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FILED/ENDORSED

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

AYRIKA CAETON, individually,
and as an aggrieved employee
pursuant to the Private Attorneys
General Act (PAGA).

Plaintiff

vs.

EC PETE'S, LLC, a California Limited
Liability Company; ETHAN CONRAD,
an individual; DOES 1 to 20, inclusive,

Defendants

Case No. **34E2020-00289411**

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. Retaliation (Labor Code § 1102.5);
10. Retaliation (Labor Code § 98.6);
11. Failure to Reimburse Business Expenses;
12. Unfair Competition (Business & Professions Code § 17200 *et seq.*);
13. Civil Penalties Pursuant to Private Attorney General Act, Labor Code § 2698 *et seq.*;
14. Wrongful Termination

JURY TRIAL DEMANDED

1 Plaintiff AYRIKA CAETON ("Plaintiff") hereby files this Complaint against Defendants EC
2 PETE'S, LLC, a California Limited Liability Company; ETHAN CONRAD, an individual; DOES 1
3 to 20, inclusive, (hereinafter collectively referred to as "Defendants"). Plaintiff alleges as follows:

4 **PARTIES AND JURISDICTION**

5 1. Plaintiff was an hourly employee of Defendants, where she worked in various
6 positions, including server, bartender, supervisor, and assistant manager, from approximately March
7 2015 until her illegal and retaliatory termination in or around May 2020.

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 EC PETE'S, LLC is a
11 California Limited Liability Company with its principal place of business in California.

12 4. Plaintiff is further informed and believe, and thereon allege, that Defendant ETHAN
13 CONRAD was the owner and operator of Defendant EC PETE'S, LLC. and can be found personally
14 liable for wage and hour violations pursuant to Labor Code section 558.1.

15 5. Plaintiff is further informed and believes, and thereon allege, that each of the
16 Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer or
17 joint venturer of the remaining defendants and was acting within the course and scope of that
18 relationship. Plaintiff are further informed and believe, and thereon allege, that each of the
19 Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the
20 remaining defendants. The true names and capacities of the defendants named herein Does 1 through
21 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiff, who
22 therefore sue such defendants by fictitious names pursuant to California Code of Civil Procedure
23 section 474. Plaintiff will amend this complaint to show such true names and capacities of Does 1
24 through 20, inclusive, when they have been determined.

25 6. The Sacramento Superior Court has jurisdiction in this matter due to alleged
26 violations of California Labor Code §§ 203, 226, 226.7, 510, 512, 1194 Business and Professions
27 Code § 17200 *et seq.*, and the applicable Wage Order.
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7. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some of the wrongful acts and violations of law asserted herein occurred within Sacramento County.

8. On August 26, 2020, Plaintiff filed her Labor Code § 2699.3 Private Attorney General Act ("PAGA") notice with the California Labor & Workforce Development Agency ("LWDA"). On November 16, 2020, Plaintiff filed her Amended PAGA Notice. The LWDA did not respond to Plaintiff's PAGA notice within 65 days of the original Notice, thus deputizing Plaintiff to represent herself, other aggrieved employees, and the California Labor Commissioner for the purpose of collecting civil penalties for violations of the California Labor Code committed by Defendants.

9. Plaintiff has filed a complaint of discrimination with the State of California Department of Fair Employment and Housing against Defendant EC PETE'S, LLC within the applicable statutory period and received a Notice of Right to Sue on November 16, 2020, which was served on Defendant per the requirements of the statute.

BACKGROUND

10. Claimant and similarly situated employees worked for Defendant(s) as non-exempt employees in California and were paid on hourly basis.

11. Defendants did not allow Claimant and similarly situated employees to take their statutorily required meal and rest periods. Defendants failed to provide Claimant and other similarly situated employees a 30-minute, duty-free meal period before the end of the fifth hour of work as required under the law. Claimant and similarly situated employees regularly missed their meal and rest periods and/ or they were provided late.

12. Defendants also failed to provide rest periods to Claimant and similarly situated employees for every 4 hours worked or major fraction thereof. Defendants' management staff were aware this was occurring and did not ensure meal and/ or rest periods were provided to Claimant and similarly situated employees in compliance with California law.

13. Claimant and similarly situated employees were required to clock out for meal breaks but were still suffered or permitted to work during the unpaid meal break time. Defendants'

1 business was also severely understaffed at times such that it was impossible for Claimant and
2 similarly situated employees to take meal or rest breaks. In addition, Defendants' timekeeping
3 system did not allow employees to clock out at the end of a shift if they had not clocked out for a
4 meal period.

5 14. As a result, Claimant and similarly situated employees frequently had to leave work
6 without entering a final time punch, which would later be entered manually by the general manager,
7 who would also add a meal period to avoid paying a meal period premium or overtime, if applicable,
8 even though she knew the employee had not taken a meal period. Defendants' general manager
9 created falsified time records of meal periods taken under other circumstances as well, all to ensure
10 her profit and loss (P+L) numbers were sufficient to provide her a bonus.

11 15. Claimant and similarly situated employees were also suffered and permitted to work
12 off the clock without compensation for other reasons. For example, Claimant often performed work
13 on her own time at home, such as creating menus, answering emails and phone calls, handling party
14 reservations, and driving her personal vehicle to pick up needed supplies. Claimant's manager was
15 aware of this additional work, but Claimant was never compensated for it.

16 16. Claimant and similarly situated employees regularly worked over eight (8) hours a
17 day and/or forty (40) hours a week for which overtime was not paid. Defendants also failed to pay
18 minimum wages for all hours worked by Claimant and similarly situated employees. For instance,
19 Defendants' general manager frequently requested or required employees to clock out but still
20 continue working off the clock in order to complete assigned tasks so that Defendant could avoid
21 paying overtime and so the general manager's P+L remained at the level so she could receive her
22 bonus. Defendants offered these employees free drinks or provided them a Starbucks coffee rather
23 than pay these employees overtime and minimum wages for the time worked.

24 17. Defendants also failed to pay Claimant the agreed-upon wages, and instead varied
25 Claimant's pay rate seemingly at random, although Claimant performed the same duties every day
26 that she worked.
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1 18. Claimant and similarly situated employees also incurred business expenses without
2 reimbursement. For example, Claimant was frequently required to run errands in her personal
3 vehicle, but Defendants never reimbursed Claimant and similarly situated employees for mileage.
4 Defendants also failed to reimburse Claimant and similarly situated employees for the use of their
5 cell phones for business purposes. For instance, Claimant frequently made and received calls with
6 the general manager, other staff members, and even clients on her personal cell phone.

7 19. On or around February 13, 2020, Plaintiff and her supervisor, General Manager
8 Amanda Turner were in a meeting during which Plaintiff complained that she was not being paid
9 correctly, that she was not being paid for all hours worked, and that she was unable to take her meal
10 and rest periods.

11 20. Ms. Turner was visibly upset that Plaintiff made these statements, because another
12 person was also present who was likely to relay these concerns to the owner, Ethan Conrad. Plaintiff
13 had also previously expressed these same concerns to Ms. Turner on a variety of occasions.

14 21. Shortly thereafter, in or around March 2020, Defendants' location closed temporarily
15 due to COVID-19 restrictions. In April 2020, Ms. Turner reached out to Plaintiff asking if she
16 would be able to take on some shifts as a cashier assisting with Defendants' take-out business.
17 Plaintiff responded that she would be unable to do this for a short period because she had underlying
18 medical conditions, such as high blood pressure, that put her in the high-risk category for COVID-
19 19, and that her doctor had told her to remain in quarantine for a short period.

20 22. Plaintiff had previously shared these underlying medical issues with Ms. Turner and
21 Defendants were aware of Plaintiff's medical conditions.

22 23. Ms. Turner initially responded that this was fine, and Plaintiff expected that she
23 would return to work a short time later either when restrictions were lifted or when her doctor
24 permitted her to return.

25 24. Instead, in or around May 2020, Plaintiff was contacted by a co-worker who informed
26 Plaintiff that other employees were returning to work, and asking why Plaintiff was not there.
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1 Plaintiff immediately reached out to Ms. Turner who informed Plaintiff that she had been replaced
2 and that her employment was terminated.

3 25. At no time did Defendant engage in the interactive process with Plaintiff to determine
4 if there was a accommodation that could be made in response to Plaintiff's reasonable request for a
5 short leave due to Plaintiff's medical condition causing her to be at high risk regarding COVID-19.
6 Instead, Defendants terminated Plaintiff's employment after she made her leave request, which was
7 also shortly after Plaintiff complained to Ms. Turner regarding Defendants' Labor Code violations.

8 26. Claimant is informed and believes that Defendants committed numerous other
9 violations of the California Labor Code, including but not limited to those identified in this
10 Complaint. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745 (2018),
11 Claimant intends to seek civil penalties for all violations of the California Labor Code, whether she
12 experienced them personally or not.

13 27. Upon information and belief, all transactions regarding compensation, hiring,
14 terminations, promotions, pay increases, etc. relating to Defendants' California employees were
15 submitted to and processed by Defendant in its California headquarters. Additionally, on
16 information and belief, Defendants' corporate records, in particular HR and pay records pertaining to
17 Defendants' California employees, are also maintained at Defendants' California headquarters.

18 28. Upon information and belief, Defendants maintain a central Payroll department at its
19 California headquarters which processes payroll for all Defendants' employees, including Plaintiff
20 and similarly situated, aggrieved employees.

21 29. At all times herein set forth, PAGA provides that any provision of law under the
22 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
23 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage Order
24 may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of
25 themselves and other current or former employees pursuant to procedures outlined in California
26 Labor Code section 2699.3.
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1 30. PAGA defines an aggrieved employee in labor Code section 2699(c) as “any person
2 who was employed by the alleged violator and against whom one or more of the alleged violations
3 was committed.”

4 31. Plaintiff and other current and former employees of Defendants are aggrieved
5 employees as defined by the Labor Code in that they are all Defendants’ current or former
6 employees and one or more of the alleged violations was committed against them.

7
8 **FIRST CAUSE OF ACTION**
9 **Disability Discrimination in Employment**
 (As to Defendant EC Pete’s, LLC)

10 32. Plaintiff hereby incorporates by reference Paragraphs 1 through 31 of this Complaint
11 as if fully set forth herein and for a cause of action alleges as follows:

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

15 34. Defendant knew Plaintiff had a disability and serious medical condition.

16 35. Plaintiff was able to perform the essential job duties of Defendant’s position with
17 reasonable accommodation. At all times during her employment, Plaintiff was qualified to perform
18 the duties of Defendant’s position.

19 36. Defendant failed to accommodate Plaintiff’s disability and serious medical condition
20 and failed to engage in the interactive process to determine how best to accommodate Plaintiff’s
21 disability and serious medical condition. Defendant then terminated Plaintiff due to perceptions
22 regarding her disability and serious medical condition.

23 37. As a direct, foreseeable, and proximate result of Defendant’s unlawful actions,
24 Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred
25 other economic losses.
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1 38. As a further direct, foreseeable, and proximate result of Defendant's unlawful actions,
2 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to her
3 damage in an amount to be proven at time of trial.

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

8
9 **SECOND CAUSE OF ACTION**
10 **Failure to Accommodate**
 (As to Defendant EC Pete's, LLC)

11 40. Plaintiff hereby incorporates by reference Paragraphs 1 through 39 of this Complaint
12 as if fully set forth herein and for a cause of action alleges as follows:

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

16 42. Defendant knew Plaintiff had a disability and serious medical condition.

17 43. Plaintiff was able to perform the essential job duties of Defendant's position with
18 reasonable accommodation. At all times during her employment, Plaintiff was qualified to perform
19 the duties of Defendant's position.

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

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

24 46. As a further direct, foreseeable, and proximate result of Defendant's unlawful actions,
25 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to her
26 damage in an amount to be proven at time of trial.
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1 47. Defendant committed the acts herein despicably, maliciously, fraudulently, and
2 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
3 amounting to malice, and in conscious disregard of her rights. Plaintiff is thus entitled to recover
4 punitive damages from Defendant in an amount according to proof.

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6 **THIRD CAUSE OF ACTION**
7 **Failure to Engage in the Interactive Process**
8 **(As to Defendant EC Pete's, LLC)**

9 48. Plaintiff hereby incorporates by reference Paragraphs 1 through 47 of this Complaint
10 as if fully set forth herein and for a cause of action alleges as follows:

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

14 50. Defendant knew Plaintiff had a disability and serious medical condition.

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

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

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

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

27 55. Defendant committed the acts herein despicably, maliciously, fraudulently, and
28 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive

1 amounting to malice, and in conscious disregard of her rights. Plaintiff is thus entitled to recover
2 punitive damages from Defendant in an amount according to proof.

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

6 56. Plaintiff hereby incorporates by reference Paragraphs 1 through 55 of this Complaint
7 as if fully set forth herein and for a cause of action alleges as follows:

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

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

12 59. In addition, California Labor Code section 558.1, subsection (a), provides that "Any
13 employer or other person acting on behalf of an employer, who violates, or cause to be violated, any
14 provision regulating minimum wages or hours and days of work in any order of the Industrial
15 Welfare Commission, or violates or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or
16 2802, may be held liable as the employer for such violation."

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

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

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

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

11 63. Plaintiff incorporates by reference and re-allege paragraphs 1 through 62 as though
12 fully set forth herein.

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

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

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

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

26 68. Plaintiff further allege that Defendants failed to provide rest breaks of at least ten (10)
27 minutes for each work period that they worked more than four (4) hours.
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1 69. Also, provisions regulating minimum wages or hours and days of work in any order of
2 the Industrial Welfare Commission, such as IWC Wage Order No. 5-2001, and California Labor
3 Code section 226.7 have been violated by, or were caused to be violated by, Defendants and
4 Defendant ETHAN CONRAD. Plaintiff is informed and thereon believes that Defendant ETHAN
5 CONRAD was a person acting on behalf of Defendants, including as an owner and/or managing
6 agent of Defendants, within the meaning of California Labor Code section 558.1. Therefore,
7 Defendant ETHAN CONRAD may be held liable as the employer for the violations of provisions
8 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
9 Commission, including IWC Wage Order No. 5-2001, and California Labor Code section 226.7.

10 70. 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 71. 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).

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

23 72. Plaintiff incorporates by reference and re-allege paragraphs 1 through 71 as though
24 fully set forth herein.

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

27 *(1) gross wages earned, (2) total hours worked by the employee,*
28 *except for any employee whose compensation is solely based on a*
 salary and who is exempt from payment of overtime under
 subdivision (a) of Section 515 or any applicable order of the

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

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

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

76. Also, California Labor Code section 226 has been violated by, or was caused to be
violated by, Defendants and Defendant ETHAN CONRAD. Plaintiff is informed and thereon
believes that Defendant ETHAN CONRAD 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

1 section 558.1. Therefore, Defendant ETHAN CONRAD may be held liable as the employer for the
2 violations California Labor Code section 226.

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

5 **SEVENTH CAUSE OF ACTION**
6 **Waiting Time Penalties**
7 **(As to All Defendants)**

8 78. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 77 as though
9 fully set forth herein.

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

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

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

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

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

25 84. Also, California Labor Code section 203 has been violated by, or was caused to be
26 violated by, Defendants and Defendant ETHAN CONRAD. Plaintiff is informed and thereon
27 believes that Defendant ETHAN CONRAD was a person acting on behalf of Defendants, including
28 as an owner and/or managing agent of Defendants, within the meaning of California Labor Code

1 section 558.1. Therefore, Defendant ETHAN CONRAD may be held liable as the employer for the
2 violations California Labor Code section 203.

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

6 **EIGHTH CAUSE OF ACTION**
7 **Failure to Pay Overtime Wages**
8 **(As to All Defendants)**

9 86. Plaintiff incorporates by reference and re-allege paragraphs 1 through 85 as though
10 fully set forth herein.

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

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

19 89. In addition, California Labor Code section 558.1, subsection (a), provides that "Any
20 employer or other person acting on behalf of an employer, who violates, or cause to be violated, any
21 provision regulating minimum wages or hours and days of work in any order of the Industrial
22 Welfare Commission, or violates or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or
23 2802, may be held liable as the employer for such violation."

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

27 91. Provisions regulating minimum wages or hours and days of work in any order of the
28 Industrial Welfare Commission, such as IWC Wage Order No. 2-2001, and California Labor Code

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

8 92. Defendants' conduct described herein violates California Labor Code sections 510
9 and 1194, and Wage Orders. As a proximate result of Defendants' conduct, Plaintiff has been
10 damaged and deprived of overtime wages, in an amount to be established at trial. Plaintiff now
11 seeks these wages, attorney's fees and costs, and interest pursuant to California Labor Code sections
12 1194.

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14 **NINTH CAUSE OF ACTION**
15 **Retaliation in Violation of Labor Code section 1102.5**
16 **(As to Defendant EC Pete's, LLC)**

17 93. Plaintiff hereby incorporates by reference Paragraphs 1 through 92 of this Complaint
18 as if fully set forth herein and for a cause of action alleges as follows:

19 94. California Labor Code § 1102.5 prohibits retaliation against an employee for
20 disclosing information to a person with authority over the employee, where the employee has
21 reasonable cause to believe that the information discloses a violation of state or federal statute or a
22 violation or noncompliance with a state or federal rule or regulation. Labor Code § 1102.5 further
23 prohibits retaliation against an employee for refusing to participate in an activity that would result in
24 a violation of state or federal statute or a violation or noncompliance with a state or federal rule or
25 regulation.

26 95. Plaintiff informed Defendants as to her concerns that she was not being paid her
27 agreed-upon wage, was not being paid for all hours worked, and was not receiving her meal and rest
28 periods, believing these actions to be in violation of the law.

1 96. Following Plaintiff's notification to Defendants of the above-referenced concerns,
2 Plaintiff was retaliated against by terminating her employment.

3 97. As a direct, foreseeable, and proximate result of Defendants' retaliatory actions,
4 Plaintiff has suffered and continues to suffer substantial losses in earnings and job benefits, all to her
5 damage, the amount of which will be established at trial.

6 98. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
7 Plaintiff has suffered emotional distress, humiliation, shame, and embarrassment, all to her damage
8 in an amount to be established at trial.

9 **TENTH CAUSE OF ACTION**
10 **Retaliation in Violation of Labor Code section 98.6**
11 **(As to Defendant EC Pete's, LLC)**

12 99. Plaintiff hereby incorporates by reference Paragraphs 1 through 98 of this Complaint
13 as if fully set forth herein and for a cause of action alleges as follows:

14 100. California Labor Code § 98.6 prohibits retaliating or discriminating against an
15 employee who has made an oral or written complaint that they are owed unpaid wages.

16 101. Plaintiff complained to her supervisor on multiple occasions that she was not being
17 paid the agreed-upon wage, that she was not paid for all hours worked, and that she was not provided
18 her statutory meal and rest breaks.

19 102. When Plaintiff made this complaint to her general manager in front of another
20 individual who the general manager believed was likely to convey this issue to the owner, Plaintiff
21 was terminated shortly thereafter.

22 103. As a direct, foreseeable, and proximate result of Defendants' retaliatory actions,
23 Plaintiff has suffered and continues to suffer substantial losses in earnings and job benefits, all to her
24 damage, the amount of which will be established at trial.

25 104. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
26 Plaintiff has suffered emotional distress, humiliation, shame, and embarrassment, all to her damage
27 in an amount to be established at trial.
28

ELEVENTH CAUSE OF ACTION
Failure to Reimburse Business Expenses
(As to Defendant EC Pete's, LLC)

105. Plaintiff hereby incorporates by reference Paragraphs 1 through 104 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

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

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

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

TWELFTH CAUSE OF ACTION
(Unfair Competition)
(As to Defendant EC Pete's, LLC)

108. Plaintiff incorporates by reference and re-allege paragraphs 1 through 107 as though fully set forth herein.

109. 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.

110. Plaintiff was not paid all wages owed during her employment, was not paid the agreed-upon wage, and was not provided legally compliant meal and rest breaks. Defendants also

1 failed to provide legally compliant paystubs to Plaintiff throughout the employment relationship that
2 failed to show, among other things, all hours worked.

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

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

13
14 **THIRTEENTH CAUSE OF ACTION**
15 **Civil Penalties Pursuant to PAGA § 2698 *et seq.***
16 **(As to All Defendants)**

17 113. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 112 as though
18 fully set forth herein.

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

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

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

4 **FOURTEENTH CAUSE OF ACTION**
5 **Wrongful Discharge in Violation of Public Policy**
6 **(As to Defendant EC Pete's, LLC)**

7 117. Plaintiff hereby incorporates by reference Paragraphs 1 through 116 of this Complaint
8 as if fully set forth herein and for a cause of action alleges as follows:

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

12 119. Defendant knew Plaintiff had a disability and serious medical condition.

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

16 121. Following Plaintiff's reasonable request for a short leave of absence due to her being
17 at higher risk for COVID-19, Defendant failed to accommodate Plaintiff's disability and serious
18 medical condition and failed to engage in the interactive process to determine how best to
19 accommodate Plaintiff's disability and serious medical condition. Furthermore, Defendant
20 terminated Plaintiff's employment due to its perceptions regarding her disability and serious medical
21 condition.

22 122. In addition, Defendants terminated Plaintiff following her complaints that she was not
23 paid the agreed-upon rate, she did not receive meal and rest breaks, and she was not paid for all
24 hours worked.

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

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

125. 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.

126. 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 her damage in an amount to be proven at time of trial.

127. 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 her rights. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

DAMAGES

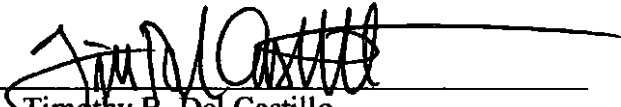
WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

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

1 7. For an award to Plaintiff of such other and further relief as the Court deems just and
2 proper.
3

4 Dated: November 16, 2020

Castle Law: California Employment Counsel, PC

5
6 By: 

Timothy B. Del Castillo

Kent L. Bradbury

Attorneys for Plaintiff AYRIKA CAETON
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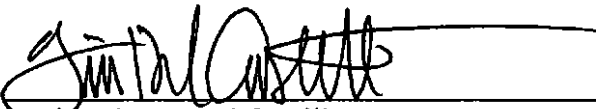
JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury.

Dated: November 16, 2020

Castle Law: California Employment Counsel, PC

By:



Timothy B. Del Castillo

Kent L. Bradbury

Attorneys for Plaintiff AYRIKA CAETON

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