

1 Timothy B. Del Castillo (SBN: 277296)

2 tdc@castleemploymentlaw.com

3 Kent L. Bradbury (SBN: 279402)

4 kb@castleemploymentlaw.com

5 **CASTLE LAW: CALIFORNIA EMPLOYMENT COUNSEL, PC**

6 3200 Douglas Blvd., Suite 300

7 Roseville, CA 95661

8 Telephone: (916) 245-0122

9 Attorneys for Plaintiff Issa Hasan

10
11 **BY FAX**

12 **SUPERIOR COURT OF CALIFORNIA**
13 **FOR THE COUNTY OF SACRAMENTO**

14 ISSA HASAN, individually,
15 and as an aggrieved employee
16 pursuant to the Private Attorneys
17 General Act (PAGA).

18 Plaintiff

19 vs.

20 SUBWAY DEVELOPMENT
21 SACRAMENTO INC., a California
22 Corporation; CHIRAYU PATEL, an
23 individual; LETAP GROUP, LLC, a
24 California Limited Liability Company;
25 PJP MANAGEMENT, LLC, a California
26 Limited Liability Company; and DOES 1
27 to 20, inclusive,

28 Defendants

Case No.

COMPLAINT FOR DAMAGES:

1. **Disability Discrimination (Cal. Gov't Code § 12940(a));**
2. **Failure to Accommodate (Cal. Gov't Code § 12940(m));**
3. **Failure to Engage in the Interactive Process (Cal. Gov't Code § 12940(n));**
4. **Failure to Pay Minimum Wage for All Hours Worked;**
5. **Failure to Provide Meal and Rest Periods;**
6. **Failure to Provide Accurate Wage Statements;**
7. **Waiting Time Penalties;**
8. **Failure to Pay Overtime Wages;**
9. **Failure to Reimburse Business Expenses;**
10. **Unfair Competition (Business & Professions Code § 17200 *et seq.*);**
11. **Civil Penalties Pursuant to Private Attorney General Act, Labor Code § 2698 *et seq.*;**
12. **Wrongful Termination**

JURY TRIAL DEMANDED

1 Plaintiff ISSA HASAN (“Plaintiff”) hereby files this Complaint against Defendants
2 SUBWAY DEVELOPMENT SACRAMENTO INC., a California Corporation; CHIRAYU PATEL,
3 an individual; LETAP GROUP, LLC, a California Limited Liability Company; PJP Management,
4 LLC; and DOES 1 to 20, inclusive, (hereinafter collectively referred to as “Defendants”). Plaintiff
5 alleges as follows:

6 **PARTIES AND JURISDICTION**

7 1. Plaintiff was an employee of Defendants, where he worked as a store safety inspector.

8 2. At all times relevant in this Complaint, Plaintiff was over the age of eighteen and
9 resided in the State of California.

10 3. Plaintiff is informed and believes, and thereon allege, that SUBWAY
11 DEVELOPMENT SACRAMENTO INC. is a California Corporation with its principal place of
12 business in California.

13 4. Plaintiff is informed and believes, and thereon allege, that LETAP GROUP, LLC, is a
14 California Limited Liability Company with its principal place of business in California.

15 5. Plaintiff is informed and believes, and thereon allege, that PJP MANAGEMENT,
16 LLC, is a California Limited Liability Company with its principal place of business in California.

17 6. Plaintiff is further informed and believe, and thereon allege, that Defendant
18 CHIRAYU PATEL was the owner and operator of one or more of the corporate Defendants and can
19 be found personally liable for wage and hour violations pursuant to Labor Code section 558.1.

20 7. Plaintiff is further informed and believes, and thereon allege, that each of the
21 Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer or
22 joint venturer of the remaining defendants and was acting within the course and scope of that
23 relationship. Plaintiff are further informed and believe, and thereon allege, that each of the
24 Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the
25 remaining defendants. The true names and capacities of the defendants named herein Does 1 through
26 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiff, who
27 therefore sue such defendants by fictitious names pursuant to California Code of Civil Procedure
28

1 section 474. Plaintiff will amend this complaint to show such true names and capacities of Does 1
2 through 20, inclusive, when they have been determined.

3 8. The Sacramento Superior Court has jurisdiction in this matter due to alleged
4 violations of California Labor Code §§ 203, 226, 226.7, 510, 512, 1194 Business and Professions
5 Code § 17200 *et seq.*, and the applicable Wage Order.

6 9. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some
7 of the wrongful acts and violations of law asserted herein occurred within Sacramento County.

8 10. On May 18, 2020, Plaintiff filed his Labor Code § 2699.3 Private Attorney General
9 Act (“PAGA”) notice with the California Labor & Workforce Development Agency (“LWDA”).
10 The LWDA did not respond to Plaintiff’s PAGA notice within 65 days, thus deputizing Plaintiff to
11 represent himself, other aggrieved employees, and the California Labor Commissioner for the
12 purpose of collecting civil penalties for violations of the California Labor Code committed by
13 Defendants.

14 11. Plaintiff filed a complaint of discrimination with the State of California Department
15 of Fair Employment and Housing (“DFEH”) against all Defendants (except CHIRAYU PATEL)
16 within the applicable statutory period and received a Notice of Right to Sue on July 9, 2020, which
17 was served on Defendants per the requirements of the statute.

18 **BACKGROUND**

19 12. Plaintiff worked for Defendants as from approximately August 2018 until his
20 discriminatory and illegal termination in March 2020. Throughout the relevant period, Plaintiff
21 worked as a store inspector.

22 **Wage and Hour Violations**

23 13. During his employment, Plaintiff, and other aggrieved employees, have been made to
24 suffer numerous violations of the California Labor Code.

25 14. From his hiring until approximately August or September 2019, Plaintiff was
26 classified as exempt. At that time Plaintiff was informed that the company’s lawyer had told the
27 company that Plaintiff need to be hourly (non-exempt), and Defendants re-classified Plaintiff (and
28

any similarly situated employees) as non-exempt. Defendants did not pay Plaintiff (and any similarly situated employees) back wages for the prior misclassification.

15. Throughout the relevant period, when Defendants classified Plaintiff and similarly situated employees as exempt, Plaintiff's position did not qualify for any exemption under California law. Nevertheless, Defendants routinely required Plaintiff to work more than eight (8) hours per day, and/or forty (40) hours per week.

16. Plaintiff's duties consisted of visiting Subway locations and performing food safety tasks according to a checklist created by Defendants. For example, Plaintiff performed temperature checks, made sure equipment was functioning properly, and checked that food was being labelled properly. In any of these tasks Plaintiff was not expected—nor did he—exercise independent judgment and discretion in matters of significance. Plaintiff was not permitted to manage the business operations of Defendants' stores or business operations in any meaningful way. Specifically, Plaintiff did not perform office or non-manual work that directly relates to Defendants' management policies or general business operations, nor did Plaintiff customarily and regularly exercise discretion or independent judgment in performing his job with respect to matters of significance. Plaintiff did not have the authority to formulate, affect, interpret or implement Defendants' management policies or operating practices; Plaintiff did not carry out major assignments in conducting the operations of the Defendants' business; Plaintiff did not perform work that affects Defendants' business operations to a substantial degree; Plaintiff did not have the authority to commit Defendants in matters that have a significant financial impact; Plaintiff did not have authority to waive or deviate from Defendants' established policies and procedures without prior approval; Plaintiff did not have authority to negotiate and bind Defendants on significant matters; Plaintiff did not provide consultation or expert advice to management; Plaintiff was not involved in planning long- or short-term business objectives; Plaintiff did not investigate and resolve matters of significance on behalf of management; and Plaintiff did not represent Defendants in handling complaints, arbitrating disputes or resolving grievances. In addition, Plaintiff did not perform work requiring special training, experience or knowledge under general supervision only.

1 17. Moreover, Plaintiff and similarly situated employees did not spend more than 50% of
2 their time performing exempt duties. Plaintiff and similarly situated employees regularly spent the
3 majority of their work time performing the duties of non-exempt employees. Defendants tracked the
4 hours worked by Plaintiff and similarly situated employees. Consequently, Defendants willfully and
5 deliberately misclassified Plaintiff and similarly situated employees as employees who were exempt
6 from the overtime provisions of the California Labor Code and Wage Orders.

7 18. Nor did Defendants reimburse Plaintiff and all employees for all mileage expenses
8 incurred for business purposes. Defendants only reimbursed Plaintiff and all employees for use of
9 their personal vehicles only when they exceeded 30 miles, even though the normal commute
10 distance for Plaintiff to only around 10 miles. Defendants' arbitrary mileage policy resulted in
11 Plaintiff and all employees being required to incur business expenses without indemnification by
12 their employers.

13 19. Defendants also did not allow Plaintiff and similarly situated employees to take their
14 statutorily required meal and rest periods. Defendants failed to provide Plaintiff and other similarly
15 situated employees a 30-minute, duty-free meal period before the end of the fifth hour of work as
16 required under the law. Defendants also failed to provide rest periods to Plaintiff and similarly
17 situated employees for every 4 hours worked or major fraction thereof.

18 20. During the relevant period, Defendants did not provide Plaintiff and similarly situated
19 employees with a compliant Wage Notice to Employees as required under Labor Code section
20 2810.5.

21 21. Plaintiff and similarly situated employees regularly worked over eight (8) hours a day
22 and/or forty (40) hours a week for which overtime was not paid. Defendants also failed to pay
23 minimum wages for all hours worked by Plaintiff and similarly situated employees.

24 22. As a result, Defendants did not provide Plaintiff and similarly situated employees
25 legally compliant wage statements noting, among other things, total hours worked, gross wages
26 earned, the applicable hourly rates in effect during the pay period and the corresponding number of
27 hours worked at each hourly rate, and the legal name of the employer.
28

1 23. Defendants also did not provide any aggrieved employees all wages owed upon their
2 termination or within seventy-two (72) hours of their separation from employment.

3 24. Plaintiff is informed and believes that Defendants committed numerous other
4 violations of the California Labor Code, including but not limited to those identified in this letter.
5 Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502,
6 513 (2018), Plaintiff intends to seek civil penalties for all violations of the California Labor Code,
7 whether he experienced them personally or not.

8 25. Upon information and belief, all transactions regarding compensation, hiring,
9 terminations, promotions, pay increases, etc. relating to Defendants' California employees were
10 submitted to and processed by Defendant in its California headquarters. Additionally, on
11 information and belief, Defendants' corporate records, in particular HR and pay records pertaining to
12 Defendants' California employees, are also maintained at Defendants' California headquarters.

13 26. Upon information and belief, Defendants maintain a central Payroll department at its
14 California headquarters which processes payroll for all Defendants' employees, including Plaintiff
15 and similarly situated, aggrieved employees.

16 27. At all times herein set forth, PAGA provides that any provision of law under the
17 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
18 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage Order
19 may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of
20 themselves and other current or former employees pursuant to procedures outlined in California
21 Labor Code section 2699.3.

22 28. PAGA defines an aggrieved employee in labor Code section 2699(c) as "any person
23 who was employed by the alleged violator and against whom one or more of the alleged violations
24 was committed."

25 29. Plaintiff and other current and former employees of Defendants are aggrieved
26 employees as defined by the Labor Code in that they are all Defendants' current or former
27 employees and one or more of the alleged violations was committed against them.
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18

8
9
10
11
12
13
14
15
16
17
18

22
23
24
25
26
27
28

26
27
28

28

FIRST CAUSE OF ACTION
Disability Discrimination in Employment
(As to All Defendants except CHIRAYU PATEL)

35. Plaintiff hereby incorporates by reference Paragraphs 1 through 34 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

36. During the course of his employment with Defendants, Plaintiff suffered from a disability and serious medical condition that limits a major life activity and requires on-going intervention.

37. Defendant knew Plaintiff had a disability and serious medical condition.

38. Plaintiff was able to perform the essential job duties of Defendant's position with reasonable accommodation. At all times during his employment, Plaintiff was qualified to perform the duties of Defendant's position.

39. Defendant failed to accommodate Plaintiff's disability and serious medical condition and failed to engage in the interactive process to determine how best to accommodate Plaintiff's disability and serious medical condition. Defendant then terminated Plaintiff due to perceptions regarding his disability and serious medical condition.

40. As a direct, foreseeable, and proximate result of Defendant's unlawful actions, Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred other economic losses.

41. As a further direct, foreseeable, and proximate result of Defendant's unlawful actions, Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to his damage in an amount to be proven at time of trial.

42. Defendant committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of his rights. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

///

///

SECOND CAUSE OF ACTION
Failure to Accommodate
(As to All Defendants except CHIRAYU PATEL)

43. Plaintiff hereby incorporates by reference Paragraphs 1 through 42 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

44. During the course of his employment with Defendant, Plaintiff suffered from a disability and serious medical condition that limits a major life activity and requires on-going intervention.

45. Defendant knew Plaintiff had a disability and serious medical condition.

46. Plaintiff was able to perform the essential job duties of Defendant's position with reasonable accommodation. At all times during his employment, Plaintiff was qualified to perform the duties of Defendant's position.

47. Defendant failed to accommodate Plaintiff's disability and serious medical condition.

48. As a direct, foreseeable, and proximate result of Defendant's unlawful actions, Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred other economic losses.

49. As a further direct, foreseeable, and proximate result of Defendant's unlawful actions, Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to his damage in an amount to be proven at time of trial.

50. Defendant committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of his rights. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

///

///

///

///

THIRD CAUSE OF ACTION
Failure to Engage in the Interactive Process
(As to All Defendants except CHIRAYU PATEL)

51. Plaintiff hereby incorporates by reference Paragraphs 1 through 50 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

52. During the course of his employment with Defendant, Plaintiff suffered from a disability and serious medical condition that limits a major life activity and requires on-going intervention.

53. Defendant knew Plaintiff had a disability and serious medical condition.

54. Plaintiff attempted to obtain reasonable accommodations in the workplace by requesting them from Defendant. Plaintiff was willing to enter into the interactive process to determine an effective reasonable accommodation.

55. Defendant failed to engage in a timely, good-faith interactive process to determine an effective reasonable accommodation for Plaintiff and failed to respond in any way to Plaintiff's request for reasonable accommodation.

56. As a direct, foreseeable, and proximate result of Defendant's unlawful actions, Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred other economic losses.

57. As a further direct, foreseeable, and proximate result of Defendant's unlawful actions, Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to his damage in an amount to be proven at time of trial.

58. Defendant committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of his rights. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

///

///

///

FOURTH CAUSE OF ACTION
(Failure to Pay Minimum Wage for All Hours Worked)
(As to All Defendants)

59. Plaintiff hereby incorporates by reference Paragraphs 1 through 58 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

60. Defendants were required to compensate Plaintiff with at least the State's minimum wage for all hours worked. *See* Cal. Labor Code § 1194; MW Order-2014; MW Order-2017.

61. Defendants were aware of their obligation to pay the minimum wage but failed to do so.

62. In addition, California Labor Code section 558.1, subsection (a), provides that "Any employer or other person acting on behalf of an employer, who violates, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation."

63. California Labor Code section 558.1, subsection (b), further provides that the term "other person acting on behalf of any employer" means "a natural person who is an owner, director, officer, or managing agent of the employer."

64. Provisions regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, such as IWC Wage Order No. 5-2001, and California Labor Code section 1194 have been violated by, or were caused to be violated by, Defendants and Defendant CHIRAYU PATEL. Plaintiff is informed and thereon believes that Defendant CHIRAYU PATEL was a person acting on behalf of Defendants, including as an owner and/or managing agent of Defendants, within the meaning of California Labor Code section 558.1. Therefore, Defendant CHIRAYU PATEL may be held liable as the employer for the violations of provisions regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, including IWC Wage Order No. 5-2001, and California Labor Code section 1194.

1 65. Defendants' conduct described herein violates California Labor Code section 1194,
2 and Wage Orders. As a proximate result of Defendants' conduct, Plaintiff has been damaged and
3 deprived of minimum wages, in an amount to be established at trial. Plaintiff now seeks these
4 wages, liquidated damages pursuant to California Labor Code section 1194.2, attorney's fees and
5 costs, and interest pursuant to California Labor Code section 1194.

6
7 **FIFTH CAUSE OF ACTION**
8 **Failure to Provide Meal and Rest Periods**
9 **(As to All Defendants)**

10 66. Plaintiff incorporates by reference and re-allege paragraphs 1 through 65 as though
11 fully set forth herein.

12 67. An employer must provide an employee a meal period and/or rest period in
13 accordance with the applicable Wage Order and Labor Code sections 226.7 and 512.

14 68. Labor Code section 510 and Wage Order 5-2001, section 11(A) require an employer
15 to provide a meal period of not less than thirty (30) minutes for each work period of more than five
16 (5) hours. If an employee works longer than ten (10) hours in a workday, the employer must provide
17 a second meal period.

18 69. Labor Code section 510 and Wage Order 5-2001 section 12(A) require an employer
19 to provide a rest period of not less than ten (10) minutes for each work period of more than four (4)
20 hours or a major fraction thereof.

21 70. Plaintiff alleges that Defendants failed to provide Plaintiff with meal breaks of at least
22 thirty (30) minutes for several work periods that Plaintiff worked more than five (5) hours in a day,
23 or to take a second meal break of at least thirty (30) minutes for several work periods that Plaintiff
24 worked more than ten (10) hours in a day.

25 71. Plaintiff further allege that Defendants failed to provide rest breaks of at least ten (10)
26 minutes for each work period that they worked more than four (4) hours.

27 72. Also, provisions regulating minimum wages or hours and days of work in any order of
28 the Industrial Welfare Commission, such as IWC Wage Order No. 5-2001, and California Labor

1 Code section 226.7 have been violated by, or were caused to be violated by, Defendants and
2 Defendant CHIRAYU PATEL. Plaintiff is informed and thereon believes that Defendant
3 CHIRAYU PATEL was a person acting on behalf of Defendants, including as an owner and/or
4 managing agent of Defendants, within the meaning of California Labor Code section 558.1.
5 Therefore, Defendant CHIRAYU PATEL may be held liable as the employer for the violations of
6 provisions regulating minimum wages or hours and days of work in any order of the Industrial
7 Welfare Commission, including IWC Wage Order No. 5-2001, and California Labor Code section
8 226.7.

9
10 73. As a proximate cause of Defendants' failure to provide meal and rest periods, Plaintiff is
11 entitled to one (1) hour of pay at the regular rate of compensation for each meal period or rest period
12 not provided, as a wage, from three (3) years of the filing of this action, in an amount to be
13 established at trial. *See* Labor Code § 226.7 and Wage Order 5-2001 §§ 11(B), 12(B).

14 74. As a proximate cause of Defendants' failure to provide meal and rest periods,
15 Plaintiff is entitled to one (1) hour of pay at the regular rate of compensation for each meal period or
16 rest period not provided, as a wage, from three (3) years of the filing of this action, in an amount to
17 be established at trial. *See* Labor Code § 226.7 and Wage Order 5-2001 §§ 11(B), 12(B).

18 **SIXTH CAUSE OF ACTION**
19 **Failure to Provide Accurate Wage Statements**
20 **(As to All Defendants)**

21 75. Plaintiff incorporates by reference and re-allege paragraphs 1 through 74 as though
22 fully set forth herein.

23 76. According to Labor Code section 226(a), an employer must provide an itemized
24 statement to an employee, semi-monthly or at the time of each payment of wages, showing:

25 *(1) gross wages earned, (2) total hours worked by the employee,*
26 *except for any employee whose compensation is solely based on a*
27 *salary and who is exempt from payment of overtime under*
28 *subdivision (a) of Section 515 or any applicable order of the*
Industrial Welfare Commission, (3) the number of piece-rate units
earned and any applicable piece rate if the employee is paid on a
piece-rate basis, (4) all deductions, provided that all deductions

1 *made on written orders of the employee may be aggregated and*
2 *shown as one item, (5) net wages earned, (6) the inclusive dates of*
3 *the period for which the employee is paid, (7) the name of the*
4 *employee and the last four digits of his or his social security number*
5 *or an employee identification number other than a social security*
6 *number, (8) the name and address of the legal entity that is the*
7 *employer and, if the employer is a farm labor contractor, as defined*
8 *in subdivision (b) of Section 1682, the name and address of the legal*
9 *entity that secured the services of the employer, and (9) all*
10 *applicable hourly rates in effect during the pay period and the*
11 *corresponding number of hours worked at each hourly rate by the*
12 *employee. The deductions made from payment of wages shall be*
13 *recorded in ink or other indelible form, properly dated, showing the*
14 *month, day, and year, and a copy of the statement and the record of*
15 *the deductions shall be kept on file by the employer for at least three*
16 *years at the place of employment or at a central location within the*
17 *State of California.*

18 77. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
19 itemized statement or failed to provide an accurate and complete itemized statement showing the
20 requirements set forth in Labor Code section 226(a). Defendants also failed to list on the wage
21 statements provided to Plaintiff and similarly situated employees all hours worked.

22 78. Additionally, Plaintiff alleges he suffered injury as a result of Defendants' failure to
23 provide accurate and complete information as required by any one or more of items (1) to (9),
24 inclusive, of Labor Code section 226, subdivision (a), and Plaintiff cannot promptly and easily
25 determine (*i.e.* a reasonable person in each Plaintiff's position would not be able to readily ascertain
26 the information without reference to other documents or information) from the wage statement
27 alone.

28 79. Also, California Labor Code section 226 has been violated by, or was caused to be
violated by, Defendants and Defendant CHIRAYU PATEL. Plaintiff is informed and thereon
believes that Defendant CHIRAYU PATEL was a person acting on behalf of Defendants, including
as an owner and/or managing agent of Defendants, within the meaning of California Labor Code
section 558.1. Therefore, Defendant CHIRAYU PATEL may be held liable as the employer for the
violations California Labor Code section 226.

80. Plaintiff is entitled to, and does hereby seek, injunctive relief requiring Defendants to comply with Labor Code §§ 226(a) and 1174(d), and all applicable damages and civil penalties.

SEVENTH CAUSE OF ACTION
Waiting Time Penalties
(As to All Defendants)

81. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 80 as though fully set forth herein.

82. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. Labor Code § 201.

83. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of resignation. Labor Code § 202.

84. An employer who willfully fails to pay an employee wages in accordance with Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. Labor Code § 203.

85. Plaintiff did not receive all wages, including minimum and overtime wages and meal and rest period premiums, at his termination or separation from employment. Specifically, Defendants failed to pay Plaintiff all wages owed at the time of termination.

86. Defendants knew of their obligation to pay Plaintiff for all hours worked because they had knowledge Plaintiff was, at all times, a non-exempt employee, worked over eight (8) hours a day and/or forty (40) hours a week, and did not receive overtime or minimum wages for all hours worked. Such conduct shows Defendants' knowledge of their obligation to pay all wages owed upon termination and willful refusal.

87. Also, California Labor Code section 203 has been violated by, or was caused to be violated by, Defendants and Defendant CHIRAYU PATEL. Plaintiff is informed and thereon believes that Defendant CHIRAYU PATEL was a person acting on behalf of Defendants, including as an owner and/or managing agent of Defendants, within the meaning of California Labor Code section 558.1. Therefore, Defendant CHIRAYU PATEL may be held liable as the employer for the violations California Labor Code section 203.

88. As a proximate result of the Defendants' conduct, Plaintiff has been damaged and deprived of his wages and thereby seeks his daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due in an amount to be established at trial.

EIGHTH CAUSE OF ACTION
Failure to Pay Overtime Wages
(As to All Defendants)

89. Plaintiff incorporates by reference and re-allege paragraphs 1 through 88 as though fully set forth herein.

90. During the period Plaintiff was employed by Defendants, Defendants were required to compensate his one and one-half (1½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours per day. *See* California Labor Code §§ 510, 1194. Although Plaintiff regularly worked in excess of eight (8) hours a day and/or forty (40) hours per week, Defendants failed to pay all overtime wages owed to his.

91. Plaintiff was a non-exempt employee under the administrative, executive, or professional exemptions of the applicable Wage Order and California Labor Code section 510.

92. In addition, California Labor Code section 558.1, subsection (a), provides that “Any employer or other person acting on behalf of an employer, who violates, or cause to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.”

93. California Labor Code section 558.1, subsection (b), further provides that the term “other person acting on behalf of any employer” means “a natural person who is an owner, director, officer, or managing agent of the employer.”

94. Provisions regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, such as IWC Wage Order No. 2-2001, and California Labor Code section 1194 have been violated by, or were caused to be violated by, Defendants and Defendant CHIRAYU PATEL. Plaintiff is informed and thereon believes that Defendant CHIRAYU PATEL

1 was a person acting on behalf of Defendants, including as an owner and/or managing agent of
2 Defendants, within the meaning of California Labor Code section 558.1. Therefore, Defendant
3 CHIRAYU PATEL may be held liable as the employer for the violations of provisions regulating
4 minimum wages or hours and days of work in any order of the Industrial Welfare Commission,
5 including IWC Wage Order No. 5-2001, and California Labor Code section 1194.

6 95. Defendants' conduct described herein violates California Labor Code sections 510
7 and 1194, and Wage Orders. As a proximate result of Defendants' conduct, Plaintiff has been
8 damaged and deprived of overtime wages, in an amount to be established at trial. Plaintiff now
9 seeks these wages, attorney's fees and costs, and interest pursuant to California Labor Code sections
10 1194.

11 **NINTH CAUSE OF ACTION**
12 **Failure to Reimburse Business Expenses**
13 **(As to All Defendants except CHIRAYU PATEL)**

14 96. Plaintiff hereby incorporates by reference Paragraphs 1 through 95 of this Complaint
15 as if fully set forth herein and for a cause of action alleges as follows:

16 97. Labor Code section 2802(a) states that "An employer shall indemnify his or his
17 employee for all necessary expenditures or losses incurred by the employee in direct consequence of
18 the discharge of his or his duties, or of his or his obedience to the directions of the employer, even
19 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
20 unlawful."

21 98. Defendants knew that Plaintiff and similarly situated employees incurred expenses for
22 work purposes, including but not necessarily limited to use of personal vehicles and cell phones.
23 However, Defendants did not reimburse Plaintiff or similarly situate employees for these expenses.

24 99. Defendants' conduct described herein violated California Labor Code section 2802.
25 As a proximate result of Defendants' conduct, Plaintiff and other employees have been damaged in
26 an amount to be established at trial, and are entitled to recover these damages, as well as interest and
27 reasonable attorney's fees and costs, pursuant to statute
28

TENTH CAUSE OF ACTION
(Unfair Competition)
(As to All Defendants)

100. Plaintiff incorporates by reference and re-allege paragraphs 1 through 99 as though fully set forth herein.

101. Unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the California Business and Professions Code. *See* California Business and Professions (“B&P”) Code § 17200.

102. Plaintiff was not paid all wages owed during his employment, was not paid the agreed-upon wage, and was not provided legally compliant meal and rest breaks. Defendants also failed to provide legally compliant paystubs to Plaintiff throughout the employment relationship that failed to show, among other things, all hours worked.

103. Plaintiff is also informed and believe and thereon allege that such actions and/or conduct constitute a violation of the California Unfair Competition Law (“UCL”) (California Business and Professions Code 17200 *et seq.*), pursuant to *Cortez v. Purolator Air Filtration Prods. Co.*, 23 Cal. 4th 163 (2000).

104. As a direct and legal result of the Defendants’ conduct, as alleged herein, pursuant to the UCL (including B&P Code §17203), Plaintiff is entitled to restitution as a result of Defendants’ unfair business practices, including, but not limited to, public injunctive relief, pursuant to B&P Code § 17203, and interest and penalties pursuant to B&P §§ 17203, 17208, violations of Labor Code §§ 1194, 226, and 226.7, all in an amount as yet unascertained but subject to proof at trial, for up to four (4) years from the filing of this Action.

ELEVEN CAUSE OF ACTION
Civil Penalties Pursuant to PAGA § 2698 et seq.
(As to All Defendants)

105. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 104 as though fully set forth herein.

106. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants' violations of the California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order violations identified above.

107. On or about August 26, 2020, Plaintiff, through counsel, sent written notice to the LWDA regarding Defendant's violations of the California Labor Code, pursuant to Labor Code section 2698, *et seq.*, PAGA. On November 16, 2020, Plaintiff's counsel filed an amended PAGA Notice. As of the date of the filing of this Complaint, the LWDA has not informed Plaintiff whether the LWDA intends to investigate Plaintiff's PAGA claims. As such, Plaintiff has exhausted his administrative remedies under PAGA and may proceed in this Court.

108. Plaintiff is thus entitled to recover civil penalties on behalf of the State of California and all aggrieved employees for all violations of the Labor Code from August 26, 2019, through trial on this matter.

TWELFTH CAUSE OF ACTION
Wrongful Discharge in Violation of Public Policy
(As to All Defendants except CHIRAYU PATEL)

109. Plaintiff hereby incorporates by reference Paragraphs 1 through 108 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

110. During the course of his employment with Defendants, Plaintiff suffered from a disability and serious medical condition that limits a major life activity and requires on-going intervention.

111. Defendant knew Plaintiff had a disability and serious medical condition.

112. Plaintiff was able to perform the essential job duties of Defendant's position with reasonable accommodation. At all times during his employment, Plaintiff was qualified to perform the duties of his position.

113. Following Plaintiff's reasonable request for a short leave of absence due to his being at higher risk for COVID-19, Defendant failed to accommodate Plaintiff's disability and serious medical condition and failed to engage in the interactive process to determine how best to

1 accommodate Plaintiff's disability and serious medical condition. Furthermore, Defendant
2 terminated Plaintiff's employment due to its perceptions regarding his disability and serious medical
3 condition.

4 114. Plaintiff's employment was terminated in violation of fundamental public policies of
5 the State of California. It is, and at all times relevant to this action it has been, the law and
6 fundamental public policy of the state of California to prevent discrimination in employment. *See*
7 *City of Moorpark v. Sup. Ct. (Dillon)*, 18 Cal. 4th 1143 (1998).

8 115. Defendant retaliated against Plaintiff due to its perception of Plaintiff's medical
9 condition and for requesting reasonable workplace accommodation for his disability and serious
10 medical condition. Termination of Plaintiff's employment was a violation of public policy (a
11 "nexus" exists between the termination and Plaintiff's protected activity). Accordingly, Plaintiff was
12 unlawfully terminated in violation of the fundamental public policies of the state of California.

13 116. As a direct, foreseeable, and proximate result of Defendant's unlawful actions,
14 Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred
15 other economic losses.

16 117. As a further direct, foreseeable, and proximate result of Defendant's unlawful actions,
17 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to his
18 damage in an amount to be proven at time of trial.

19 118. Defendant committed the acts herein despicably, maliciously, fraudulently, and
20 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
21 amounting to malice, and in conscious disregard of his rights. Plaintiff is thus entitled to recover
22 punitive damages from Defendant in an amount according to proof.

23 **DAMAGES**

24 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- 25 1. A jury trial;
- 26 2. For penalties and liquidated damages under the California Labor Code according to
27 proof allowed by law;
- 28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. For compensatory damages, including, but not limited to, unpaid wages, plus interest, according to proof allowed by law;
4. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's fees;
5. For injunctive relief;
6. For an award of prejudgment and post-judgment interest; and
7. For an award to Plaintiff of such other and further relief as the Court deems just and proper.

Dated: November 18, 2020

Castle Law: California Employment Counsel, PC

By: 

Timothy B. Del Castillo
Kent L. Bradbury
Attorneys for Plaintiff ISSA HASAN

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury.

Dated: November 18, 2020

Castle Law: California Employment Counsel, PC

By: 

Timothy B. Del Castillo
Kent L. Bradbury
Attorneys for Plaintiff ISSA HASAN