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Case #20CV372366
Envelope: 14189357**

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SANTA CLARA

12 DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING, an agency of the State of
13 California,
14 Plaintiff,
15 v.
16 CISCO SYSTEMS, INC., a California
Corporation; SUNDAR IYER, an individual;
17 RAMANA KOMPELLA, an individual,
18 Defendants.

Case No. 20CV372366
**DEFENDANT CISCO SYSTEMS, INC.'S
ANSWER TO PLAINTIFF'S FIRST
AMENDED COMPLAINT**
Dept.: 16
Judge: Hon. Amber Rosen
Complaint Filed: October 16, 2020

1 Defendant Cisco Systems, Inc. and through their counsel of record, hereby answer the
2 First Amended Complaint for Civil Rights – Employment Discrimination of Plaintiff, California
3 Department of Fair Employment and Housing (DFEH) in the above-entitled action as follows:

4 **GENERAL DENIAL**

5 Pursuant to Code of Civil Procedure section 431.30(d), Defendant files this general denial
6 and hereby denies each and every allegation contained in Plaintiff’s unverified First Amended
7 Complaint. Defendant further asserts the following defenses.

8 **AFFIRMATIVE DEFENSES**

9 Defendant further asserts the following defenses to the alleged causes of action in the First
10 Amended Complaint for Damages. By setting forth the defenses below, Defendant does not
11 assume the burden of proving any facts, issues, or elements of a claim where such burden
12 properly belongs to Plaintiff.

13 **FIRST AFFIRMATIVE DEFENSE**

14 (Failure to State a Cause of Action)

15 As a separate defense to Plaintiff’s First Amended Complaint as a whole, and each cause
16 of action alleged therein, fails to state facts sufficient to constitute a cause of action against
17 Defendants upon which relief may be granted.

18 **SECOND AFFIRMATIVE DEFENSE**

19 (No Causation)

20 As a separate defense to Plaintiff’s First Amended Complaint and to each cause of action
21 alleged therein, Defendant alleges that no conduct by or attributable to Defendants was the cause
22 in fact or legal cause of the damages, if any, suffered by either Chetan Narsude (Complainant) or
23 Plaintiff.

24 **THIRD AFFIRMATIVE DEFENSE**

25 (Caused by Own Conduct)

26 As a separate defense to Plaintiff’s First Amended Complaint and to each cause of action
27 alleged therein, Defendant alleges that should it be determined that Complainant has been
28 damaged, then said damages were proximately caused by his own conduct.

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FOURTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

As a separate defense to Plaintiff’s First Amended Complaint and to each cause of action alleged therein, Defendant alleges that any recovery on Plaintiff’s First Amended Complaint is barred by the applicable statutes of limitation, including, but not limited to, California Government Code sections 12940, 12960 and 12965.

FIFTH AFFIRMATIVE DEFENSE

(Waiver / Estoppel)

As a separate defense to Plaintiff’s First Amended Complaint and to each cause of action alleged therein, Defendant alleges that Plaintiff’s claims are barred in whole or in part by the doctrines of waiver and/or estoppel.

SIXTH AFFIRMATIVE DEFENSE

(Laches)

As a separate defense to The First Amended Complaint and to each cause of action alleged therein, Defendant alleges that any recovery is barred by the doctrine of laches and unreasonable delay in bringing this action and in asserting any claim for relief against Defendant.

SEVENTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

As a separate defense to Plaintiff’s First Amended Complaint and to each cause of action alleged therein, Defendant alleges that recovery by Plaintiff and Complainant is barred in whole or in part by Complainant’s failure to exercise reasonable care and diligence to mitigate any damages allegedly accruing to Complainant.

EIGHTH AFFIRMATIVE DEFENSE

(Contributory/Comparative Negligence)

As a separate defense to The First Amended Complaint and to each cause of action alleged therein, Defendant alleges that should it be determined that Complainant has been damaged, then said damages were proximately caused by his own conduct, contributory negligence, comparative negligence, or comparative fault, and that no conduct by or attributable

1 to Defendants was the cause in fact or legal cause of the damages, if any, allegedly suffered by
2 Complainant, and any recovery on Plaintiff's First Amended Complaint, or any cause of action
3 alleged therein, is barred in whole or in part.

4 **NINTH AFFIRMATIVE DEFENSE**

5 (Workers' Compensation Act)

6 As a separate defense to Plaintiff's First Amended Complaint and to each cause of action
7 alleged therein, Defendant alleges that the exclusive remedy, if any, for some or all of the
8 damages alleged by Plaintiff and Complainant for emotional or physical injury is under the
9 California Workers' Compensation Act, Cal. Lab. Code § 3200, *et seq.*

10 **TENTH AFFIRMATIVE DEFENSE**

11 (Failure to Exhaust Administrative Remedies)

12 As a separate defense to The First Amended Complaint and to each cause of action
13 alleged therein, Defendant alleges that each cause of action is barred because Complainant and/or
14 Plaintiff failed in whole or in part to exhaust administrative remedies, prerequisites to suit,
15 conditions to suit, and/or jurisdictional requirements, or failed to do so timely, as required under
16 the California Fair Employment and Housing Act. (Cal. Gov. Code, §§ 12960, 12961 and 12965.)

17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 (Nonexistent Claims)

19 As a separate defense to The First Amended Complaint and to each cause of action alleged
20 therein, Defendant alleges that all causes of action fail as a matter of law because California does
21 not recognize caste as a protected category under the FEHA.

22 **TWELFTH AFFIRMATIVE DEFENSE**

23 (Failure to Comply with Statutory Employee Duties)

24 As a separate defense to The First Amended Complaint and to each cause of action
25 alleged therein, Defendant alleges it is barred in whole or in part by California Labor Code
26 sections 2854, 2856, 2858 and 2859 to the extent Complainant failed to use ordinary care and
27 diligence in the performance of his duties, failed to comply substantially with the reasonable
28 directions of his employer, and failed to exercise a reasonable degree of skill in performing his

1 job duties.

2 **THIRTEENTH AFFIRMATIVE DEFENSE**

3 (Unclean Hands / In Pari Delicto / After Acquired Evidence)

4 As a separate defense to The First Amended Complaint and to each cause of action
5 alleged therein, Defendant alleges it is barred by the doctrines of unclean hands, *in pari delicto*
6 and/or after acquired evidence, or in the alternative, these doctrines cut off or reduce
7 Complainant's alleged damages.

8 **FOURTEENTH AFFIRMATIVE DEFENSE**

9 (Consent /Ratification/Acquiescence)

10 As a separate defense to The First Amended Complaint and to each cause of action
11 alleged therein, Defendant alleges it is barred to the extent Complainant consented to or ratified
12 or acquiesced in the conduct he now complains of.

13 **FIFTEENTH AFFIRMATIVE DEFENSE**

14 (Failure to Satisfactorily Perform)

15 As a separate defense to The First Amended Complaint and to each cause of action
16 alleged therein, Defendant alleges that any recovery is barred by Complainant's failure to
17 satisfactorily perform his job responsibilities and otherwise conduct himself in accordance with
18 the standards and policies of Defendant.

19 **SIXTEENTH AFFIRMATIVE DEFENSE**

20 (Justified / Good Faith Discretion)

21 As a separate defense to the First Amended Complaint and to each cause of action alleged
22 therein, Defendant alleges it was fully justified in its alleged actions, and exercised reasonable
23 care, prudence, skill and business judgment with respect to Complainant, and that any decisions
24 with respect to Complainant were made with proper managerial discretion and in good faith.

25 **SEVENTEENTH AFFIRMATIVE DEFENSE**

26 (Privileged/Justified Conduct)

27 As a separate defense to The First Amended Complaint and to each cause of action
28 alleged therein, Defendant alleges that any recovery is barred because Defendant's conduct was

1 privileged and/or justified under California law and for valid and necessary business reasons.

2 **EIGHTEENTH AFFIRMATIVE DEFENSE**

3 (Mixed Motive)

4 As a separate defense to Plaintiff's First Amended Complaint and to each cause of action
5 alleged therein, Defendant alleges that even if it is determined that a discriminatory, retaliatory or
6 harassing reason motivated any adverse employment actions as alleged by Plaintiff or
7 Complainant, which Defendants have denied and continue to deny, Defendants would have, in
8 any event, taken the same actions based upon other legitimate, non-discriminatory and non-
9 retaliatory reasons standing alone and in the absence of the alleged discriminatory, retaliatory or
10 harassing reason. *Harris v. City of Santa Monica*, 56 Cal.4th 203 (2013).

11 **NINETEENTH AFFIRMATIVE DEFENSE**

12 (Job-Related Reasons)

13 As a separate defense to the First Amended Complaint and to each cause of action therein,
14 Defendant alleges that the alleged actions complained of were not based upon discriminatory or
15 retaliatory reasons, but were based upon legitimate, non-discriminatory, non-retaliatory, job-
16 related reasons.

17 **TWENTIETH AFFIRMATIVE DEFENSE**

18 (Unjust Enrichment)

19 As a separate defense The First Amended Complaint and to each cause of action alleged
20 therein, Defendant alleges that any recovery from Defendant would result in Plaintiff's or
21 Complainant's unjust enrichment.

22 **TWENTH-FIRST AFFIRMATIVE DEFENSE**

23 (No Injunctive Relief)

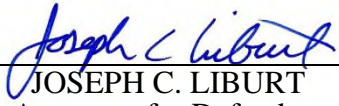
24 As a separate defense to The First Amended Complaint and to each cause of action
25 alleged therein, Defendant alleges that it fails to allege facts sufficient to justify injunctive relief
26 and Complainant failed to avail himself of or exhaust plain, adequate or complete remedies of law
27 available to him.

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Dated: January 23, 2024

LYNNE C. HERMLE
JOSEPH C. LIBURT
NICHOLAS J. HORTON
Orrick, Herrington & Sutcliffe LLP

By 
JOSEPH C. LIBURT
Attorneys for Defendant
CISCO SYSTEMS, INC.

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PROOF OF SERVICE

I am a citizen of the United States, more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, The Orrick Building, 405 Howard Street, San Francisco, CA 94105. On January 23, 2024, I served the following documents:

DEFENDANT CISCO SYSTEMS, INC.’S ANSWER TO PLAINTIFF’S FIRST AMENDED COMPLAINT

By Electronic Service: On all of the interested parties in this action by transmitting true and correct copies of the documents identified above in portable document format from the email address kvasquez@orrick.com to the email addresses below:

- Jamie Crook
jamie.crook@calcivilrights.ca.gov
- Rumduol Vuong
rumduol.vuong@calcivilrights.ca.gov
- Dylan Colbert
Dylan.colbert@calcivilrights.ca.gov
- Roya Massoumi
Roya.Massoumi@CalCivilRights.ca.gov
- Mackenzie Anderson
Mackenzie.Anderson@calcivilrights.ca.gov

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 23, 2024 in San Rafael, California.



Karen Vasquez