job applicants with  
22 perceived “conservative” political views, gender discrimination against men, and race discrimination  
23 against Caucasians and Asians. Google denies that it ever discriminated or retaliated against,  
24 permitted harassment of, or denied employment of, Plaintiffs, or any putative class member, on any  
25 such basis. Google actively promotes equal employment opportunities for all of its employees and job  
26 applicants, and it is devoted to creating and maintaining an inclusive workplace that is welcoming to  
27 all. Through this litigation, which now is limited to job-applicant Plaintiffs, Google will prove that all  
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1 of the inflammatory accusations the job-applicant Plaintiffs make above are false.

2 As an initial matter, Google will demur to and/or move to strike the job-applicant Plaintiffs’  
3 Labor Code sections 1101 and 1102 class claims. The class claims asserted by so-called  
4 “conservative” individuals lack the requisite community of interest, rely on a putative class that is not  
5 ascertainable, and fail to allege any common practices by Google. Moreover, neither of the named  
6 Plaintiffs is an adequate class representative for the “Political” Subclass given that the inherent  
7 conflicts amongst members of the putative class bar any of the Plaintiffs from serving as a class  
8 representative.

9 However, Google requests that Plaintiffs amend the pleadings to conform to the claims that  
10 remain in the case following their agreement to arbitrate the claims of employee Plaintiffs. Otherwise,  
11 there may be ongoing disputes and confusion about what claims remain. (As just one example, the  
12 non-employee (job-applicant) Plaintiffs cannot validly assert claims for workplace harassment).

13 Legal Issues: At this time, the Parties dispute the following principal points of law: Whether  
14 Plaintiffs’ class claims for discrimination against “conservative” job applicants may proceed on a  
15 class-wide basis.

16 **6. ADR:** At this time, the Parties believe that any form of ADR (other than arbitration as  
17 to claims asserted by Damore and Gudeman) would be premature. The Parties will revisit the issue of  
18 ADR following resolution of the threshold legal issues identified above.

19 **7. Discovery Phasing:** Plaintiffs state that they are amenable to temporarily staying  
20 discovery pending resolution of the threshold legal issues identified above in section 5 via  
21 Defendant’s anticipated motion to strike and/or demurrer. Plaintiffs state that, at a minimum, limited  
22 merits discovery in advance of class certification motions may be necessary.

23 Defendant states that discovery should not be allowed until the pleadings are settled (*i.e.*, upon  
24 resolution of Defendant’s anticipated demurrer and/or motion to strike) in order to conserve the  
25 parties’ resources and promote judicial economy. Should the case proceed beyond the pleadings  
26 stage, discovery should be phased.

27 **8. Motions:** Defendant intends to file a demurrer to and/or motion to strike the First  
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Amended Complaint.

The Parties request that at the case management conference on October 19, 2018, the Court schedule a hearing and set a briefing schedule for Defendant’s demurrer and/or motion to strike.

Respectfully submitted,

Dated: October 12, 2018

DHILLON LAW GROUP INC.

By: 

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Gregory R. Michael  
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themselves and all others similarly situated

Dated: October 12, 2018

PAUL HASTINGS LLP

By: 

Zachary P. Hutton  
Attorneys for Defendant Google LLC

