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7 Attorneys for PLAINTIFF and the State of California

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF CONTRA COSTA

10 RAYMUNDA E. MENJIVAR on behalf of
11 herself and all others similarly situated,

12 Plaintiff,

13 vs.
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15 ANGELO'S GOURMET DELI, INC., JAE
16 CHOI, ANNA LEE and DOES 1 through 20,

17 Defendants.
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Case No. C20-00885

FIRST AMENDED COMPLAINT

1. Sexual Harassment/Hostile Work Environment in Violation of FEHA
2. Age-Based Harassment/Hostile Work Environment in Violation of FEHA
3. National Origin Harassment/Hostile Work Environment in Violation of FEHA
4. Wrongful Termination in Public Policy, and the California Constitution
5. Gender Violence in Violation of Cal. Civ. Code § 52.4
6. Assault
7. Battery
8. False Imprisonment
9. Intentional Infliction of Emotional Distress
10. Negligent Infliction of Emotional Distress
11. Failure to Pay Contractual Wages
12. Failure to Pay Minimum Wage
13. Failure to Pay Overtime
14. Meal Period Violations
15. Rest Period Violations
16. Wage Statement and Record Keeping Violations
17. Failure to Pay All Wages Owed Upon Termination
18. Violation of Unfair Competition Law
19. PAGA - Labor Code § 2699 et seq.

DEMAND FOR JURY TRIAL

1 RAYMUNDA E. MENJIVAR (hereafter "PLAINTIFF") brings this action against
2 ANGELO'S GOURMET DELI, INC., JAE CHOI, ANNA LEE and DOES 1 through 20 (hereafter
3 "DEFENDANTS"). The allegations in this complaint are made on PLAINTIFF's personal
4 knowledge, except the allegations made upon information and belief, which are based upon the
5 investigation of counsel.

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7 **I. NATURE OF THE ACTION**

8 1. This action is brought by PLAINTIFF against DEFENDANTS to recover all relief
9 available to PLAINTIFF under law. The claims herein arise from DEFENDANTS' wrongful
10 conduct relating to the employment of PLAINTIFF by ANGELO'S GOURMET DELI, INC.,
11 including harassing conduct by defendants JAE CHOI and ANNA (LNU) on the basis of sex, age,
12 and national origin, wrongful termination, gender violence, assault, battery, false imprisonment,
13 intentional infliction of emotional distress, negligent infliction of emotional distress, failure to pay
14 contractual wages, failure to pay minimum wages, failure to pay overtime, failure to provide
15 proper rest and meal periods, failure to provide reimbursement for necessary business
16 expenditures, failure to provide sick pay, wage statement and record keeping violations, failure to
17 pay all wages owed upon termination, violation of unfair competition law, and penalties under the
18 California Private Attorney General Act, Labor Code §§ 2698 *et seq.* ("PAGA").

19 2. The true names and capacities of defendants named as DOE 1 through DOE 20,
20 inclusive, are presently unknown to PLAINTIFF. PLAINTIFF will amend this complaint, setting
21 forth the true names and capacities of these fictitious defendants when they are ascertained.
22 PLAINTIFF is informed and believes, and on that basis alleges, that each of the fictitious
23 defendants has participated in the acts alleged in this complaint to have been done by the named
24 DEFENDANTS.

25 3. PLAINTIFF is informed and believes, and on that basis alleges, that at all relevant
26 times, each of DEFENDANTS, whether named or fictitious, were the agent or employee of each of
27 the other DEFENDANTS, and in doing the things alleged to have been done in the complaint,
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1 acted within the scope of such agency or employment, or ratified the acts of the other.
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3 **II. JURISDICTION AND VENUE**

4 4. Jurisdiction is proper in the Superior Court of California, County of Contra Costa
5 because at least one defendant resides, works or conducts business here. In particular, Defendant
6 ANGELO's operates a delicatessen at 12025 San Pablo Ave, Richmond, CA 94805 where some or
7 all of DEFENDANTS' wrongful conduct took place.

8 5. This Court has jurisdiction under California Code of Civil Procedure Section
9 410.10, in that this is a civil action where the matter in controversy, exclusive of interest and costs,
10 exceeds \$25,000.

11 6. Venue is proper in that some or all of the acts complained of occurred in the county
12 of Contra Costa, California and that, at all relevant times hereto, DEFENDANTS worked or
13 conducted business in this county.
14

15 **III. PARTIES**

16 **A. PLAINTIFF**

17 7. PLAINTIFF is an individual residing in California who was directly or jointly
18 employed by DEFENDANTS as a non-exempt employee in Richmond, California. PLAINTIFF
19 was employed by DEFENDANTS within all times relevant and was subjected to harassment on the
20 basis of her sex, age, and national origin, wrongful termination, gender violence, assault, battery,
21 false imprisonment, and intentional infliction of emotional distress. She was denied wages owed,
22 including contractual wages, minimum wages, and overtime premium wages, and was denied
23 proper rest and meal breaks, and sick pay. As a result of DEFENDANTS' myriad violations of
24 California law described in this Complaint, PLAINTIFF has suffered injury in fact, has been
25 subjected to severe emotional distress, and has lost money or property as a result of
26 DEFENDANTS' practices.
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1 **B. DEFENDANTS**

2 8. Defendant ANGELO’S is a California corporation located in the Richmond,
3 California. Defendant ANGELO’S operates and maintains a delicatessen, where customers
4 purchase and eat foods such as sandwiches and salads. During all relevant times alleged herein,
5 ANGELO’S employed PLAINTIFF and similarly situated persons as non-exempt employees and
6 committed in California and in this District the acts and/or caused the violations complained of
7 herein.

8 1. On information and belief, Defendant JAE CHOI (“CHOI”) was the Chief Financial
9 Officer and Secretary of Defendant ANGELO’S. At all times relevant herein, Defendant CHOI
10 owned and/or operated Defendant ANGELO’S, and exercised ultimate control over Defendant
11 ANGELO’S employees, and policies related to their employment. Defendant CHOI also directly
12 oversaw and participated in Defendant ANGELO’s day to day business operations. Defendant
13 CHOI exercised ultimate control over policies involving compensation and hours and either (a)
14 knowingly authorized the unlawful practices; or (b) with knowledge of unlawful practices did
15 nothing to stop them, instead ratifying them.

16 2. On information and belief, Defendant ANNA LEE (“LEE”) was the spouse and/or
17 partner of Defendant JAE CHOI (“CHOI”) and was employed by and/or owned and operated
18 Defendant ANGELO’S. Defendant ANNA also directly oversaw and participated in Defendant
19 ANGELO’s day to day business operations. Defendant LEE exercised ultimate control over
20 policies involving compensation and hours and either (a) knowingly authorized the unlawful
21 practices; or (b) with knowledge of unlawful practices did nothing to stop them, instead ratifying
22 them.

23 3. The acts and failures to act alleged herein were duly performed by and attributable to all
24 DEFENDANTS, each acting as a successor, agent, alter ego, employee, indirect employer, joint
25 employer, and/or integrated enterprise, as the direction and control of the others, except as
26 specifically alleged otherwise. Said acts and failures to act were within the scope of such agency
27 and/or employment, and each defendant participated in, approved of and/or ratified the unlawful
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1 acts and omissions by the other DEFENDANTS complained of herein.

2 4. Whenever and wherever reference is made in this Complaint to any act by a defendant
3 or DEFENDANTS, such allegations and reference shall also be deemed to mean the acts and
4 failures to act of each defendant acting individually, jointly, and/or severally.

5 **IV. FACTUAL ALLEGATIONS**

6 9. Defendants CHOI and ANNA harassed PLAINTIFF on the basis of her sex/gender,
7 age, and national origin, and created a hostile work environment during her employment with
8 Defendant ANGELO'S, spanning from around 2017 until the end of her employment on or about
9 January 31, 2020. PLAINTIFF was forced to end her employment with DEFENDANTS because
10 the constant harassment was unbearable to PLAINTIFF. The harassing, hostile and discriminatory
11 behavior toward PLAINTIFF included, but was not limited to, unwelcomed comments, yelling,
12 intimidation, and unwanted physical touching, including both sexual touching and injurious
13 physical battery. These acts were severe and pervasive.

14 10. Defendant CHOI's harassing conduct towards PLAINTIFF included but was not
15 limited to yelling at her, bumping and/or rubbing his groin against her buttocks when passing by
16 her, putting his hand on her buttocks and other body parts, inappropriate comments and gestures
17 about her appearance and her body shape, and/or age, inappropriately policing her personal
18 grooming and appearance, prohibiting her from speaking Spanish at work, rude comments about
19 her accent when speaking English and use of the Spanish language, and physically restraining her
20 by holding her car door open to prevent her from driving away.

21 11. Defendant ANNA's harassing conduct towards PLAINTIFF included but was not
22 limited to yelling at her, inappropriate comments and gestures about her appearance and/or age,
23 inappropriately policing her personal grooming and appearance, prohibiting her from speaking
24 Spanish at work, rude comments about her accent when speaking English and use of the Spanish
25 language, and grabbing and pulling her by the arm and the shirt, scratching her arm and leaving a
26 mark.

27 12. PLAINTIFF has exhausted all administrative remedies required to initiate a
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1 harassment case, and received a right to sue letter from the Department of Fair Employment and
2 Housing (“DFEH”).

3 13. The events that took place on or around January 31, 2020, give rise to liability on
4 the part of Defendants CHOI and ANNA for wrongful termination, assault, battery, gender
5 violence, false imprisonment, and intentional infliction of emotional distress against PLAINTIFF.

6 14. On or around January 31, 2020, after several days of particularly harsh treatment by
7 Defendant ANNA related to sexual harassment of PLAINTIFF by Defendant CHOI (Defendant
8 ANNA’s spouse and/or partner), PLAINTIFF asked Defendant ANNA why she was treating
9 PLAINTIFF so harshly. Defendants CHOI and ANNA yelled at PLAINTIFF for questioning them.
10 They demeaned and intimidated her.

11 15. PLAINTIFF informed Defendants CHOI and ANNA that if they could not speak to
12 her without yelling, she was going to leave work early and go home for the rest of the day and
13 continue the conversation when Defendants CHOI and ANNA had calmed down. After Defendants
14 CHOI and ANNA refused to speak to PLAINTIFF in a civil manner, PLAINTIFF went to the time
15 clock to punch out. Defendants CHOI and ANNA followed PLAINTIFF.

16 16. Defendant ANNA grabbed PLAINTIFF by the forearm with both hands, pulling her
17 and attempting to physically force her back into the kitchen. She also grabbed and pulled
18 PLAINTIFF by the shirt. In this struggle, Defendant ANNA scratched PLAINTIFF’s arm, leaving
19 marks.

20 17. Once PLAINTIFF freed herself from Defendant ANNA’s grasp, PLAINTIFF began
21 walking to her car, Defendant CHOI followed PLAINTIFF and grabbed PLAINTIFF’s drivers-side
22 front car door (right next to PLAINTIFF) to prevent her from leaving. Defendant CHOI stood next
23 to PLAINTIFF’s car, intimidating her, impeding her movement, and putting her in reasonable
24 apprehension of a harmful or offensive contact such as the one PLAINTIFF had just experienced at
25 the hands of Defendant ANNA. PLAINTIFF slowly began to drive with Defendant CHOI still
26 holding her car door, in an attempt to get him to let go of her car. Once he let go, she drove to the
27 Richmond police station to make a report of the attack she had endured.

28 18. DEFENDANTS failed to compensate PLAINTIFF and other current or former

1 employees for all “hours worked” (within the meaning of the applicable Wage Orders) and failed
2 to pay overtime premium wages for work performed. This includes, but is not limited to, regular
3 hours worked that were not compensated at minimum or agreed upon rates, overtime hours worked
4 that were either not compensated, or compensated at rates lower than the applicable overtime
5 premium wage rate, and uncompensated or undercompensated time.

6 19. DEFENDANTS suffered or permitted employees to work "off-the-clock" including
7 during unpaid meal periods. This time worked was uncompensated.

8 20. Under the meal period policies, DEFENDANTS failed to provide employees: (a) at
9 least one (1) meal period prior to the fifth hour and/or timely meal periods. Further,
10 DEFENDANTS’ policy is to not pay the premium wages owed to workers for missed, incomplete
11 and/or untimely meal periods. Specifically, employees were required to be available during their
12 meal periods in case any customers came in. However, Angelo’s failed to compensate employees
13 in lieu of their incomplete or late meal breaks as prescribed by law.

14 21. Under the rest break policies, DEFENDANTS failed to provide employees: (a) at
15 least two (2) rest breaks for shifts greater than six hours, and (b) net ten-minute rest breaks.
16 Further, DEFENDANTS’ policy is to not pay the premium wages owed to workers for missed,
17 incomplete, and/or untimely rest breaks. Non-exempt employees were denied paid rest periods.
18 They generally had only one “break” during the day, which was their unpaid meal period. Non-
19 exempt employees clocked out for their meal periods, which were usually significantly shorter than
20 the required 30 minutes.

21 22. Under the record-keeping policies, DEFENDANTS willfully failed to provide
22 itemized wage statements, DEFENDANTS willfully provided inaccurate wage statements that did
23 not reflect all “hours worked” and wages earned.

24 23. DEFENDANTS failed to provide non-exempt employees with sick days at the rate
25 of not less than one hour per every 30 hours worked.

26 24. DEFENDANTS’ failure to pay all wages earned, failure to authorize and permit
27 requisite meal periods, failure to pay premium meal and rest period wages, failure to pay all wages
28 due at termination, failure to reimburse employees for out-of-pocket expenses, and failure to

1 provide sick pay, in addition to the other violations alleged above, during all relevant times herein
2 were intentional, willful, and deliberate.

3 25. On information and belief, DEFENDANTS were on notice of the improprieties
4 alleged herein by PLAINTIFF, and intentionally refused to rectify their unlawful policies.

5 26. PLAINTIFF, on behalf of herself, and behalf and the State of California pursuant to
6 PAGA, bring this action pursuant to California Labor Code §§ 201, 202, 203, 204, 210, 216, 218,
7 218.5, 218.6, 221, 226, 226.3, 226.7, 512, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 1199, 2699
8 and Business & Professions Code §§ 17200 *et seq.* seeking unpaid, underpaid and premium wages,
9 statutory penalties, liquidated damages, declaratory, injunctive and other equitable relief,
10 reasonable attorneys' fees and costs of suit, interest, injunctive relief, declaratory relief, restitution,
11 and disgorgement of all profits or benefits retained by DEFENDANTS as a result of their failure to
12 comply with the above laws.

13 27. DEFENDANTS have made it difficult to account with precision for the unlawfully
14 withheld wages due to DEFENDANTS' non-exempt employees, including PLAINTIFF, during all
15 relevant times herein, because they have not implemented an adequate record-keeping method to
16 record all wages earned by their employees as required for non-exempt employees by California
17 Labor Code §§ 226 and 1174(d).

18 19 **V. CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION** 21 **SEXUAL HARASSMENT/HOSTILE WORK ENVIRONMENT** 22 **(CALIFORNIA GOVERNMENT CODE § 12940(J))** **(PLAINTIFF AGAINST ALL DEFENDANTS)**

23 28. PLAINTIFF hereby incorporates by reference each and every allegation contained
24 above in this complaint as though fully set forth herein.

25 29. PLAINTIFF is a woman. Defendants CHOI and ANNA subjected PLAINTIFF to
26 unwelcome sexual advances, unwelcome sexual touching, unsolicited comments about her
27 appearance and her body shape, policing of her personal grooming, and degrading and humiliating
28 conduct as described above.

1 30. The aforesaid unwelcome sexual comments and acts were so severe or pervasive
2 that they created a hostile work environment and adversely affected the terms and conditions of
3 PLAINTIFF's employment based on her sex, in violation of the Fair Employment and Housing
4 Act, Government Code § 12940(j).

5 31. Defendants CHOI and ANNA's aforesaid acts of harassment were wanton, willful
6 and intentional, and were committed with malicious and reckless disregard for the rights and
7 sensibilities of PLAINTIFF.

8 32. As a direct and proximate result of the aforesaid harassment based on sex,
9 PLAINTIFF has sustained injuries in the form of severe emotional stress.

10 33. As a proximate result of this harassment as plead above, PLAINTIFF has suffered
11 emotional distress and general damages in a sum of excess of the minimum jurisdiction of the court
12 and according to proof.

13 34. Defendants CHOI and ANNA, acting individually and/or by and through their
14 managing agents, officers or directors, committed the acts herein alleged maliciously, fraudulently,
15 and oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with an improper
16 and evil motive amounting to malice, and in conscious disregard of PLAINTIFF's rights.
17 Accordingly, PLAINTIFF is entitled to recover punitive damages from DEFENDANTS in an
18 amount according to proof.

19 35. PLAINTIFF is entitled to recover attorneys' fees under Government Code § 12940
20 *et seq.* or any other law providing for recovery of attorneys' fees.

21 36. PLAINTIFF has exhausted her administrative remedies by timely filing charges of
22 discrimination with the DFEH. The DFEH issued to PLAINTIFF a right to sue letter permitting her
23 to file a private lawsuit against DEFENDANTS.

24 37. WHEREFORE, PLAINTIFF requests relief as hereinafter provided.
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SECOND CAUSE OF ACTION
AGE BASED HARASSMENT/HOSTILE WORK ENVIRONMENT
(CALIFORNIA GOVERNMENT CODE § 12940(J))
(PLAINTIFF AGAINST ALL DEFENDANTS)

38. PLAINTIFF hereby incorporates by reference each and every allegation contained above in this complaint as though fully set forth herein.

39. PLAINTIFF is a person over the age of 40 years. Defendants CHOI and ANNA subjected PLAINTIFF to insults, unsolicited comments about her appearance and her body shape, policing of her personal grooming and degrading and humiliating conduct as described above.

40. The aforesaid unwelcome comments and acts were so severe or pervasive that they created a hostile work environment and adversely affected the terms and conditions of PLAINTIFF's employment based on her age, in violation of the Fair Employment and Housing Act, Government Code § 12940(j).

41. Defendants CHOI and ANNA's aforesaid acts of harassment were wanton, willful and intentional, and were committed with malicious and reckless disregard for the rights and sensibilities of PLAINTIFF.

42. As a direct and proximate result of the aforesaid harassment based on age, PLAINTIFF has sustained injuries in the form of severe emotional stress.

43. As a proximate result of this harassment as plead above, PLAINTIFF has suffered emotional distress and general damages in a sum of excess of the minimum jurisdiction of the court and according to proof.

44. Defendants CHOI and ANNA, acting individually and/or by and through their managing agents, officers or directors, committed the acts herein alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with an improper and evil motive amounting to malice, and in conscious disregard of PLAINTIFF's rights. Accordingly, PLAINTIFF is entitled to recover punitive damages from DEFENDANTS in an amount according to proof.

45. PLAINTIFF is entitled to recover attorneys' fees under Government Code § 12940

1 et seq. or any other law providing for recovery of attorneys' fees.

2 46. PLAINTIFF has exhausted her administrative remedies by timely filing charges of
3 discrimination with the DFEH. The DFEH issued to PLAINTIFF a right to sue letter permitting her
4 to file a private lawsuit against DEFENDANTS.

5 47. WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

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7 **THIRD CAUSE OF ACTION**
8 **NATIONAL ORIGIN HARASSMENT/HOSTILE WORK ENVIRONMENT**
9 **(CALIFORNIA GOVERNMENT CODE § 12940(J))**
10 **(PLAINTIFF AGAINST ALL DEFENDANTS)**

11 48. PLAINTIFF hereby incorporates by reference each and every allegation contained
12 above in this complaint as though fully set forth herein.

13 49. PLAINTIFF is a person of Salvadoran origin and heritage. Defendants CHOI and
14 ANNA subjected PLAINTIFF to a prohibition against speaking Spanish at work, and rude
15 comments about her accent when speaking English, and use of the Spanish language.

16 50. The aforesaid unwelcome comments and acts were so severe or pervasive that they
17 created a hostile work environment and adversely affected the terms and conditions of
18 PLAINTIFF's employment based on her national origin, in violation of the Fair Employment and
19 Housing Act, Government Code § 12940(j).

20 51. Defendants CHOI and ANNA's aforesaid acts of harassment were wanton, willful
21 and intentional, and were committed with malicious and reckless disregard for the rights and
22 sensibilities of PLAINTIFF.

23 52. As a direct and proximate result of the aforesaid harassment based on national
24 origin, PLAINTIFF has sustained injuries in the form of severe emotional stress.

25 53. As a proximate result of this harassment as plead above, PLAINTIFF has suffered
26 emotional distress and general damages in a sum of excess of the minimum jurisdiction of the court
27 and according to proof.

28 54. Defendants CHOI and ANNA, acting individually and/or by and through their
managing agents, officers or directors, committed the acts herein alleged maliciously, fraudulently,

1 and oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with an improper
2 and evil motive amounting to malice, and in conscious disregard of PLAINTIFF's rights.
3 Accordingly, PLAINTIFF is entitled to recover punitive damages from DEFENDANTS in an
4 amount according to proof.

5 55. PLAINTIFF is entitled to recover attorneys' fees under Government Code § 12940
6 et seq. or any other law providing for recovery of attorneys' fees.

7 56. PLAINTIFF has exhausted her administrative remedies by timely filing charges of
8 discrimination with the DFEH. The DFEH issued to PLAINTIFF a right to sue letter permitting her
9 to file a private lawsuit against DEFENDANTS.

10 57. WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

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12 **FOURTH CAUSE OF ACTION**
13 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**
14 **(PLAINTIFF AGAINST DEFENDANT ANGELO'S)**

15 58. PLAINTIFF hereby incorporates by reference each and every allegation contained
16 above in this complaint as though fully set forth herein.

17 59. At all times material hereto, Defendant ANGELO'S owed a duty not to terminate
18 PLAINTIFF's employment or constructively discharge her on the basis of her exercising her
19 fundamental right to be free from harassment and physical attacks.

20 60. PLAINTIFF was constructively discharged because a reasonable person could not
21 be expected to return to a workplace where she had been physically and sexually assaulted and
22 battered, forcibly detained and prevented from leaving, humiliated, and demeaned.

23 61. As a proximate result of PLAINTIFF's termination or constructive discharge,
24 PLAINTIFF suffered severe emotional distress, losses in past and/or future earnings and other
25 employment benefits, and general damages in an amount to be proved at trial.

26 62. Defendant ANGELO'S termination of PLAINTIFF was a substantial factor in
27 causing her harm.

28 63. Defendant ANGELO'S, acting individually and/or by and through their managing
agents, officers or directors, committed the acts herein alleged maliciously, fraudulently, and

1 oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with an improper and
2 evil motive amounting to malice, and in conscious disregard of PLAINTIFF's rights. Accordingly,
3 PLAINTIFF is entitled to recover punitive damages in an amount according to proof.

4 64. As a proximate result of Defendant ANGELO'S wrongful termination of
5 PLAINTIFF, PLAINTIFF has incurred attorneys' fees, costs and expenses in an amount to be
6 proved at trial.

7 65. Wherefore, PLAINTIFF requests relief as hereinafter provided.
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10 **FIFTH CAUSE OF ACTION**
11 **GENDER VIOLENCE**

12 (CALIFORNIA CIVIL CODE § 52.4
13 (PLAINTIFF AGAINST DEFENDANTS CHOI AND ANNA)

14 66. PLAINTIFF hereby incorporates by reference each and every allegation contained
15 above in this complaint as though fully set forth herein.

16 67. Defendants CHOI and ANNA's acts committed against PLAINTIFF, as alleged
17 herein, including but not limited to unwanted sexual touching and the physical attack that caused
18 PLAINTIFF to flee ANGELO's and never return, would constitute criminal offenses under
19 California law that have as an element the use, attempted use, or threatened use of physical force
20 against the person of another, committed in part based on the gender of the victim, whether or not
21 those acts have resulted in criminal complaints, charges, prosecution, or conviction.

22 68. California Civil Code § 52.4(a) creates a right of private action for gender violence:

23 Any person who has been subjected to gender violence may bring a civil action for
24 damages against any responsible party. The plaintiff may seek actual damages,
25 compensatory damages, punitive damages, injunctive relief, any combination of
26 those, or any other appropriate relief. A prevailing plaintiff may also be awarded
27 attorney's fees and costs.

28 69. As a proximate result of Defendants CHOI and ANNA's gender violence against
PLAINTIFF, PLAINTIFF suffered severe emotional distress, losses in past and/or future earnings
and other employment benefits, and general damages in an amount to be proved at trial.

70. Defendants CHOI and ANNA's gender violence against PLAINTIFF was a substantial factor in causing her harm.

71. Defendants CHOI and ANNA committed the acts herein alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with an improper and evil motive amounting to malice, and in conscious disregard of PLAINTIFF's rights. Accordingly, PLAINTIFF is entitled to recover punitive damages in an amount according to proof.

72. As a proximate result of Defendants CHOI and ANNA's gender violence against PLAINTIFF, PLAINTIFF has incurred attorneys' fees, costs and expenses in an amount to be proved at trial.

73. Wherefore, PLAINTIFF requests relief as hereinafter provided.

SIXTH CAUSE OF ACTION

ASSAULT

(PLAINTIFF AGAINST DEFENDANTS CHOI AND ANNA)

74. PLAINTIFF hereby incorporates by reference each and every allegation contained above in this complaint as though fully set forth herein.

75. Defendants CHOI and ANNA's acts as alleged herein put PLAINTIFF in imminent apprehension of a harmful or offensive contact and/or was intended to put PLAINTIFF in imminent apprehension of such contact.

76. In committing the acts alleged herein, Defendants CHOI and ANNA put PLAINTIFF in imminent apprehension of a harmful or offensive contact, and actually believed that Defendants CHOI and ANNA had the ability to make harmful or offensive contact with PLAINTIFF's person.

77. PLAINTIFF did not consent to Defendants CHOI and ANNA's acts which put PLAINTIFF in imminent apprehension of a harmful or offensive contact.

78. In committing the acts herein alleged, Defendants CHOI and ANNA violated their duty, pursuant to California Civil Code § 1708, to abstain from injuring the person of PLAINTIFF

1 or infringing upon her rights.

2 79. Defendants CHOI and ANNA's aforesaid acts constituting assault were wanton,
3 willful and intentional, and were committed with malicious and reckless disregard for the rights
4 and sensibilities of PLAINTIFF.

5 80. As a direct and proximate result of the aforesaid assault, PLAINTIFF has sustained
6 injuries in the form of severe emotional stress.

7 81. As a proximate result of these assaults as plead above, PLAINTIFF has suffered
8 emotional distress and general damages in a sum of excess of the minimum jurisdiction of the court
9 and according to proof.

10 82. As a proximate result of Defendants CHOI and ANNA's assaults against
11 PLAINTIFF, PLAINTIFF has incurred attorneys' fees, costs and expenses in an amount to be
12 proved at trial.

13 83. Defendants CHOI and ANNA committed the acts herein alleged maliciously,
14 fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with
15 an improper and evil motive amounting to malice, and in conscious disregard of PLAINTIFF's
16 rights. Accordingly, PLAINTIFF is entitled to recover punitive damages in an amount according to
17 proof.

18 84. WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

19
20 **SEVENTH CAUSE OF ACTION**

21 **BATTERY**

22 (PLAINTIFF AGAINST DEFENDANTS CHOI AND ANNA)

23 85. PLAINTIFF hereby incorporates by reference each and every allegation contained
24 above in this complaint as though fully set forth herein.

25 86. Defendants CHOI and ANNA's acts as alleged herein were intended to cause, and
26 did cause, harmful or offensive contacts against PLAINTIFF.

27 87. PLAINTIFF did not consent to Defendants CHOI and ANNA's acts which caused
28 harmful or offensive contacts against PLAINTIFF.

1 88. In committing the acts herein alleged, Defendants CHOI and ANNA violated their
2 duty, pursuant to California Civil Code § 1708, to abstain from injuring the person of PLAINTIFF
3 or infringing upon her rights.

4 89. Defendants CHOI and ANNA's aforesaid acts constituting battery were wanton,
5 willful and intentional, and were committed with malicious and reckless disregard for the rights
6 and sensibilities of PLAINTIFF.

7 90. As a direct and proximate result of the aforesaid batteries, PLAINTIFF has
8 sustained injuries in the form of severe emotional stress.

9 91. As a proximate result of these batteries as plead above, PLAINTIFF has suffered
10 emotional distress and general damages in a sum of excess of the minimum jurisdiction of the court
11 and according to proof.

12 92. As a proximate result of Defendants CHOI and ANNA's assault against
13 PLAINTIFF, PLAINTIFF has incurred attorneys' fees, costs and expenses in an amount to be
14 proved at trial.

15 93. Defendants CHOI and ANNA committed the acts herein alleged maliciously,
16 fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with
17 an improper and evil motive amounting to malice, and in conscious disregard of PLAINTIFF's
18 rights. Accordingly, PLAINTIFF is entitled to recover punitive damages in an amount according to
19 proof.

20 94. WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

21
22 **EIGHTH CAUSE OF ACTION**
23 **FALSE IMPRISONMENT**
24 **(PLAINTIFF AGAINST DEFENDANT CHOI)**

25 95. PLAINTIFF hereby incorporates by reference each and every allegation contained
26 above in this complaint as though fully set forth herein.

27 96. In holding PLAINTIFF's drivers-side car door open while she was inside the car
28 and not allowing her to drive away while also obstructing her exit from the car, Defendant CHOI

1 intentionally deprived PLAINTIFF of her freedom of movement.

2 97. PLAINTIFF did not consent to Defendants CHOI and ANNA's acts which caused
3 harmful or offensive contacts against PLAINTIFF.

4 98. In committing the acts herein alleged, Defendant CHOI violated his duty, pursuant
5 to California Civil Code § 1708, to abstain from injuring the person of PLAINTIFF or infringing
6 upon her rights.

7 99. Defendant CHOI's aforesaid acts constituting false imprisonment were wanton,
8 willful and intentional, and were committed with malicious and reckless disregard for the rights
9 and sensibilities of PLAINTIFF.

10 100. As a direct and proximate result of the aforesaid false imprisonment, PLAINTIFF
11 has sustained injuries in the form of severe emotional stress.

12 101. As a proximate result of this false imprisonment as plead above, PLAINTIFF has
13 suffered emotional distress and general damages in a sum of excess of the minimum jurisdiction of
14 the court and according to proof.

15 102. As a proximate result of Defendants CHOI's false imprisonment of PLAINTIFF,
16 PLAINTIFF has incurred attorneys' fees, costs and expenses in an amount to be proved at trial.

17 103. Defendant CHOI committed the acts herein alleged maliciously, fraudulently, and
18 oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with an improper and
19 evil motive amounting to malice, and in conscious disregard of PLAINTIFF's rights. Accordingly,
20 PLAINTIFF is entitled to recover punitive damages in an amount according to proof.

21 104. WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

22
23 **NINTH CAUSE OF ACTION**
24 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**
25 **(PLAINTIFF AGAINST DEFENDANTS CHOI AND ANNA)**

26 105. PLAINTIFF hereby incorporates by reference each and every allegation contained
27 above in this complaint as though fully set forth herein.

28 106. Defendants CHOI and ANNA's acts as alleged herein constitute outrageous

1 conduct.

2 107. Defendants CHOI and ANNA intended their acts as alleged herein as alleged herein
3 to cause PLAINTIFF emotional distress and/or Defendants CHOI and ANNA acted with reckless
4 disregard of the probability that PLAINTIFF would suffer emotional distress.

5 108. As a direct and proximate result of the aforesaid outrageous conduct, PLAINTIFF
6 has sustained injuries in the form of severe emotional distress of the kind with which a reasonable
7 person would be unable to cope.

8 109. As a proximate result of the aforesaid outrageous conduct, PLAINTIFF has suffered
9 emotional distress and general damages in a sum of excess of the minimum jurisdiction of the court
10 and according to proof.

11 110. As a proximate result of the aforesaid outrageous conduct, PLAINTIFF has incurred
12 attorneys' fees, costs and expenses in an amount to be proved at trial.

13 111. Defendants CHOI and ANNA committed the acts herein alleged maliciously,
14 fraudulently, and oppressively, with the wrongful intention of injuring PLAINTIFF, and acted with
15 an improper and evil motive amounting to malice, and in conscious disregard of PLAINTIFF's
16 rights. Accordingly, PLAINTIFF is entitled to recover punitive damages in an amount according to
17 proof.

18 112. WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

19
20 **TENTH CAUSE OF ACTION**
21 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**
22 **(PLAINTIFF AGAINST DEFENDANTS CHOI AND ANNA)**

23 113. PLAINTIFF hereby incorporates by reference each and every allegation contained
24 above in this complaint as though fully set forth herein.

25 114. Defendants CHOI and ANNA were PLAINTIFF's employers, and therefore had a
26 duty of due care towards PLAINTIFF.

27 115. Defendants CHOI and ANNA knew, or should have known, that their failure to
28 exercise due care towards PLAINTIFF would cause PLAINTIFF severe emotional distress.

1 116. Defendants CHOI and ANNA's physical and verbal attack on, and restraint of,
2 PLAINTIFF, constituted a failure to exercise due care towards PLAINTIFF that Defendants CHOI
3 and ANNA knew, or should have known, would cause PLAINTIFF severe emotional distress,.

4 117. As a direct and proximate result of the aforesaid conduct, PLAINTIFF has sustained
5 injuries in the form of severe emotional distress of a kind with which a reasonable person would be
6 unable to cope.

7 118. As a proximate result of the aforesaid conduct, PLAINTIFF has suffered emotional
8 distress and general damages in a sum of excess of the minimum jurisdiction of the court and
9 according to proof.

10 119. As a proximate result of the aforesaid conduct, PLAINTIFF has incurred attorneys'
11 fees, costs and expenses in an amount to be proved at trial.

12 120. WHEREFORE, PLAINTIFF requests relief as hereinafter provided.

13 **ELEVENTH CAUSE OF ACTION**

14 **FAILURE TO PAY FOR ALL HOURS WORKED AT CONTRACTUAL OR**
15 **STATUTORY RATES**

16 **(Cal. Lab. Code §§ 204, 218.5, 223, 1194 & Wage Orders)**

17 **PLAINTIFF AGAINST ALL DEFENDANTS**

18 5. PLAINTIFF incorporates all preceding paragraphs as if fully set forth herein.

19 6. Labor Code section 223 requires an employer to pay an employee the wage designated
20 by statute or contract, and California law requires payment of all wages due for "all hours worked."

21 7. Pursuant to Labor Code section 223, it is unlawful to secretly pay a lower wage while
22 purporting to pay the wage designated by statute or by contract.

23 8. PLAINTIFF is entitled to wages at rates designated by contract and statute that exceed
24 the California minimum wage.

25 9. DEFENDANTS have breached their agreement and refused to compensate PLAINTIFF
26 at the required wage rates, in violation of the Labor Code and Wage Orders, including section 223
27 of the Labor Code. By failing to pay wages at the required rate on at least a weekly basis,
28 DEFENDANTS have also violated Labor Code section 204 by failing to pay all earned wages in a
timely manner.

1 10. PLAINTIFF brings this cause of action under Labor Code section 218.5, authorizing a
2 private right of action for the nonpayment of wages.

3 11. DEFENDANTS have the ability to pay wages at the required rates for all "hours
4 worked," but have willfully refused to pay such wages with the intent to secure a discount upon
5 their indebtedness to PLAINTIFF, as well as to annoy, harass, oppress, hinder, delay or defraud
6 DEFENDANTS' current and former employees. DEFENDANTS have secretly paid PLAINTIFF a
7 lower wage while purporting to pay the wage designated by statute, in violation of Labor Code §
8 223. DEFENDANTS are therefore guilty of a misdemeanor, pursuant to Labor Code § 225, and are
9 liable for penalties pursuant to Labor Code § 225.5.

10 12. DEFENDANTS failed to pay PLAINTIFF for all "hours worked" at the written agreed
11 upon wage rate. For example, DEFENDANTS maintained a pay policy whereby PLAINTIFF was
12 required or knowingly permitted to perform numerous work activities that were uncompensated.

13 13. WHEREFORE, PLAINTIFF is entitled to recover the unpaid wages, liquated damages
14 in an amount equal to the wages unlawfully unpaid, interest thereon, reasonable attorney's fees and
15 costs of suit pursuant to California Labor Code § 1194(a).

16 14. Under Labor Code § 558.1, any natural person who is an owner, director, officer, or
17 managing agent of an employer, acting on behalf of the employer, who violates or causes to be
18 violated any provision regulating minimum wages or hours and days of work in any order of the
19 Industrial Welfare Commission, or violates, or causes to be violated, Labor Code §§ 203, 226,
20 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation. Therefore,
21 Defendants CHOI and LEE are liable for the violations herein alleged.

22 15. On information and belief, Defendants CHOI and LEE are also liable for the unlawful
23 activity described within this Cause of Action due to the fact that Defendant ANGELO's is an alter
24 ego of Defendants CHOI and LEE.

25 16. WHEREFORE, PLAINTIFF is entitled to recover the unpaid wages, liquated damages
26 in an amount equal to the wages unlawfully unpaid, interest thereon, reasonable attorney's fees and
27 costs of suit pursuant to California Labor Code § 1194(a).

28 ////

1 **TWELFTH CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGE**

3 (Cal. Lab. Code §§ 1194, 1194.2, 1197, Richmond Municipal Code § 7.108.090(d), & Wage
4 Orders)

5 **PLAINTIFF AGAINST ALL DEFENDANTS**

6 17. PLAINTIFF incorporates all preceding paragraphs as though fully set forth herein.

7 18. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states:

8 The minimum wage for employees fixed by the commission is the
9 minimum wage to be paid to employees, and the payment of a less
10 wage than the minimum so fixed is unlawful.

11 19. The applicable minimum wages fixed by the commission for work is \$10.00 effective
12 January 1, 2016, \$10.50 effective January 1, 2017, \$11.00 effective January 1, 2018, \$12.00
13 effective January 1, 2019, and \$13.00 effective January 1, 2020.

14 20. The minimum wage provisions of California Labor Code are enforceable by private
15 civil action pursuant to California Labor Code § 1194(a) which states:

16 Notwithstanding any agreement to work for a lesser wage, any employee
17 receiving less than the legal minimum wage or the legal overtime compensation
18 applicable to the employee is entitled to recover in a civil action the unpaid
19 balance of the full amount of this minimum wage or overtime compensation,
20 including interest thereon, reasonable attorney's fees and costs of suit.

21 21. As described in California Labor Code §§ 1185 and 1194.2, any action for wages
22 incorporates the applicable Wage Orders of the California Industrial Welfare Commission.

23 22. California Labor Code § 1194.2 also provides for the following remedies:

24 In any action under Section 1194 ... to recover wages because of
25 the payment of a wage less than the minimum wages fixed by an
26 order of the commission, an employee shall be entitled to recover
27 liquidated damages in an amount equal to the wages unlawfully
28 unpaid and interest thereon.

29 23. Additionally, the city of Richmond's minimum wage is higher than that of the State
30 of California. The applicable hourly minimum wages in Richmond are \$11.52 effective January 1,
31 2016, \$12.30 effective January 1, 2017, \$13.41 effective January 1, 2018, \$15.00 effective January
32 1, 2019, and \$15.00 effective January 1, 2020.

1 24. Richmond's minimum wages are enforceable by private civil action pursuant to
2 Richmond Municipal Code § 7.108.090(d) which states:

3 Any person aggrieved by a violation of this chapter, any entity with a member
4 which is aggrieved by a violation of this chapter, or any other person or entity
5 acting on behalf of the public as provided for under applicable State law, may
6 bring a civil action in a court of competent jurisdiction against the employer or
7 other person violating this chapter and, upon prevailing, shall be awarded
8 reasonable attorneys' fees and costs and shall be entitled to such legal or equitable
9 relief as may be appropriate, including, without limitation, the relief set forth in
this section below. Provided, however, that any person or entity enforcing this
chapter on behalf of the public as provided for under applicable State law shall,
upon prevailing, be entitled only to equitable, injunctive or restitutionary relief to
employees, and reasonable attorneys' fees and costs.

10 25. DEFENDANTS failed to pay PLAINTIFF for all "hours worked" at the Richmond or
11 California minimum wage rate. For example, DEFENDANTS maintained a pay policy whereby
12 PLAINTIFF was required or knowingly permitted to perform numerous work activities that were
13 uncompensated. On information and belief, PLAINTIFF performed work for DEFENDANTS in
14 2019, each hour of which was compensated at a rate lower than the applicable Richmond
15 municipal minimum wage.

16 26. At all relevant times, PLAINTIFF was subject to DEFENDANTS' control during time
17 that was uncompensated. In particular, time records were not recorded correctly so as to avoid
18 paying for all hours worked.

19 27. Under Labor Code § 558.1, any natural person who is an owner, director, officer, or
20 managing agent of an employer, acting on behalf of the employer, who violates or causes to be
21 violated any provision regulating minimum wages or hours and days of work in any order of the
22 Industrial Welfare Commission, or violates, or causes to be violated, Labor Code §§ 203, 226,
23 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation. Therefore,
24 Defendants CHOI and LEE are liable for the violations herein alleged.

25 28. On information and belief, Defendants CHOI and LEE are also liable for the unlawful
26 activity described within this Cause of Action due to the fact that Defendant ANGELO's is an alter
27 ego of Defendants CHOI and LEE.

28 29. Wherefore, PLAINTIFF is entitled to recover the unpaid minimum wages, liquated

1 damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon, reasonable
2 attorney's fees and costs of suit pursuant to California Labor Code §§ 218.5 and 1194(a).

3
4 **THIRTEENTH CAUSE OF ACTION**

5 **FAILURE TO PAY OVERTIME PREMIUM WAGES**
6 **(Cal. Lab. Code §§ 200, et seq., 510, 1194 & Wage Order(s))**
7 **PLAINTIFF AGAINST ALL DEFENDANTS**

8 30. PLAINTIFF incorporates all preceding paragraphs as though fully set forth herein.

9 31. Labor Code § 510(a) establishes the eight (8) hour workday and 40-hour workweek,
10 and provides that work in excess of eight (8) hours in one day or 40 hours in one week is to be
11 compensated at one and one-half (1 1/2) the regular rate of pay ("overtime rate").

12 32. The wage orders, which are authorized under California Labor Code§ 1185 and apply in
13 this case, further provide that work in excess of 12 hours in a workday or eight hours on the
14 seventh consecutive workday is to be compensated at the rate of twice the regular rate of pay
15 ("doubletime rate").

16 33. DEFENDANTS violated California Labor Code § 510 and the applicable wage orders
17 (or caused the violations) by subjecting PLAINTIFF to employer control, or knowingly suffering
18 or permitting them to work, in excess of the statutory overtime thresholds, without paying the
19 applicable premium rate.

20 34. PLAINTIFF may enforce these provisions pursuant to Labor Code § 1194(a) and
21 Business and Professions Code §§ 17200 et seq.

22 35. California Labor Code§ 1194(a) states:

23 Notwithstanding any agreement to work for a lesser wage, any employee
24 receiving less than the legal minimum wage or the legal overtime compensation
25 applicable to the employee is entitled to recover in a civil action the unpaid
26 balance of the full amount of this minimum wage or overtime compensation,
27 including interest thereon, reasonable attorney's fees and costs of suit.

28 36. DEFENDANTS failed to pay for all hours worked and failed to compensate at the
agreed upon and statutory rates, rendering DEFENDANTS' overtime computations unlawful.

37. PLAINTIFF is entitled to wages at the applicable premium rate as a result of

1 DEFENDANTS' practice of not compensating them at the required premium rate, as well as for
2 failing to compensate them for all "hours worked."

3 38. PLAINTIFF is owed wages for the violations above. DEFENDANTS failed to pay said
4 wages when due, as required by Labor Code § 204, and have not been paid them to date.

5 39. The violation of California's premium wage laws is substantial and occurred regularly,
6 and DEFENDANTS' failure to maintain accurate time records will shift the burden of proof.

7 40. PLAINTIFF is entitled to payment of wages owed under California Labor Code §§ 510,
8 1197, 1194(a) and the applicable wage orders.

9 41. Under Labor Code § 558.1, any natural person who is an owner, director, officer, or
10 managing agent of an employer, acting on behalf of the employer, who violates or causes to be
11 violated any provision regulating minimum wages or hours and days of work in any order of the
12 Industrial Welfare Commission, or violates, or causes to be violated, Labor Code §§ 203, 226,
13 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation. Therefore,
14 Defendants CHOI and LEE are liable for the violations herein alleged.

15 42. On information and belief, Defendants CHOI and LEE are also liable for the unlawful
16 activity described within this Cause of Action due to the fact that Defendant ANGELO's is an alter
17 ego of Defendants CHOI and LEE.

18 43. Wherefore, PLAINTIFF requests relief against DEFENDANTS as described herein and
19 below, including unpaid wages, interest, attorney's fees and cost of suit.

20
21 **FOURTEENH CAUSE OF ACTION**
22 **MEAL PERIOD VIOLATIONS**
23 **PLAINTIFF AGAINST ALL DEFENDANTS**

24 44. PLAINTIFF incorporates all preceding paragraphs as though fully set forth herein.

25 45. PLAINTIFF alleges that DEFENDANTS failed to provide meal periods.

26 46. California Labor Code §226.7 states:

27 (a) No employer shall require any employee to work during any meal or rest
28 period mandated by an applicable order of the Industrial Welfare Commission.

1 (b) If an employer fails to provide an employee a meal period or rest period in
2 accordance with an applicable order of the Industrial Welfare Commission, the
3 employer shall pay the employee one additional hour of pay at the employee's
4 regular rate of compensation for each work day that the meal or rest period is
5 not provided.

6 47. The applicable IWC Wage Orders contain similar language.

7 48. PLAINTIFF worked more than five hours from the start of the shift without a duty-free
8 meal period of no less than 30 minutes.

9 49. PLAINTIFF's timecard reports show several occasions where PLAINTIFF was clocked
10 in for more than 5 hours without a meal period. There are also several entries where PLAINTIFF
11 was clocked out for her meal period for fewer than 30 minutes. DEFENDANTS also regularly
12 required PLAINTIFF to clock out for lunch and then continue working "off-the-clock."

13 50. Meal periods were not voluntarily waived. Any express or implied waivers obtained
14 from PLAINTIFF were not willfully obtained, were not voluntarily agreed to, were a condition of
15 employment, or were part of an unlawful contract of adhesion.

16 51. DEFENDANTS failed to pay additional wages for meal periods that were not provided.
17 PLAINTIFF is entitled to premium meal period wages pursuant to Labor Code § 226.7.

18 52. Under Labor Code § 558.1, any natural person who is an owner, director, officer, or
19 managing agent of an employer, acting on behalf of the employer, who violates or causes to be
20 violated any provision regulating minimum wages or hours and days of work in any order of the
21 Industrial Welfare Commission, or violates, or causes to be violated, Labor Code §§ 203, 226,
22 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation. Therefore,
23 Defendants CHOI and LEE are liable for the violations herein alleged.

24 53. On information and belief, Defendants CHOI and LEE are also liable for the unlawful
25 activity described within this Cause of Action due to the fact that Defendant ANGELO's is an alter
26 ego of Defendants CHOI and LEE.

27 54. Wherefore, PLAINTIFF is entitled to recover the full amount of her unpaid meal period
28 wages and all related penalties and remedies.

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1 **FIFTEENTH CAUSE OF ACTION**

2 REST PERIOD VIOLATIONS
3 (Cal. Lab. Code § 226.7)
4 PLAINTIFF AGAINST ALL DEFENDANTS

5 55. PLAINTIFF incorporates all preceding paragraphs as though fully set forth herein.

6 56. PLAINTIFF alleges that DEFENDANTS failed to provide proper rest periods.

7 57. DEFENDANTS failed to authorize and permit rest periods by failing to provide the
8 requisite number of breaks per shift and/or to allow net 10 minutes of rest, in violation of the
9 applicable Wage Orders and Labor Code § 226.7.

10 58. DEFENDANTS had an illegal policy of denying PLAINTIFF the rest periods to which
11 they were entitled under the Labor Code. DEFENDANTS told PLAINTIFF that she was to take
12 one break only, during her shift, which was her unpaid meal period. She was not relieved of her
13 duties at any time during her shift to take a rest break.

14 59. Rest periods were not voluntarily waived. Any express or implied waivers obtained
15 from PLAINTIFF were not willfully obtained, were not voluntarily agreed to, were a condition of
16 employment, or were part of an unlawful contract of adhesion.

17 60. DEFENDANTS failed to pay additional wages for rest periods that were not provided.
18 PLAINTIFF is entitled to premium rest period wages pursuant to Labor Code § 226.7.

19 61. Under Labor Code § 558.1, any natural person who is an owner, director, officer, or
20 managing agent of an employer, acting on behalf of the employer, who violates or causes to be
21 violated any provision regulating minimum wages or hours and days of work in any order of the
22 Industrial Welfare Commission, or violates, or causes to be violated, Labor Code §§ 203, 226,
23 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation. Therefore,
24 Defendants CHOI and LEE are liable for the violations herein alleged.

25 62. On information and belief, Defendants CHOI and LEE are also liable for the unlawful
26 activity described within this Cause of Action due to the fact that Defendant ANGELO's is an alter
27 ego of Defendants CHOI and LEE.

28 63. WHEREFORE, PLAINTIFF is entitled to recover the full amount of her unpaid rest

1 period wages and all related penalties and remedies.

2
3 **SIXTEENTH CAUSE OF ACTION**

4 **KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED WAGE
STATEMENT PROVISIONS**

5 (Cal. Lab. Code § 226)
6 **PLAINTIFF AGAINST ALL DEFENDANTS**

7 64. PLAINTIFF incorporates all preceding paragraphs as though fully set forth herein.

8 65. California Labor Code § 226(a) requires that employees be provided accurate itemized
9 wage statements containing gross and net wages earned, total hours worked and applicable wage
10 rates, among other statutory requirements.

11 66. PLAINTIFF was not provided "accurate itemized statements" within the meaning of
12 California Labor Code § 226, because of the violations described in this complaint. For example,
13 the wage statements provided by DEFENDANTS falsely understated the wages earned due to the
14 failure to pay meal period premiums, overtime premiums, and minimum wages.

15 67. California Labor Code § 226(e) and (g) provide that employees may recover fifty
16 dollars (\$50) for an initial violation and one hundred dollars (\$100) thereafter up to four thousand
17 dollars (\$4,000), costs and reasonable attorney's fees for violating the obligation to provide a
18 proper, itemized wage statement. Additionally, an employee may seek injunctive relief to ensure
19 compliance with this requirement under the UCL.

20 68. DEFENDANTS failed to comply with Labor Code § 226 as a result of the wage
21 violations and timekeeping violations described above.

22 69. Under Labor Code § 558.1, any natural person who is an owner, director, officer, or
23 managing agent of an employer, acting on behalf of the employer, who violates or causes to be
24 violated any provision regulating minimum wages or hours and days of work in any order of the
25 Industrial Welfare Commission, or violates, or causes to be violated, Labor Code §§ 203, 226,
26 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation. Therefore,
27 Defendants CHOI and LEE are liable for the violations herein alleged.

28 70. On information and belief, Defendants CHOI and LEE are also liable for the unlawful

activity described within this Cause of Action due to the fact that Defendant ANGELO's is an alter ego of Defendants CHOI and LEE.

71. By failing to comply with Labor Code § 226, DEFENDANTS have injured PLAINTIFF within the meaning of the statute, entitling PLAINTIFF to relief. DEFENDANTS failed to maintain records, in particular, maintain records of correct wages earned.

72. WHEREFORE, PLAINTIFF seeks relief against DEFENDANTS as described herein and below, including penalties in an amount to be determined at trial, injunctive relief, cost of suit and attorney's fees.

SEVENTEENTH CAUSE OF ACTION

FAILURE TO PAY ALL WAGES OWED UPON TERMINATION OR RESIGNATION (Cal. Lab. Code §§ 201, 202 & 203) PLAINTIFF AGAINST ALL DEFENDANTS

73. PLAINTIFF incorporates all preceding paragraphs as though fully set forth herein.

74. California Labor Code §§ 201 and 202 provide for immediate payment of all wages owed at termination of employment.

75. DEFENDANTS required PLAINTIFF to work without compensating her for all wages as described in this complaint and failed to pay these wages at the termination of these employees. Consequently, DEFENDANTS have violated California Labor Code §§ 201 and/or 202.

76. California Labor Code § 203 states:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents himself or herself to avoid payment to him or her, or who refuses to receive the payment when fully tendered to him or her, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which he or she so avoids payment. Suit may be filed for these penalties at any time before the expiration of the statute of limitations on an action for the wages from which the penalties arise.

77. DEFENDANTS willfully failed to pay all wages due as the failure to pay was not

1 inadvertent or accidental.

2 78. As a result, PLAINTIFF is entitled to 30 days' wages. "30 days wages" is calculated
3 pursuant to California case law as 30 working days and not merely a month's wages.

4 79. In calculating 30 days wages pursuant to California Labor Code § 203, PLAINTIFF is
5 entitled to compensation for all forms of wages earned (even if not properly paid), including, but
6 not limited to, compensation for unprovided rest periods and unprovided meal periods,
7 compensation for work done at hourly rates below the minimum and overtime wages, and other
8 compensation due but not received.

9 80. More than 30 working days have passed since PLAINTIFF has left
10 DEFENDANTS' employ, and despite this, she has not received payment pursuant to Labor Code §
11 203.

12 81. As a consequence of DEFENDANTS' willful conduct in not paying all earned wages,
13 PLAINTIFF is entitled to 30 days' wages as a penalty under Labor Code § 203 for failure to pay
14 legal wages.

15 82. Under Labor Code § 558.1, any natural person who is an owner, director, officer, or
16 managing agent of an employer, acting on behalf of the employer, who violates or causes to be
17 violated any provision regulating minimum wages or hours and days of work in any order of the
18 Industrial Welfare Commission, or violates, or causes to be violated, Labor Code §§ 203, 226,
19 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation. Therefore,
20 Defendants CHOI and LEE are liable for the violations herein alleged.

21 83. On information and belief, Defendants CHOI and LEE are also liable for the unlawful
22 activity described within this Cause of Action due to the fact that Defendant ANGELO's is an alter
23 ego of Defendants CHOI and LEE.

24 84. Wherefore, PLAINTIFF seeks the relief as described herein and below.

25
26
27
28 ////

EIGHTEENTH CAUSE OF ACTION
UNFAIR AND UNLAWFUL ACTS IN VIOLATION OF UNFAIR COMPETITION LAW
(Cal. Bus. & Prof. Code §§ 17200 et seq.)
PLAINTIFF AGAINST ALL DEFENDANTS

85. PLAINTIFF incorporates all preceding paragraphs as though fully set forth herein.

86. On information and belief, and at all relevant times, PLAINTIFF alleges that DEFENDANTS, by and through policies and practices, engaged in unlawful activity prohibited by Business and Professions Code §§ 17200, et seq., including the following:

- a. Failing to compensate PLAINTIFF for all hours worked by, for example, improperly recording or failing to record hours worked, paying according to schedule instead of actual hours worked, refusing to pay for certain work, refusing to pay at the applicable rates of pay, and not properly compensating at the applicable overtime rate, in violation of the state's minimum and overtime wage laws and the city of Richmond's minimum wage ordinance;
- b. failing to pay at the agreed upon rates and secretly paying below contractual or statutory rates, in violation of Labor Code § 223;
- c. failing to provide proper rest periods and meal periods or compensation in lieu thereof, in violation of state law;
- d. failing to pay all wages due at the appropriate periodic intervals as required by Labor Code § 204;
- e. Failing to provide sick pay, in violation of Labor Code § 246;
- f. failing to pay all wages owed timely upon termination of the employment relationship, in violation of state law
- g. Harassing PLAINTIFF on the basis of sex, age, and national origin;
- h. Committing acts of violence against PLAINTIFF

87. DEFENDANTS' actions as alleged herein constitute false, fraudulent, unlawful, unfair, and deceptive business practices, within the meaning of Business and Professions Code §§ 17200 et seq. PLAINTIFF has suffered injury in fact and have lost money or property as a result of such

1 unfair competition.

2 88. On information and belief, Defendants CHOI and LEE are liable for the unlawful
3 activity described within this Cause of Action due to the fact that Defendant ANGELO's is an alter
4 ego of Defendants CHOI and LEE.

5 89. PLAINTIFF is entitled to an injunction and other equitable relief against
6 DEFENDANTS for such unlawful practices to prevent future damage for which there is no
7 adequate remedy at law, and to avoid a multiplicity of lawsuits.

8 90. As a result of DEFENDANTS' unlawful acts described herein, DEFENDANTS have
9 reaped and continue to reap unfair benefits and unlawful profits at the expense of PLAINTIFF.
10 DEFENDANTS should be enjoined from this activity and made to disgorge the ill-gotten gains and
11 restore to PLAINTIFF the wrongfully withheld wages, pursuant to Business and Professions Code
12 § 17203, as well as to enforce penalty provisions pursuant to § 17202.

13 91. PLAINTIFF is informed and believes, and thereon alleges, that DEFENDANTS have
14 been and continue to be unjustly enriched through false, fraudulent, unlawful, unfair, and deceptive
15 business practices as alleged throughout this Complaint. PLAINTIFF is and has been prejudiced by
16 DEFENDANTS' unfair trade practices.

17 92. As a direct and proximate result of DEFENDANTS' unfair business practices,
18 PLAINTIFF is entitled to equitable and injunctive relief from DEFENDANTS, including full
19 restitution and/or disgorgement of all wages which have been unlawfully withheld from them, and
20 enjoinder of DEFENDANTS to cease and desist from engaging in the practices described herein.

21 93. As a direct and proximate result of DEFENDANTS' unfair business practices,
22 PLAINTIFF is entitled, in accordance with Business and Professions Code § 17202, to
23 enforcement of penalties resulting from the business acts and practices described herein, and
24 entitled to enjoinder of DEFENDANTS to cease and desist from engaging in the practices
25 described herein.

26 94. On information and belief, the unlawful conduct alleged herein is continuing, and there
27 is no indication that DEFENDANTS will cease such activity. PLAINTIFF alleges that if
28 DEFENDANTS are not enjoined from the conduct set forth in this Complaint, DEFENDANTS

1 will continue the practice of failing to properly compensate employees for all wages owed; provide
2 accurate wage statements; maintain required records; or pay all wages owed upon discharge.

3 95. Wherefore, PLAINTIFF requests relief against DEFENDANTS as described herein and
4 below and as deemed just and proper by this Court.

5
6 **NINETEENTH CLAIM FOR RELIEF**
7 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**
8 **(Cal. Lab. Code §§ 2698 ET SEQ., § 558)**
9 **(PLAINTIFF AGAINST ALL DEFENDANTS)**

9 96. PLAINTIFF incorporates all preceding paragraphs as though fully set forth herein.

10 97. PLAINTIFF brings this claim for themselves and other current and former employees,
11 as expressly authorized by the California Private Attorneys General Act of 2004, Labor Code
12 §§ 2699 et seq. (“PAGA”). PAGA is an enforcement action that empowers aggrieved employees
13 to seek penalties on behalf of themselves, current and former employees and the State, without the
14 need to certify a class. For purposes of this claim only, therefore, PLAINTIFF brings this claim to
15 enforce the rights of herself and other current and former employees and need not comply with
16 Class Action Certification.

17 98. PLAINTIFF is an aggrieved employee as defined in Labor Code §2699(a). She brings
18 this Cause of Action on behalf of herself and the State of California for violations against other
19 current or former aggrieved employees.

20 99. The pre-lawsuit notice requirements set forth in Labor Code § 2699.3 have been
21 initiated by written notice by certified mail to all Defendants and to the Labor and Workforce
22 Development Agency, detailing the Labor Code and IWC Wage Order violations averred herein.
23 The waiting requirements will be completed prior to service of the complaint.

24 100. PLAINTIFF seeks civil penalties as provided under applicable Labor Code sections
25 for violations of the Labor Code alleged herein pursuant to Labor Code § 2699(a). To the extent
26 that any violation alleged herein does not carry a penalty, PLAINTIFF seeks civil penalties
27 pursuant to Labor Code § 2699(f) for PLAINTIFF, other current or former employees, and the
28

1 State for each pay period in which they were aggrieved, in the amounts established by Labor Code
2 § 2699.

3 101. Labor Code § 2699(f) provides:

4 For all provisions of this code except those for which a civil penalty is
5 specifically provided, there is established a civil penalty for a violation of
6 these provisions, as follows: . . . (2) If, at the time of the alleged violation,
7 the person employs one or more employees, the civil penalty is one hundred
8 dollars (\$100) for each aggrieved employee per pay period for the initial
9 violation and two hundred dollars (\$200) for each aggrieved employee per
10 pay period for each subsequent violation.

11 102. PLAINTIFF seeks civil penalties due from all DEFENDANTS on behalf of herself,
12 other aggrieved employees and the State, as provided by Labor Code § 2699(i), including but not
13 limited to, penalties and unpaid wages due pursuant to Labor Code § 558 and § 1197.1 as a result
14 of DEFENDANTS' violation of the provisions of the Labor Code and Wage Orders 8.

15 103. DEFENDANTS are liable as employers or persons acting on behalf of the
16 employer(s) pursuant to Labor Code § 558. DEFENDANTS created, authorized, implemented
17 and/or enforced the practices that violate the law and/or caused the violations complained of
18 herein. DEFENDANTS are therefore liable for penalties and wages pursuant to Labor Code § 558.

19 104. On information and belief, Defendants CHOI and LEE are also liable for the
20 unlawful activity described within this Cause of Action due to the fact that Defendant ANGELO's
21 is an alter ego of Defendants CHOI and LEE.

22 105. All DEFENDANTS are liable to PLAINTIFF and the state for the civil
23 penalties arising from the violations against PLAINTIFF and other current and former employees
24 alleged in this Complaint. PLAINTIFF is also entitled to an award of attorneys' fees and costs as
25 set forth below.

26 106. Most of the predicate act violations which serve as the basis for this PAGA claim
27 (minimum wage and overtime violations, rest and meal period violations, and failure to
28 compensate for all "hours worked") relate to the non-payment of wages or violations of the IWC
Wage Orders that were posted at the worksite.

107. PLAINTIFF is aggrieved by DEFENDANTS' labor and payroll practices that:

a. fail to compensate for all "hours worked";

- b. fail to compensate minimum and premium wages;
- c. inaccurately keep records of actual hours worked and wages earned;
- d. fail to provide timely and/or complete meal breaks, or premium wages in lieu thereof; and
- e. fail to provide sick pay

100. WHEREFORE, PLAINTIFF requests relief as described herein and below.

VI. PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF respectfully prays that this Court:

1. Award PLAINTIFF compensatory damages according to proof;
2. Award PLAINTIFF actual damages, including but not limited to lost wages, mental and severe emotional distress damages for the antecedent discrimination and sexual harassment suffered by PLAINTIFF;
3. Award PLAINTIFF civil penalties as provided by statute;
4. Award PLAINTIFF punitive and exemplary damages according to proof;
5. Award PLAINTIFF's attorneys' fees and costs, including expert witness fees;
6. Award PLAINTIFF prejudgment interest on all amounts claimed; and award PLAINTIFF any other relief that this Court may deem proper;
7. For restitution of wages, and other monies owed; and
8. A preliminary and permanent injunction against DEFENDANTS and their directors, officers, owners, agents, successors, employees and representatives, and any and all persons acting in concert with them, requiring them to:
 - a. Desist from engaging in each of the unlawful practices, policies, customs and usages set forth herein;
 - b. Adopt a lawful policy for preventing and remedying unlawful harassment that creates an effective process for the investigation and resolution of harassment complaints and forbids unlawful retaliation against

- 1 complainants; and
- 2 c. Create a monitoring and reporting system to ensure that injunctive relief is
- 3 fully implemented;
- 4 9. For wages pursuant to the remedy provisions of the above stated California Labor
- 5 Code provisions,
- 6 10. For penalties and interest as provided by the California Labor Code.
- 7 11. For such other and further relief as the Court deems just and proper pursuant to the
- 8 procedures detailed in Labor Code §§ 2698 et seq.
- 9 12. For all provisions of the Labor code violated as described above except those for
- 10 which a civil penalty is specifically provided, a civil penalty of one hundred dollars (\$100) for each
- 11 aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each
- 12 aggrieved employee per pay period for each subsequent violation.
- 13 13. Pursuant to PAGA, for all provisions of the Labor code violated as described above
- 14 for which a civil penalty is specifically provided, civil penalties for each aggrieved employee as
- 15 specifically provided by statute.
- 16 14. For all other relief available under PAGA
- 17 15. For attorney's fees and costs pursuant to the California Labor Code, third party
- 18 contracts and/or local wage ordinances;
- 19 16. For any other remedies provided by third party contracts and/or local wage
- 20 ordinances;
- 21 17. For an award of post-judgment interest as authorized under the law;
- 22 18. For restitution to PLAINTIFF in amounts to be proven at trial, for the violation of
- 23 Business and Professions Code section 17200, et. seq.;
- 24 19. For an award of a preliminary and permanent injunction ordering DEFENDANTS
- 25 to cease the unlawful and unfair business practices as herein alleged;
- 26 20. For an award of injunctive relief ordering DEFENDANTS to comply with Labor
- 27 Code § 226(e), plus attorney's fees and costs.
- 28 21. For a permanent injunction enjoining DEFENDANTS, their officers, successors,

1 assigns, and all persons in active concert or participation with it, from engaging in retaliation
2 against employees for participating in a protected activity;

3 22. For such other relief as this Court deems just and proper.

4 23. Such other and further legal and equitable relief as this Court deems necessary, just
5 and proper;

6 24. Grant such further relief as the Court deems necessary and proper in the public
7 interest.
8

9 **VII. DEMAND FOR JURY TRIAL**

10 PLAINTIFF hereby demands trial of her claims by jury to the extent authorized by law.
11

12 Dated: September 22, 2020

MALLISON & MARTINEZ

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14
15 By: /s/Leanna Marie Sac
16 Stan S. Mallison
17 Hector R. Martinez
18 Leanna M. Sac
19 Attorneys for PLAINTIFF
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