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ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**06/26/2020**  
Clerk of the Court

BY: JUDITH NUNEZ  
Deputy Clerk

9  
10 **SUPERIOR COURT OF CALIFORNIA**

11 **COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION**

12  
13 ERICA JOHNSON, an individual, on her  
own behalf and derivatively on behalf of  
14 Modern Life Inc., a Delaware corporation,

15 Plaintiff,

16 v.

17  
18 ALYSON FRIEDENSOHN, an individual;  
MODERN LIFE INC., a Delaware  
19 corporation; MAMOON HAMID, an  
individual; and DOES 1-10,

20  
21 Defendants.

Case Number: CGC-19-580960

**FIRST AMENDED COMPLAINT FOR:**

1. **Breach of Fiduciary Duty**
2. **Wrongful Termination in Violation of Public Policy**
3. **Retaliation Under Cal. Lab. Code §1102.5**
4. **Defamation**
5. **Declaratory Relief**

**DEMAND FOR JURY TRIAL**

1           1.       Erica Johnson (“Ms. Johnson” or “Plaintiff”), by and through her attorneys, the Dhillon  
2 Law Group Inc., files this First Amended Complaint (“Complaint”) on her own behalf, and  
3 derivatively on behalf of Modern Life Inc. (“Modern Health” or the “Company”), against Alyson  
4 Friedensohn (“Ms. Friedensohn”), Modern Health, Mamoon Hamid (“Mr. Hamid”) and Does 1-10  
5 (“Does”) (Ms. Friedensohn, Modern Health, and Does, collectively, “Defendants”). Upon her personal  
6 knowledge, or, if so indicated, upon information and belief, Plaintiff alleges as follows:

7  
**CASE SUMMARY**

8           2.       In 2017, Ms. Johnson left her promising career to partner with Ms. Friedensohn to start  
9 Modern Health, a mental well-being platform for companies that helps all employees be happy and  
10 healthy.

11          3.       Ms. Johnson was the driving force behind the Company’s science, engineering, and  
12 operations, and helped realize Modern Health’s early, organic success.

13          4.       Ms. Friedensohn, dissatisfied with organic growth, quickly let the hype and increasing  
14 valuations of Modern Health get to her, and grossly misrepresented Modern Health’s offerings and  
15 success to customers and investors to achieve even greater valuations and funding for Modern Health.  
16 Ms. Friedensohn’s goal was to cash out early, and leave others to pick up the pieces, as has been the  
17 case with WeWork, Uber, and others.

18          5.       However, Ms. Johnson strived to ensure all Company employees acted in good faith for  
19 the Company’s benefit, and when Ms. Johnson raised Ms. Friedensohn’s misconduct with Modern  
20 Health’s Board, including Mr. Hamid, she was quickly terminated and defamed by Ms. Friedensohn.

21          6.       Ms. Johnson’s further attempts to raise Ms. Friedensohn’s misconduct with Mr. Hamid,  
22 a Partner with Kleiner Perkins (a significant investor in Modern Health), were met with apathy and  
23 threats of criminal action and civil suits against Ms. Johnson.

24          7.       As Modern Health’s offerings include mental health services, Defendants’ misconduct  
25 puts at serious risk the lives and health of its patients. That given, Ms. Johnson had no choice but to  
26 file this suit.

27 ///

28 ///

## THE PARTIES

1  
2 8. Ms. Johnson is an individual who, at all times relevant to the Complaint, resided in San  
3 Francisco, California. Ms. Johnson is a co-founder of Modern Health, member of its Board, and was  
4 the Chief Science Officer managing engineering and operations until her wrongful termination. Ms.  
5 Johnson is a stockholder of Modern Health and is suing on her own behalf, and derivatively on behalf  
6 of Modern Health. Under the circumstances detailed more fully below, Ms. Johnson's duty to make a  
7 demand prior to bringing this action on behalf of Modern Health is relieved because any such demand  
8 would undoubtedly have been futile, as any claim or demand would have been rejected or met with  
9 hostility. Ms. Friedensohn and Mr. Hamid, Modern Health's two other Board Members at the relevant  
10 time, were both complicit in the harmful activities taking place at Modern Health. They ratified the  
11 misconduct set forth below as Board Members of Modern Health. Both Ms. Friedensohn and Mr.  
12 Hamid personally benefited from the conduct set forth below, as shareholders of Modern Health,  
13 directly or indirectly. As such, the Modern Health Board could not exercise independent objective  
14 judgment in deciding whether to bring this action, or whether to vigorously prosecute this action,  
15 because each of its members participated personally in the wrongdoings, or are dependent upon other  
16 defendants who did. In short, to properly prosecute this lawsuit, Mr. Hamid and Ms. Friedensohn  
17 would have to sue themselves and subject themselves to significant liability.

18 9. Ms. Friedensohn is an individual who, at all times relevant to the Complaint, resided in  
19 San Francisco, California. Ms. Friedensohn is a co-founder of Modern Health, member of its Board,  
20 and continues to be its CEO. Ms. Friedensohn is a significant shareholder of Modern Health.

21 10. Modern Life Inc. is a corporation that, at all times relevant to the Complaint, was  
22 incorporated under the laws of the state of Delaware, with its principal place of business in San  
23 Francisco, California. Modern Life Inc. does business in California under the name Modern  
24 Healthcare Inc. or "Modern Health."

25 11. Mr. Hamid is an individual who, at all times relevant to the Complaint, resided in  
26 California. Mr. Hamid is a member of the Board of Modern Health and Partner with Kleiner Perkins.  
27 Kleiner Perkins is a significant investor in Modern Health. Upon information and belief, if Kleiner  
28 Perkins's investment in Modern Health is successful, Mr. Hamid will directly benefit.

1 12. Upon information and belief, Ms. Johnson alleges that Does 1 through 10 are the  
2 partners, agents, owners, shareholders, managers, or employees of Modern Health, Ms. Friedensohn,  
3 and/or Mr. Hamid, and are, or at the relevant time were, acting on their behalf. Upon information and  
4 belief, Ms. Johnson alleges that each and all of the acts and omissions alleged herein were performed  
5 by, or are attributable to, Modern Health, Ms. Friedensohn, Mr. Hamid, and/or Does 1 through 10,  
6 with each having the legal authority to act as the agent for the other. The acts of any and all  
7 Defendants were in accordance with, and represent, the official policy of all Defendants.

8 13. Ms. Johnson is unaware of the true names or capacities of the Defendants sued herein  
9 under the fictitious names Does 1 through 10, but prays for leave to amend and serve such fictitiously  
10 named Defendants once their names and capacities become known.

### **JURISDICTION AND VENUE**

11  
12 14. This Court has jurisdiction over this action pursuant to the California Constitution,  
13 Article VI, Section 10, which grants the Superior Court “original jurisdiction in all causes except those  
14 given by statute to other courts.”

15 15. This Court has jurisdiction over all Defendants because, upon information and belief,  
16 each Defendant is either a citizen of California, has sufficient minimum contacts in California, or  
17 otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction  
18 over it or him by the California courts consistent with traditional notions of fair play and substantial  
19 justice.

20 16. Venue is proper in this Court because, upon information and belief, one or more of the  
21 named Defendants resides, transacts business, or has offices in the County of San Francisco, and the  
22 unlawful practices, acts, and omissions alleged herein took place in the County of San Francisco.

### **FACTUAL ALLEGATIONS**

#### **Background**

23  
24  
25 17. Ms. Johnson has long been on the leading edge of neuroscience and behavioral  
26 research. She graduated with degrees in neurobiology and molecular biology from the University of  
27 California at Berkeley, and later held a research position with the Helen Wills Neuroscience Institute  
28 at Berkeley. She followed her time at Berkeley with lead engineer, product manager, and research

1 positions, with an emphasis on neurobehavioral sciences, at the University of California at San  
2 Francisco, and the Stanford University School of Medicine—premier institutions in the field. She has  
3 also published over a dozen research publications in a number of prestigious peer-reviewed journals.  
4 Ms. Johnson helped develop the Brain Health Assessment, a screening tool that is used to detect and  
5 diagnose cognitive disorders globally. Further, Ms. Johnson worked as a software engineer and  
6 product manager leading development of cutting edge brain health tools in collaboration with  
7 Microsoft Research, Apple, and other leading companies. It is unsurprising that Ms. Friedensohn  
8 sought to partner with Ms. Johnson given Ms. Johnson’s instant engineering and product development  
9 credibility in the mind and brain health space.

10 18. Ms. Johnson did join Ms. Friedensohn to work towards developing what would become  
11 Modern Health. Ms. Friedensohn already had a working relationship with Alice Tzou and Gloria Tzou  
12 by the time Ms. Johnson joined her. Ms. Friedensohn used her working relationship with the Tzou  
13 sisters to entice Ms. Johnson to join what she had been misled to believe would be a founding team of  
14 four. However, once Ms. Johnson began working with Ms. Friedensohn, it appeared that Ms.  
15 Friedensohn determined she no longer needed the Tzou sisters, and cut them out without  
16 communicating with Ms. Johnson until after this action had been completed, and Ms. Johnson had  
17 already committed to joining the Company. Two cofounders instead of four would mean a bigger  
18 piece of the pie for Ms. Friedensohn. Ms. Friedensohn further misled Ms. Johnson by claiming that  
19 she had a “rolodex full of customers” and a pilot lined up with a major supermarket, Meijer, with  
20 13,000 employees. None of this materialized despite Ms. Friedensohn’s multiple correspondence on  
21 the matter.

22 19. Ms. Johnson and Ms. Friedensohn submitted an application for, and were admitted into,  
23 the Winter 2018 cycle for Y Combinator (“YC”), the leading seed accelerator for technology startups  
24 globally. Ms. Friedensohn pushed Ms. Johnson to develop a tool to assess the mental health of  
25 employees to serve as Modern Health’s first product, despite Ms. Johnson’s advocacy for a more  
26 formal product development process, something that Ms. Friedensohn had no experience with. Ms.  
27 Friedensohn claimed that she knew that this was what companies were looking for given her previous  
28 experience at Collective Health, a health benefits technology company. She made these claims without

1 actually reaching out to potential clients and gauging interest. Ms. Friedensohn also demanded that the  
2 tool be built prior to Modern Health starting at YC, and coincidentally while Ms. Friedensohn herself  
3 took a vacation to the East Coast for over two weeks.

4 20. Ms. Friedensohn's initial idea, without any input from potential customers, was a  
5 failure. Fifteen to twenty potential customers passed on the product, with many calling the tool  
6 "creepy." The tool had to be scrapped. This made clear that Ms. Friedensohn had no specialized or  
7 valuable insight into the industry.

8 21. As YC started, Ms. Friedensohn and Ms. Johnson had to start from scratch, finally  
9 using the customer-driven development process Ms. Johnson had been advocating for, and using ideas  
10 for the core of the product exclusively originating from Ms. Johnson. Ms. Friedensohn told investors  
11 that aside from trying to avoid the stigma of mental health, the only point of core differentiation for the  
12 entire Company came from Ms. Johnson's work. Xye Dagon, Julia Maggioncalda, and Dr. Sarah Selig  
13 were added to the Modern Health team prior to, or during YC. Ms. Johnson managed engineering and  
14 operations as Chief Science Officer, while Ms. Friedensohn managed business development and sales.  
15 While Ms. Friedensohn assumed the CEO title, Ms. Johnson and Ms. Friedensohn treated each other  
16 as equal co-founders, with the same number of shares, and each having seats on the Board.

17 22. After Ms. Johnson's tireless efforts to get Modern Health's new product off the ground,  
18 Modern Health was able to get some early traction with customers. This was partly due to Ms.  
19 Friedensohn offering equity in Modern Health to customers' agents as an incentive for the agents'  
20 company agreeing to use Modern Health's products.<sup>1</sup> When Ms. Johnson confronted Ms. Friedensohn  
21 about this issue and made clear that the Company's equity needed to be guarded and carefully meted  
22 out, and that kickbacks of this sort may be unethical, Ms. Friedensohn responded that this was a  
23 common business practice (it is not) and was unapologetic. Ms. Friedensohn also did not believe that  
24 Modern Health needed to disclose to its subsequent investors that its sales were bolstered by the  
25

26 <sup>1</sup> To be clear, the equity was not going to the customer company, but to the individual representing the  
27 customer in his or her individual capacity. This includes Ron Storn, the Chief People Officer at Zume,  
28 and Adrian Aoun, the CEO of Forward. To provide cover, the individuals were labeled as "advisors,"  
but, in reality, this was purely an incentive to sign an agreement. Ms. Johnson later prevented Ms.  
Friedensohn from granting equity to decision makers at Credit Karma and Netflix.

1 Company handing out equity as an incentive—an inherently unsustainable practice. That Ms.  
2 Friedensohn failed to disclose this issue to investors may have constituted fraud.

3 23. Ms. Friedensohn also showed a lack of business judgment or ethics early in Modern  
4 Health’s life. For example, Modern Health, while at YC, received a pre-Demo Day investment offer  
5 from Afore Capital, which contained an \$8 million valuation cap. Rather than attempt to negotiate  
6 with Afore Capital, or wait for Demo Day and the thousand or so investors who would be present, Ms.  
7 Friedensohn sought to immediately accept Afore Capital’s offer. At least one other investor informed  
8 Ms. Friedensohn directly, through in person meetings and written correspondence, that they had  
9 serious concerns about how she was managing funding decisions at the Company.

10 24. Modern Health did have a successful Demo Day, and was able to raise respectable seed  
11 money. However, Modern Health’s sales struggled immediately following YC. It was during this time  
12 that Ms. Friedensohn, desperate to save face given that she was in charge of sales, began materially  
13 misrepresenting the nature of Modern Health’s offerings to potential customers. John Jersin, a Modern  
14 Health investor and company adviser, and VP of Product Management at LinkedIn, who had been  
15 coaching Ms. Friedensohn on sales, attempted to rein in Ms. Friedensohn’s misconduct with limited  
16 success. When asking Mr. Jersin how to handle customers asking for international support, Ms.  
17 Friedensohn repeatedly suggested she simply lie to say such support existed. Mr. Jersin repeatedly  
18 cautioned her against such action stating explicitly that it was illegal as well as unethical. As set forth  
19 below, Ms. Friedensohn apparently employed this tactic irrespective of liability and ethics. At least  
20 one employee, Rebecca O’Kusky, who joined after Modern Health’s Series A, quit because Ms.  
21 Friedensohn repeatedly asked her to lie to customers.

22 25. When Ms. Johnson offered to help Ms. Friedensohn with sales, Ms. Friedensohn was  
23 dismissive and condescending. This type of bullying behavior, while common for Ms. Friedensohn,  
24 had no place in a company focused on mental health. Ms. Friedensohn seemingly sought to create a  
25 culture of fear within the Company, by engaging in sudden firings of employees, and bullying  
26 employees who remained at Modern Health. As an example, Ms. Friedensohn would routinely chastise  
27 employees for taking vacations, but would regularly take vacations herself and not record her time off  
28 in the Company’s HR system. This includes a two-week vacation in July 2018 to celebrate Ms.

1 Friedensohn's engagement (not wedding or honeymoon, but engagement), and many other  
2 documented trips.

3 26. Dr. Selig was terminated by Ms. Friedensohn when she sought actual cash  
4 compensation and a formal position in connection with the seed financing. Ms. Friedensohn  
5 immediately terminated Dr. Selig, without considering a transition plan for the patients (including  
6 suicidal patients) and doctors that Dr. Selig was responsible for. After Dr. Selig raised transition  
7 concerns (after she was already fired), Ms. Friedensohn expected Dr. Selig to stay on for the transition  
8 without additional compensation of any form. Ms. Friedensohn thereafter did not follow up with Dr.  
9 Selig and the transition, exposing at-risk patients to real harm as the care they were depending on was  
10 delayed due to Ms. Friedensohn's actions, and the Company risked serious liability. Ms. Friedensohn  
11 was instead focused solely on obtaining seed funding.

12 27. Ms. Friedensohn extracted work from number of former employees and contractors,  
13 promised compensation in the future, for example after financing was secured, and then terminated the  
14 employee or contractor before they were compensated. In some cases, a simple gift card, or cheap  
15 laptop was given in exchange for months or years of work.

16 28. Ms. Friedensohn pressured employees to provide proprietary information from their  
17 previous employers, and made clear she kept and used proprietary information from her previous  
18 employers. Ms. Friedensohn admitted to having taken confidential and proprietary material from  
19 Collective Health, and avoided detection by making a cell phone video of her computer screen as she  
20 opened and scrolled through various proprietary files. Ms. Friedensohn later asked Ms. Johnson to  
21 review the videos for anything Modern Health could use.

22 29. Ms. Friedensohn also instructed employees to copy articles and material from other  
23 companies, such as Joyable and Lyra, and pass it off as Modern Health work, subjecting the Company  
24 to copyright claims.

25 30. With Lyra, Ms. Friedensohn knew that Activision Blizzard and eBay were both  
26 customers of Lyra. She used this information to determine URLs that were intended only for  
27 employees of those companies. Ms. Friedensohn then impersonated employees of both Activision  
28 Blizzard and eBay by logging into Lyra's benefits platform via those URLs intended for their



1 customers. Ms. Johnson also found one of these URLs copied into the Series B investor pitch deck that  
2 Ms. Friedensohn created indicating that Ms. Friedensohn was copying private material intended only  
3 for Lyra’s customers into Modern Health’s pitch to investors. Ms. Friedensohn further impersonated  
4 employees by using a phone number provided by Lyra and intended only for employees of these same  
5 companies to access additional pieces of Lyra’s platform.

6 31. Ms. Johnson was able to determine that articles were being copied from other  
7 companies, and alerted Modern Health’s legal team and took corrective action.

8 32. Ms. Friedensohn instructed Holly Burwick, the Company’s Business Operations Lead,  
9 to falsely identify herself as being associated with stealth early stage companies, including a company  
10 named “Funkable,” contact competitors of Modern Health on behalf of these fictitious entities, and  
11 obtain whatever information she could about the competitors’ products, services, and pricing. In a  
12 particularly embarrassing instance, Ms. Friedensohn was caught by Spring Health. Spring Health’s  
13 CEO, April Koh, called out Modern Health on Twitter: “Hey @modernhealthco – if you’re curious  
14 about our services, next time just ask! Don’t pretend to be a stealth startup and trick our sales team  
15 into doing a demo :(”

16 33. Ms. Friedensohn was also known to secretly record conversations with team members  
17 without their consent, in violation of Cal. Penal Code § 632. She would make misrepresentations about  
18 other employees as a tactic of control, including spreading defamatory statements. She would often  
19 swoop in at the end of projects in an effort to steal credit, as she did when Ms. Johnson was working  
20 on a 409A valuation for the Company.

21 34. Ms. Friedensohn would make offensive comments at Company get-togethers. For  
22 example, Ms. Friedensohn commented that San Francisco’s homeless population should be  
23 euthanized, and that they no longer had souls.

24 35. As a result of Ms. Friedensohn’s bullying and abrasive management style, the  
25 Company suffered from significant turnover,<sup>2</sup> yet Ms. Friedensohn refused to conduct exit interviews  
26 to understand or correct the issue. At times, Ms. Johnson was able to manage Ms. Friedensohn’s

27 \_\_\_\_\_  
28 <sup>2</sup> All of Modern Health’s YC founding team, excluding Ms. Friedensohn, are no longer employed by  
the Company.

1 erratic impulses. For example, when Ms. Friedensohn wanted to fire Dr. Myra Altman, Modern  
2 Health's Head of Clinical Care, because Dr. Altman had migraines and Ms. Friedensohn thought that  
3 would prevent her from working sufficient hours, Ms. Johnson was able to save her from being fired  
4 by reasoning with Ms. Friedensohn, including a series of text and Slack messages. Similarly, shortly  
5 before Ms. Friedensohn fired Ms. Johnson, she had also discussed replacing the Company's Head of  
6 Sales, Hannah Willson, because she felt the Company was already about to outgrow her within months  
7 of Ms. Willson starting, but Ms. Johnson was able to convince her to stick with Ms. Willson. Ms.  
8 Johnson did what she could to counter and offset Ms. Friedensohn's erratic behavior, which is the only  
9 reason the Company has not yet had to actually deal with her misconduct.

10 36. Ms. Friedensohn agreed not to fire Dr. Altman and over time included her in more of  
11 the company's dealings. Ms. Friedensohn directed Dr. Altman, whose husband is a therapist for a  
12 Modern Health competitor Lyra Health ("Lyra"), to provide her with the contract between Lyra and  
13 Lyra's therapy providers. Dr. Altman did in fact provide this document to Ms. Friedensohn. This  
14 contract includes an exclusivity clause, meaning that Lyra's therapists cannot work for Modern Health.  
15 However, Ms. Friedensohn directed the Company to target these providers specifically because they  
16 were easy to find, and to induce them into violating their agreement with Lyra by working for Modern  
17 Health. Ms. Friedensohn went further in specifically promising Lyra's customers that Modern Health  
18 would induce Lyra's therapists to violate their agreements and join Modern Health, and she  
19 documented this promise in materials shared externally including with a major customer which left  
20 Lyra for Modern Health as a result. This course of conduct, along with clear evidence of it and the  
21 millions of dollars in damages to Lyra, subjected Modern Health to significant liability from a  
22 potential suit from Lyra.

23 37. Dr. Altman was no stranger to questionable conduct. She was responsible for signing  
24 up therapists and determining their pay rate up to a maximum that Ms. Friedensohn and Ms. Johnson  
25 had set. Among other therapists, Dr. Altman signed up her husband as a Modern Health therapist.  
26 Sometime thereafter, when the Company's accountant was reviewing outlay records, the accountant  
27 discovered that Dr. Altman was sending a majority of couples' therapy requests to her husband's  
28 brand new practice and that she was paying him a higher pay rate than had been approved. Dr. Altman

1 admitted to and ceased this behavior when confronted by the Company.

2 **Recent Issues**

3 38. In late-Summer 2019, Dr. Altman approached Ms. Johnson with an issue of serious  
4 concern. The Company was pitching a potential customer, and Dr. Altman was concerned that the  
5 Company was grossly misrepresenting its offerings. Ms. Johnson advised Dr. Altman to tell the truth,  
6 and she believed the strength of Modern Health's platform was itself enough to close a deal without  
7 embellishment. At the same time, Ms. Johnson decided to conduct an investigation. This included  
8 reviewing Company presentation materials, both to potential customers and investors. Ms. Johnson  
9 was later able to determine from several mutually reinforcing sales documents that the Company made  
10 the misrepresentation that Dr. Altman had asked about, despite Ms. Johnson's warning, and Dr.  
11 Altman was directly involved in presenting to the customer to whom misrepresentations were made.

12 39. After raising some initial concern, indicating that Dr. Altman was in fact well aware of  
13 the troubling nature of misrepresentations to customers, she continued to participate, without  
14 objection, in additional misrepresentations to customers at even greater scale. For example, throughout  
15 August and September 2019, Dr. Altman worked closely with Ms. Friedensohn, as well as Hannah  
16 Wilson, Spencer Hall, and Kali Hinderaker, employees in Modern Health's sales organization, to  
17 prepare a presentation at the Employer Health Innovation Roundtable (EHIR). As discovered later,  
18 these presentation materials included dramatically inflated claims for the size of Modern Health's  
19 provider network. These claims would later appear in Modern Health's series B materials as well. Dr.  
20 Altman and Ms. Friedensohn presented these materials together at the EHIR conference to a number  
21 of potential customers including Fortune 100 companies, despite each being well aware that the  
22 provider network numbers, which form the core of Modern Health's offerings, were inflated by over  
23 10,000%, constituting a dramatic fraud.

24 40. As the EHIR conference approached, Dr. Altman repeatedly asked the company to  
25 purchase insurance to protect her clinical license, which she likely understood would be at risk due to  
26 her multiple breaches of ethics. No purchase of such insurance had been completed before Dr. Altman  
27 took any of the actions at issue in this Complaint.

28 41. Over the course of the investigation, it appeared that Ms. Friedensohn was advising its

1 potential Series B investors (it was a surprise to Ms. Johnson that Ms. Friedensohn was even meeting  
2 with Series B investors, and she should have been advised of the same as a Board Member and co-  
3 founder) that it had 5,372 therapists and 18,900 coaches, globally, according to documents prepared by  
4 Ms. Friedensohn, the same claims which had been presented at EHIR. In reality, the total number of  
5 therapists and coaches is closer to 180 according to the company's tracking systems. None of these  
6 other coaches had even started training with Modern Health, or been contacted, or even identified as  
7 potential providers. These providers did not meaningfully exist beyond made up numbers. Ms.  
8 Friedensohn also claimed to customers that it provided support in 50 languages; in reality, it was 3  
9 languages. Tim Savage, Modern Health's Head of Operations, later tried to explain that these numbers  
10 were meant to indicate the total number of providers across the countries Modern Health intended to  
11 do business in. Such an explanation directly contradicts the investor materials Modern Health had  
12 prepared, and is also obviously contradicted by common sense or a single Google search. Recently,  
13 several other current employees in a variety of roles at the Company have indicated they witnessed  
14 similar misrepresentations. Ms. Friedensohn has since started to limit or block access to documents  
15 between departments at the Company, limiting each employees' visibility into the way Modern Health  
16 conducts business overall.

17 42. The danger in misrepresenting this information is threefold, and potentially  
18 catastrophic: 1) it results in clear breach of contract; 2) customers who abandon their current mental  
19 health service providers for Modern Health may jeopardize the lives of their employees should those  
20 employees expect to receive services Modern Health promised but could not deliver; and 3) investors  
21 fraudulently induced to invest in Modern Health may bring a suit for fraud, rendering Modern Health's  
22 shares toxic.

23 43. Around the same time, on September 17, 2019, Ms. Friedensohn asked to meet with  
24 Ms. Johnson. Ms. Friedensohn did not share an agenda for the meeting with Ms. Johnson prior to their  
25 meeting. Over the prior days and weeks, Ms. Friedensohn had been telling Ms. Johnson over text  
26 message that she would be a "nervous wreck" without Ms. Johnson present for upcoming events like  
27 making key hires, fundraising, and other key milestones while Ms. Johnson was away on her  
28 previously planned honeymoon. When the meeting occurred, instead of having a discussion with Ms.

1 Johnson, Ms. Friedensohn read out loud a statement she had prepared from her phone. Ms.  
2 Friedensohn questioned Ms. Johnson's commitment to the Company because of Ms. Johnson's  
3 upcoming approximately two-week vacation for her wedding and honeymoon, and asked for a  
4 restructuring of equity amongst them. She mentioned that she had discussed this proposal with her  
5 fiancé, and Company advisor, Mathew Watson.<sup>3</sup> While Ms. Friedensohn and Ms. Johnson currently  
6 were on equal footing in terms of the number of shares, Ms. Friedensohn wanted a 65:35 split in her  
7 favor. While questioning Ms. Johnson's commitment to the Company based on Ms. Johnson taking  
8 time off for a long planned wedding and honeymoon, Ms. Friedensohn conveniently left off her own  
9 two-week vacation to celebrate her engagement in 2018, her pre-YC two-week vacation in 2017, and  
10 trips to Colorado, Ibiza, Mexico, *etc.*, which were not documented in the Company's HR system, as  
11 required of all other employees, but simply on her calendar as "Out of Office." Ms. Johnson, shocked  
12 at the request, only could tell Ms. Friedensohn that she would consider the request. This was a radical  
13 departure from their previous relationship. In fact, Ms. Friedensohn was to be a bridesmaid at Ms.  
14 Johnson's October 2019 wedding, and had attended her bachelorette party just the week prior.

15 44. Mr. Watson had admitted to Mr. Jersin that Ms. Friedensohn wanted to cash out a  
16 significant portion of her equity in connection with the Series B financing. Per Mr. Watson, the  
17 Company had received a verbal offer of \$25 million investment on a \$150 million valuation. However,  
18 Ms. Friedensohn was apparently concerned about falling below Ms. Johnson on the cap table.  
19 Accordingly, Ms. Friedensohn concocted a plan to restructure their respective equity so that she might  
20 sell some of her shares, and not end up with fewer shares than Ms. Johnson. To justify her demands,  
21 Ms. Friedensohn made statements including that Ms. Johnson should be expected to put off having  
22 children because of her ethnicity (Ms. Friedensohn told Ms. Johnson that she believed that all Asians  
23 have no problem having kids later in life), so that Ms. Johnson would have more time to give to the  
24 Company. This racially charged comment reflected others made by Ms. Friedensohn and her fiancée,  
25

26 <sup>3</sup> Ms. Friedensohn likely received inspiration for this demand from Mr. Watson, and has previously  
27 stated she runs every decision by him. Mr. Watson was a co-founder at Indio Technologies Inc., and  
28 was forced out of the company around the time it raised its Series A. Ms. Friedensohn had repeatedly  
discussed how unfair Mr. Watson's removal was, but must have internalized that it could be a weapon  
employed against Ms. Johnson.

1 such as racial nicknames they would call Ms. Johnson.

2 45. Ms. Johnson also suspects that Ms. Friedensohn recorded one or more of their  
3 conversations without her consent given how Ms. Friedensohn was behaving and awkwardly  
4 positioning her phone in recent conversations, and her statement that she had “written down every  
5 word” Ms. Johnson had said. Mr. Hamid also appeared to have a verbatim transcript of discussions  
6 between Ms. Johnson and Ms. Friedensohn for which he was not present.

7 46. Ms. Friedensohn and Ms. Johnson met again on September 20, 2019. Ms. Johnson  
8 advised Ms. Friedensohn that she had considered her request, but could not agree to it. She suggested  
9 that they enter into co-founder therapy so that they could mend their relationship, which until that time  
10 had been very positive, as documented by numerous and exclusively positive messages from Ms.  
11 Friedensohn to Ms. Johnson about her work over the course of the prior two years. Ms. Friedensohn  
12 responded starkly that “it’s already done,” that she had spoken to Mr. Hamid, and the lawyers, and that  
13 there was nothing further to discuss. Ms. Friedensohn further frivolously claimed that such unilateral  
14 restructuring was within her power as CEO (it is not).

15 47. Ms. Johnson called Mr. Hamid that same day, on September 20, 2019, to discuss Ms.  
16 Johnson’s rapidly increasing concerns about Ms. Friedensohn’s behavior. Ironically, Mr. Hamid had  
17 just finished recording a podcast with TechCrunch to discuss the cult of the founder and Silicon  
18 Valley’s lack of moral authority.<sup>4</sup> As part of the discussion about the concerning behavior Ms.  
19 Johnson raised to Mr. Hamid’s attention, he assured Ms. Johnson that he, Ms. Friedensohn, or the  
20 Company would not be taking any of her equity, and the two had an otherwise productive call  
21 including discussing Company strategy. Mr. Hamid noted that he would call Ms. Friedensohn  
22

23 <sup>4</sup> That Mr. Hamid is commenting on Silicon Valley’s lack of moral authority is farcical given his own  
24 ethical lapses discussed below, and those of his wife, Dr. Aaliyah Yaqub. Dr. Yaqub approached  
25 Modern Health on the eve of the Company closing its Series A round with Kleiner Perkins, and asked  
26 to be an advisor to the Company. Modern Health was hesitant to make Dr. Yaqub an advisor (with  
27 advisor shares) given her lack of relevant experience, but also did not want to offend Mr. Hamid and  
28 risk Kleiner Perkins turning down an investment in Modern Health. Dr. Yaqub and Mr. Hamid knew  
that this would be the case. Ultimately, Modern Health compromised and allowed Dr. Yaqub to invest  
in the Company at the seed stage valuation, a generous discount relative to the Series A valuation. Dr.  
Yaqub has similarly tried to take advantage of several other healthtech startups by leveraging her  
husband’s relationship with Kleiner Perkins.

1 immediately, and also recommend co-founder therapy to her.

2 48. Ms. Johnson met with Mr. Hamid on September 24 and 26, 2019 to discuss her  
3 concerns with Ms. Friedensohn and the Company, including those concerns laid out in this Complaint.  
4 Ms. Johnson presented her concerns in depth, including in a detailed five-page document. Mr. Hamid  
5 was dismissive of Ms. Johnson’s concerns. Of course, Kleiner Perkins had led a \$9 million Series A in  
6 Modern Health, and the Company was now pursuing a Series B with a valuation of at least \$150  
7 million, so Mr. Hamid was incentivized to not rock the boat—the very issue Mr. Hamid raised about  
8 investors in WeWork and similar companies in his TechCrunch podcast. Mr. Hamid promised Ms.  
9 Johnson in the first meeting that he would conduct a robust investigation and not share the concerns  
10 with Ms. Friedensohn. By the second meeting, Mr. Hamid claimed to have conducted an investigation,  
11 which consisted primarily of his interviewing Company employees who reported to Ms. Friedensohn  
12 and had recently received stock options or generous refresh grants from Ms. Friedensohn. In fact, as  
13 members of the Board, Mr. Hamid and Ms. Friedensohn had jointly voted to give these employees  
14 equity grants and early exercise rights, showing that Mr. Hamid was aware of the potential  
15 misalignment of incentives for the employees he talked to during his “investigation.” It was readily  
16 apparent that Mr. Hamid had not conducted anything resembling a diligent investigation. Mr. Hamid  
17 also violated Ms. Johnson’s trust by sharing the memo with Ms. Friedensohn despite his earlier  
18 assurances that he would not.

19 49. Rather than use the meeting as an opportunity to learn more about the Company’s  
20 issues and liability, as was his fiduciary obligation as a Board member, Mr. Hamid instead used the  
21 opportunity to intimidate Ms. Johnson. In the middle of the September 26, 2019 meeting, Mr. Hamid  
22 announced that Damien Weiss had just arrived and would be meeting with Ms. Johnson. Ms. Johnson  
23 did not know who Mr. Weiss was, and she had not previously discussed meeting with Mr. Weiss.  
24 When Ms. Johnson inquired, Mr. Hamid told her that Mr. Weiss was Kleiner Perkins’ outside counsel,  
25 with Wilson Sonsini Goodrich & Rosati (“Wilson Sonsini”). Ms. Johnson saw Mr. Hamid’s pressure  
26 tactic for what it was, and refused to meet with Mr. Weiss. This aggravated Mr. Hamid, who continued  
27 to pressure Ms. Johnson to meet with Mr. Weiss. When she again refused, the meeting concluded. Mr.  
28 Weiss later sent a text message to Ms. Johnson threatening to have her arrested. This mirrors a letter



1 from Company counsel, also Wilson Sonsini, also threatening Ms. Johnson with criminal arrest.

2 50. Still shaken by what had happened, Ms. Johnson returned home after meeting Mr.  
3 Hamid on September 26, 2019 to find her access to Company accounts being terminated. It had been  
4 as if Mr. Hamid had coordinated with the Company, and the Company was instructed to lock Ms.  
5 Johnson out of her accounts while she was busy meeting with Mr. Hamid.

6 51. On September 27, 2019, Ms. Friedensohn called a Company meeting to announce that  
7 Ms. Johnson was purportedly no longer with the Company. While Ms. Friedensohn feigned sadness to  
8 some employees, as she had done with Mr. Hamid, she was apparently celebrating her pushing Ms.  
9 Johnson out of the Company in separate meetings with the sales teams and others. At the same time,  
10 Ms. Friedensohn made defamatory statements about Ms. Johnson falsely alleging that she was  
11 embezzling Company funds; locking the Company out of its accounts, and downloading Company  
12 proprietary information for her personal use. Ms. Friedensohn only sent Ms. Johnson notice on  
13 September 28, 2019, purporting to terminate Ms. Johnson as an employee of Modern Health.  
14 Indicative of Ms. Friedensohn's true intentions and mindset, she waited to fire Ms. Johnson until it  
15 was Ms. Johnson's birthday, and Ms. Johnson was not the first Modern Health employee Ms.  
16 Friedensohn fired on his or her birthday.

17 52. Despite Ms. Johnson's purported termination as an employee of Modern Health, she  
18 retained her seat on Modern Health's Board. Ms. Johnson has not received any notice, nor have other  
19 shareholders, that Ms. Johnson was removed from the Board, or there having been a shareholder  
20 meeting to recall or elect Board members.

21 53. Despite being a Board Member, Ms. Johnson has been effectively cut off from access  
22 to the Company. She has not been provided with any meaningful updates concerning Modern Health,  
23 or access to its books and records. For example, Ms. Johnson has not been advised or consulted in  
24 relation to Modern Health raising a Series B round of financing, which apparently closed in January  
25 2020.

26 54. Ms. Johnson did not learn of the true scope and breadth of Ms. Friedensohn's above-  
27 referenced misconduct until shortly before and after Ms. Johnson's termination. After Ms. Johnson's  
28 termination, several former employees, as well as several current employees, in various roles at the



1 Company shared that they had deep concerns about Ms. Friedensohn, and had seen illegal activity  
2 which she directed, including but not limited to examples cited in this Complaint. On almost all of  
3 these occasions, Ms. Friedensohn spread disparaging misinformation about these employees and  
4 contractors before and/or after terminating them, leading continuing employees to believe that those  
5 who left had performed poorly, were “toxic,” or even that they disliked and made defamatory  
6 statements against the continuing employees. It is clear that this is the same pattern that Ms.  
7 Friedensohn has taken to an extreme with Ms. Johnson’s departure, spreading false and defamatory  
8 information about Ms. Johnson to current employees and investors in order to cover up the legal  
9 concerns Ms. Johnson raised and the retaliatory nature of her termination.

10 55. Ms. Johnson has learned that the Company had retained Kroll to conduct an  
11 investigation of some of Ms. Johnson’s claims, likely in an attempt to provide some comfort to the  
12 Series B investors. This is a nominal step up from Mr. Hamid’s purported “investigation,” and meant  
13 to provide cover. Kroll is regularly retained by companies, or their white shoe law firms, and it is not  
14 uncommon for Kroll to find in favor of its client. That notwithstanding, Modern Health is also  
15 attempting to tip the scales of the investigation in its favor, and suppress negative statements, by  
16 sending cease and desist letters, and threatening to bring suits for defamation against people that have  
17 offered statements to Kroll. Further, Kroll has failed to contact Ms. Johnson, the person who originally  
18 raised these concerns to Mr. Hamid, even six months after she raised the issues.

19 56. Given the risk to the Company, and its patients’ health, Ms. Johnson had no choice but  
20 to bring this suit. Ms. Friedensohn’s repeated behavior has been to lie, cheat, and steal; and then lie  
21 more and threaten people to cover up her tracks. Even as Ms. Johnson worked as the Company’s sole  
22 engineering leader and product manager to deliver highly engaging and successful first versions of the  
23 product, Ms. Friedensohn failed to do the work of an honest CEO. Ms. Friedensohn’s strategy has  
24 been simply to lie to customers telling them that Modern Health has every feature they could imagine:  
25 a massive international provider network; translations of the product into 50 languages: services like  
26 alcohol and substance abuse treatment; a legal way to transition therapists under exclusivity  
27 agreements with competitors; therapy for children and dependents; and even suicide prevention  
28 services. Ms. Friedensohn has herself made claims that all of these things exist to both investors and

1 customers, and directed employees to do the same, when in fact all of these features have been works  
2 of fiction on the part of Ms. Friedensohn, and evidence of these fictions exist. It goes to show that not  
3 only that Ms. Friedensohn is not only willing to break the law repeatedly, but she is incapable of  
4 running the Company any other way. This consistent behavior has repeatedly, and will put, both the  
5 Company at risk, and more importantly, the health and lives of patients at risk.

6 ///

## 7 LEGAL CLAIMS

### 8 FIRST CAUSE OF ACTION

#### 9 Breach of Fiduciary Duty

10 **(By Johnson, Derivatively on Behalf of Modern Health, Against Ms. Friedensohn  
11 and Mr. Hamid)**

12 57. Johnson repeats and incorporates each paragraph above as if fully set forth here.

13 58. Johnson was, and currently is, a stockholder of Modern Health.

14 59. As a director and/or officer of the Company, Ms. Friedensohn and Mr. Hamid owed  
15 fiduciary duties of care, loyalty, and good faith to Modern Health, and Modern Health's stockholders,  
16 including Ms. Johnson. Their fiduciary duties include obligations to exercise good business  
17 judgement, gather and consider all information, options and alternatives, to act prudently in the  
18 operation of the Company's business, to discharge actions in good faith, to act in the best interest of  
19 the Company and its stockholders, and to put the interest of the Company before their own.

20 60. Ms. Friedensohn and Mr. Hamid breached their fiduciary duty of care, by, among other  
21 things, engaging in the conduct set forth above.

22 61. Ms. Johnson complained about the conduct set forth above to both Ms. Friedensohn and  
23 Mr. Hamid, the only two other individuals on the Modern Health Board, yet they failed to act in any  
24 meaningful manner. Thus, Ms. Johnson's duty to make a demand prior to bringing this Action on  
25 behalf of Modern Health is relieved because any such demand would undoubtedly have been futile, as  
26 any claim or demand would have been rejected or met with hostility.

27 62. Ms. Friedensohn and Mr. Hamid's actions, described above, were grossly negligent and  
28 constituted intentional misconduct and/or a knowing violation of law.

1           63.     Ms. Johnson and the other Modern Health stockholders have been damaged by Ms.  
2     Friedensohn and Mr. Hamid’s many breaches of their fiduciary duties in an amount to be determined  
3     at trial.

4  
5  
6  
7                                   **SECOND CAUSE OF ACTION**  
8                                   **Wrongful Termination in Violation of Public Policy**  
9                                   **(By Ms. Johnson, Individually, Against Modern Health)**

10           64.     Ms. Johnson repeats and incorporates each paragraph above as if fully set forth here.

11           65.     An employer-employee relationship existed between Ms. Johnson and Modern Health.

12           66.     Through the actions of Ms. Friedensohn, Modern Health terminated Ms. Johnson on or  
13     about September 28, 2019.

14           67.     Modern Health’s termination of Ms. Johnson’s employment was in direct violation of  
15     public policy, including Ms. Johnson’s refusal to misrepresent and defraud investors, and place its  
16     clients and patients in grave danger, after learning about Ms. Friedensohn’s illegal practices.

17           68.     Ms. Johnson had a good-faith belief that the actions in the preceding paragraphs, which  
18     she complained about in the context of her employment, were unlawful.

19           69.     Ms. Johnson’s refusal to engage in unlawful acts at Ms. Friedensohn’s direction, or to  
20     condone/participate in them, was a proximate cause of Ms. Johnson’s termination from Modern  
21     Health.

22           70.     Ms. Johnson suffered damages as a result of having been terminated from Modern  
23     Health in violation of public policy, including lost wages, lost opportunities, expenses, loss of vesting  
24     of shares, and other damages, in an amount to be determined at trial.

25           71.     These actions of the Defendant were so cold, callous, and reckless as to be malicious.  
26     Ms. Johnson is therefore entitled to an award of punitive damages in an amount to be determined at  
27     trial.

28                                   **THIRD CAUSE OF ACTION**  
                                  **Retaliation in Violation of Cal. Lab. Code § 1102.5**  
                                  **(By Ms. Johnson, Individually, Against Modern Health)**



1 82. Ms. Friedensohn made false and defamatory statements about Ms. Johnson's moral  
2 turpitude and character to third parties as set forth above.

3 83. Ms. Friedensohn knew these statements were false, and did not take reasonable care to  
4 determine the truth of the statements she was making.

5 84. The defamatory statements Ms. Friedensohn made are false and not privileged.

6 85. The third parties that heard these statements reasonably understood the statements to  
7 mean that Ms. Johnson had engaged in the misconduct alleged.

8 86. Ms. Friedensohn's defamatory statements were made with malice, and with the intent  
9 to, and actually did, cause harm to Ms. Johnson's reputation, good name, business, trade, profession,  
10 occupation, and future business and employment prospects. All the third parties, that Ms. Friedensohn  
11 knowingly made a false representation to, conducted business with Ms. Johnson.

12 87. These actions of Ms. Friedensohn were so cold, callous and reckless as to be malicious.  
13 Ms. Johnson is therefore entitled to an award of exemplary and punitive damages in an amount to be  
14 determined at trial.

15 **FIFTH CAUSE OF ACTION**

16 **Declaratory Relief**

17 **(By Ms. Johnson, Individually, Against Modern Health)**

18 88. Ms. Johnson repeats and incorporates each paragraph above as if fully set forth here.

19 89. An actual, present, and justifiable controversy has arisen between the parties to this  
20 Action regarding Ms. Johnson's membership on the Company's Board of Directors.

21 90. On the one hand, Ms. Johnson contends that she is still a member of Board.

22 91. On the other hand, Modern Health appears to contend Ms. Johnson's is no longer on the  
23 Board as it has not involved her in any Board meetings or discussions.

24 92. This Court is vested with the power to declare and adjudicate the rights and legal  
25 relationships of the parties to this Action with reference to the issues raised by this Complaint.

26 93. Ms. Johnson desires a judicial determination of the rights and obligations of each of the  
27 parties to this Action with respect to the matters set forth in preceding paragraphs.

28 94. A judicial declaration is necessary and appropriate at this time under the circumstances  
in order that Ms. Johnson and Modern Health may ascertain their rights and duties as to the issues

1 raised in this claim.

2 **DEMAND FOR JURY TRIAL**

3 Ms. Johnson demands a trial by jury for all claims.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Ms. Johnson prays for relief and judgment against Defendants, jointly and  
6 severally, as follows, in amounts according to proof:

- 7 1. For judgment in favor of Plaintiff against Defendants;  
8 2. For general, special, and compensatory damages;  
9 3. For punitive and exemplary damages;  
10 4. For pre-judgment interest;  
11 5. For declaratory relief;  
12 6. For costs of suit incurred herein; and  
13 7. For such other and further relief as the Court deems just and proper.

14 Date: June 26, 2020

DHILLON LAW GROUP INC.



Harmeet K. Dhillon

Nitoj P. Singh

John-Paul S. Deol

Attorneys for Plaintiff Erica Johnson