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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF RIVERSIDE

13 LAUREL HOLMES, an Individual,

14 Plaintiff,

15 vs.

16 RICHARD E. QUINTILONE II, doing
17 business as QUINTILONE AND
18 ASSOCIATES, an Individual;
19 and DOES 1-50, Inclusive.

20 Defendants.

Case No.: MCC 2001860

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

DEMAND FOR JURY TRIAL

HAEGGQUIST & ECK, LLP

BY FAX

Plaintiff Laurel Holmes (“Ms. Holmes” or “Plaintiff”), by her attorneys, brings this action on behalf of herself against Richard E. Quintilone II doing business as Quintilone & Associates (“Quintilone”), and DOES 1 through 50, inclusive (collectively, “Defendants”). Plaintiff makes the following allegations upon information and belief (except those allegations as to the Plaintiff or her attorneys, which are based on personal knowledge), based upon an investigation that is reasonable under the circumstances, which allegations are likely to have evidentiary support after a reasonable opportunity for further investigation and/or discovery.

NATURE OF ACTION

1. In late 2019, a new coronavirus emerged, named severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).¹ This virus causes coronavirus disease 2019 (“COVID”), a respiratory illness that can cause serious health problems, including death. *Id.* Despite knowing the risks of COVID, in callous disregard of the safety and health of his employees, Quintilone, the owner of a law practice, knowingly, by acts of deliberate and reckless commission and omission, put the lives of his employees and their families at risk. Quintilone refused to close in-office operations in direct violation of federal, state, and local orders, regulations, and guidance; he failed to institute any measures to prevent, mitigate, or respond to the spread of COVID; and he knowingly brought COVID into the workplace infecting others, including Ms. Holmes. Despite Ms. Holmes’ repeated complaints to Quintilone to come into compliance with the laws, orders and guidance to make the workplace safe and healthy, Quintilone refused, and in fact, mocked Ms. Holmes. Worse, when Ms. Holmes told Quintilone that she refused to unsafely work in the office in direct violation of California’s executive order and other laws prohibiting such, and asked to work remotely, Quintilone told her she needed to come into the office or find another job. Accordingly, Quintilone wrongfully terminated Ms. Holmes’ employment.

¹ See *Frequently Asked Questions*, Centers for Disease Control and Prevention (July 15, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Coronavirus-Disease-2019-Basics> (last visited September 14, 2020).

2. If Quintilone's stripping Ms. Holmes of her income to provide for her family was not bad enough, Quintilone sent her packing with a deadly virus that he passed onto Ms. Holmes, her diabetic husband, and their at-risk seven-month old baby. While Ms. Holmes was very sick with COVID, through exhaustion, fever, and illness she had to rush her baby to the emergency room in the middle of the night to be seen by a Rady Children's Hospital Pediatrician to undergo invasive testing, treatment, and observation. Ms. Holmes' family continued to suffer from the physical, mental, and emotional effects of COVID and Quintilone's misconduct. Unfortunately, Quintilone's unlawful conduct is not an aberration, and must be stopped. Rather, he has a pattern and practice of violating ethical, moral, and safety rules to the detriment of his clients and employees.

3. To add insult to injury, Quintilone, an employment law lawyer who knows better, failed to reimburse Ms. Holmes for necessary cell phone and mileage business expenses incurred by Ms. Holmes in direct consequence of the discharge of her duties.

4. To redress the harms suffered, Ms. Holmes brings claims for: (1) wrongful termination in violation of Labor Code §6311; (2) discrimination and wrongful discharge in violation of Labor Code §6310(a)(1) and (b); (3) wrongful termination in violation of Labor Code §1102.5(c); (4) wrongful termination in violation of public policy; (5) failure to reimburse necessary business expenses in violation of Labor Code §2802; (6) violation of the Unfair Competition Law ("UCL"), Business & Professions Code §§17200, *et seq.*; and (7) violation of the Private Attorney General Act ("PAGA"), Labor Code §§2698, *et seq.*

JURISDICTION

5. The Superior Court of the State of California has jurisdiction over this action pursuant to Article VI, §10 of the California Constitution because this case is a cause not given by statute to other trial courts. Federal jurisdiction does not exist in this case because there is no federal question implicated and because there is no diversity of citizenship.

6. This Court has personal jurisdiction over Quintilone because Quintilone does business, and conducts a substantial amount of business, in the State of California. During the relevant period, Quintilone did sufficient business in, had sufficient contacts with, and intentionally availed itself of the laws and markets of California through the promotion, sale, marketing, and

1 operation of services, as to render exercise of jurisdiction by California courts permissible. The
2 violations of law hereinafter described have been and are now being carried out within the State of
3 California.

4 7. Venue is proper in this county in accordance with Code of Civil Procedure §395(a)
5 because Ms. Holmes resides in this County and part of Ms. Holmes' employment with Quintilone
6 occurred in this County. Based on information and belief, Quintilone also does business in this
7 County.

8 THE PARTIES

9 Laurel Holmes

10 8. Ms. Holmes resides in Temecula, California, in Riverside County. She is an attorney
11 who was admitted to the California State Bar in January 2016 after graduating from the University
12 of San Diego School of Law. Ms. Holmes was employed by Defendant Quintilone as an Associate
13 Attorney from about April 28, 2020 until she was wrongfully terminated on or about June 22, 2020.
14 Prior thereto, Ms. Holmes worked for several plaintiff-side employment and consumer litigation
15 law firms, such as Semnar & Hartman LLP and Abramson Law Group. Ms. Holmes has never
16 faced any disciplinary action by The State Bar of California and her license to practice law has been
17 active at all relevant times.

18 9. At the start of her employment with Quintilone, Ms. Holmes resided with her
19 husband and their seven-month old daughter. Earlier in the year, Ms. Holmes' daughter contracted
20 Respiratory Syncytial Virus ("RSV"), a viral illness that causes symptoms such as trouble breathing
21 and lead to a 5-day hospitalization to provide high flow oxygen treatment and diagnosis with
22 bronchiolitis. RSV is one of the most common causes of bronchiolitis and pneumonia in babies.
23 Likewise, Ms. Holmes' husband was high risk with pre-existing diabetes. Accordingly, throughout
24 the COVID pandemic, Ms. Holmes and her family have been very cautious by self-isolating in their
25 home except for venturing out for essential needs. To provide for the family since her husband was
26 indefinitely furloughed due to the pandemic, Ms. Holmes sought employment with Quintilone.
27 Unfortunately, despite her best efforts to stay safe and healthy, because of Quintilone's unlawful
28 conduct Ms. Holmes contracted COVID from Quintilone at work, which spread to her family.

Defendants

10. Defendant Richard Quintilone operates a law practice doing business as Quintilone & Associates out of its main office located at 22974 El Toro Road, Suite 100, Lake Forest, California 92630. The focus of Quintilone's law practice is in civil litigation, primarily representing plaintiffs in employment law and personal injury matters. Quintilone's business is not part of the critical infrastructure sectors that are exempt from California's Stay Home Order, set forth below.

11. Ms. Holmes does not know the true names and capacities of Defendants DOES 1 through 50, inclusive, and therefore sues them by these fictitious names. Ms. Holmes will amend this Complaint to include their names and capacities once they are known. Ms. Holmes is informed and believes, and on that basis, alleges, that each of the Defendants designated as a DOE is legally responsible in some manner for the occurrences alleged in this Complaint, and unlawfully caused the injuries and damages to Ms. Holmes as alleged in this Complaint.

12. Ms. Holmes is informed and believes, and thereon alleges, that each defendant is, and always mentioned was, the agent, employee, or representative of each of the other Defendants. Each defendant, in doing the acts, or in omitting to act as alleged in this Complaint, was acting within the scope of his or her actual or apparent authority, or the alleged acts and omissions of each defendant as agent subsequently were ratified and adopted by each other defendant as principal.

FACTS COMMON TO ALL CAUSES OF ACTION

Defendant Quintilone and His Law Firm

13. Quintilone has a pattern and practice of operating his law practice out of compliance with State laws, rules, and regulations, including ethical and health and safety rules. Quintilone has been a party to numerous lawsuits, involving both former employees and clients. He has also been subject to discipline from the State Bar of California. For example, in 2007, Quintilone accepted a guilty plea with the State Bar of California relating to two different cases wherein the State Bar agreed to stay Quintilone's suspension from the practice of law pending a two-year probation with numerous conditions. The first case involved a felony conviction on May 16, 2006 for violating Penal Code §273.5(a), felony spousal abuse, and Penal Code §240, misdemeanor assault, in the matter of *People of the State of California vs. Richard Edward Quintilone*, Case No. 05SF0795. The

1 State Bar found Quintilone’s conduct violated Business and Professions Code §6068(a). The second
 2 case involved Quintilone improperly communicating with a party that Quintilone knew was
 3 represented without the consent of that lawyer in violation of then rule 2-100(A) of the Rules of
 4 Professional Conduct, in the matter of *Debra and Jack Dangelo vs. Irvine Apartment Communities,*
 5 *L.P. et al.*, Case No. 03CC04170.

6 14. Subsequently, Quintilone was sued for tort-based elder abuse by a group of former
 7 clients (elderly residents), who, after five years of litigation, “reluctantly settled their cases after
 8 [Quintilone] attempted to have them declared legally incompetent so that a guardian ad litem could
 9 be appointed to cooperate with the attorneys’ efforts.” *Roldan v. Quintilone & Assoc.*, 2018 Cal.
 10 App. Unpub. LEXIS 4399, *1 (2018). Quintilone settled with the clients for \$395,000, but part of
 11 the case was considered by an arbitrator who found in favor of the clients and awarded each of them
 12 additional noneconomic damages without offset. *Id.* at *3. Quintilone failingly attempted to vacate
 13 the award, first with a trial court and then with the Fourth District Court of Appeal. The clients
 14 sought sanctions against Quintilone in the amount of \$37,280 on the grounds the appeal was
 15 “frivolous and brought solely for the purpose of delay, and the briefing violated various court rules.”
 16 *Id.* at *32. The court of appeal agreed, finding that by “any objective measure, Quintilone’s appeal
 17 is undisputedly without merit.” *Id.* at *32-33. Moreover, the court found Quintilone’s briefing “was
 18 far from exemplary” and in the process he “omitted many material facts and inaccurately described
 19 others.” *Id.* at *33. On June 26, 2018, the court awarded the clients their requested \$37,280 as a
 20 “sanction” to “discourage Quintilone and his firm from further frivolous litigation ...” and referred
 21 the matter to the State Bar. *Id.* at *35-36.

22 15. Quintilone has also been the subject of several other lawsuits, including a lawsuit by
 23 a former employee for sexual harassment, constructive discharge, assault, and battery, among other
 24 claims. *See, e.g., Antonia Pucko v. Richard Edward Quintilone III, et al.*, Case No. 30-2018-
 25 01015651-CU-OE-CJC (Orange County Superior Court).

26 16. Quintilone nevertheless continued his pattern and practice of engaging in an
 27 unethical and violative law practice to the detriment of the safety and health of his employees. In
 28 this case, Quintilone employed Ms. Holmes, who worked for Quintilone at his office located in Lake

Forest, Orange County. Ms. Holmes also conducted work for Mr. Quintilone from her home in Temecula, Riverside County. Accordingly, Quintilone's business operations, including Ms. Holmes' work, were subject to not only federal and California state executive and public health orders, but also subject to the local orders and directives of Orange and Riverside Counties. As set forth below, Quintilone operated in direct defiance of these orders that were implemented to safeguard the health and safety of California citizens. Quintilone's conduct involves a pattern and practice of violating ethical, moral, and safety rules. It must come to an end.

The COVID-19 Pandemic

17. As of September 14, 2020, the number of COVID cases surpassed 28 million globally, with more than 925,000 reported associated deaths. As of that date, the number of reported deaths in the United States alone related to COVID exceeded 194,000 deaths - far more than any other country in the world.² The seriousness of COVID cannot be understated.

18. COVID is a highly contagious disease. COVID most commonly spreads through close interaction with an infected person that allows the virus to spread through airborne particles or aerosolized droplets, which are secretions from talking, yelling, coughing, and sneezing; or through contact with a contaminated surface. The risk of infection increases dramatically when individuals are in proximity, *e.g.*, within six feet of each other, particularly indoors and for extended periods of time. The risk of infection increases exponentially for those in contact with infected persons who sneeze or cough or otherwise project secretions into the air. Research published by the Centers for Disease Control and Prevention ("CDC") suggests that a single person with COVID is likely to infect five or six other individuals absent aggressive physical distancing practices.³

² See John Hopkins University & Medicine, Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last visited September 14, 2020).

³ Seven Sanche, *High Contagiousness and Rapid Spread of Severe Acute Respiratory Syndrome Coronavirus 2*, Centers for Disease Control and Prevention, https://wwwnc.cdc.gov/eid/article/26/7/20-0282_article?deliverName=USCDC_333-DM25287 (last visited September 14, 2020).

19. The following facts and timeline illustrate Quintilone’s notice of the consequences associated with COVID and demonstrate his gross recklessness and indifference to the health and safety of his employees and community:

(a) On January 8, 2020, the CDC issued its first public alert about COVID.

(b) A few weeks later, on January 20, 2020, the first known case of COVID was reported in the United States.

(c) A few days later, the first known case in California was reported in Orange County. Within weeks, the first known death from COVID in the United States was reported – a woman in San Jose, California.

(d) A global pandemic ensued, and on March 4, 2020, California’s Governor declared a state of emergency concerning COVID.⁴

(e) A little over a week later, on March 13, 2020, the President of the United States declared a national emergency concerning COVID.⁵

20. Because of the rapid spread of COVID and related threats, on March 19, 2020, California Governor Gavin Newsom issued a Stay Home Order (Executive Order N-33-20) (“Stay Home Order”).⁶ The same day the State Public Health Officer and Director of the California Department of Public Health (“State Health Officer”) entered a similar order.⁷ The Stay Home Order directed “all individuals living in the State of California to stay home or at their place of

⁴ See *Governor Newsom Declares State of Emergency to Help State Prepare for Broader Spread of COVID-19*, Office of Governor Gavin Newsom (March 04, 2020), <https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/> (last visited September 14, 2020).

⁵ See *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak*, The White House (March 13, 2020), <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/> (last visited September 14, 2020).

⁶ See *Executive Order N-33-20*, Executive Department State of California, (March 04, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf> (last visited September 14, 2020).

⁷ Sonia Y. Angell, M.D., M.P.H., *Order of the State Public Health Officer*, (March 19, 2020) <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Health%20Order%203.19.2020.pdf> (last visited September 14, 2020).

residence except as needed to maintain continuity of operations of the federal infrastructure sectors [“Essential Workers”], as outlined at *Identifying Critical Infrastructure During COVID-19*, Cybersecurity & Infrastructure Security Agency (May 28, 2020), available at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. (“CISA”).

21. In addition to Governor Newsom’s Stay Home Order, “a local jurisdiction may implement or continue more restrictive public health measures if the jurisdictions Local Health Officer believes conditions in that jurisdiction warrant it.”⁸ On March 8, 2020, the Riverside County Public Health Officer (“Riverside Health Officer”) declared a local health emergency.⁹ On May 1, 2020, the Riverside Health Officer issued an order mandating all persons to stay at home or at their place of residence and precluded all in-person services except for Essential Workers continuing through at least June 19, 2020.¹⁰ This order applied to Ms. Holmes.

22. Quintilone’s business, a civil litigation law practice, is not part of the federal critical infrastructure exempted from California’s or Riverside County’s Stay Home Orders. As such, as of March 19, 2020, Quintilone and his business were subject to the Stay Home Order and continue to be subject to the Stay Home Order, subject to the State Health Officer’s directives.

General Duty to Make the Workplace Safe and Healthy in Response to COVID

23. Under the General Duty Clause of the Occupational Safety and Health Act of 1970, employers are required to provide their employees with a place of employment that is “free from recognized hazards that are causing or are likely to cause death or serious physical harm.” 29 U.S.C.

⁸ Sonia Y. Angell, M.D., M.P.H., *Order of the State Public Health Officer*, (May 7, 2020), <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/SHO%20Order%205-7-2020.pdf> (last visited September 14, 2020).

⁹ Cameron Kaiser, M.D., M.P.H., F.A.A.F.P., *Riverside County Public Health Officer declares local health emergency*, (March 8, 2020), https://www.rivcoph.org/Portals/0/3-8-2020_Public_Health_Emergency.pdf (last visited September 14, 2020)

¹⁰ Cameron Kaiser, M.D., M.P.H., F.A.A.F.P., *Amended Order of the Health Officer for the County of Riverside and of the County Executive Officer as Director of Emergency Services*, (May 1, 2020), https://www.rivcoph.org/Portals/0/Documents/CoronaVirus/April/PHOrders/PHO_Order_Stay_at_Home_Order_5.1.20.pdf?ver=2020-04-29-140642-993×tamp=1588194829599, (last visited September 14, 2020).

§654(a)(1). California similarly mandates that every “employer shall furnish a place of employment that is safe and healthful for the employee therein.” Cal. Labor Code §6400(a).¹¹ These laws “establish a general **public policy** requiring employers to provide a safe and secure workplace.” *Boone v. Carlsbad Cmty Church*, 2008 U.S. Dist. LEXIS 44675 *9-10 (S.D. Cal. June 6, 2008).

Quintilone Knowingly Placed His Employees and the Community in Danger by Failing to Implement Measures to Prevent, Mitigate, or Respond to COVID

24. Quintilone violated the general duty clauses mandating he furnish a place of employment that is safe and healthful in violation of California’s Stay Home Order, orders issued by the State Public Health Officer, local orders, and guidance issued by, *inter alia*, the U.S. Department of Safety and Health Administration (“OSHA”) and the CDC.

25. Preliminarily, at all relevant times since California’s March 19, 2020 Stay Home Order, Quintilone’s office was ordered to remain closed except for remote work. Remote work was and is possible for Quintilone’s law practice. However, throughout the relevant period, Quintilone required in-office operations in defiance of the Stay Home Order, the State Health Officer’s orders, and governmental guidance. Despite the COVID pandemic and Stay Home Orders, Quintilone mandated that Ms. Holmes and others report to the office to work. That was just the beginning of Quintilone’s violative conduct.

26. On Ms. Holmes’ first day of work, Quintilone had the employees attend a work-lunch meeting at a nearby restaurant. At this time, because of COVID, restaurants were ordered closed for in-dining services pursuant to California’s Stay Home Order. However, because of Quintilone’s connection with the restaurant’s owner, the restaurant made an exception and unlawfully opened for Quintilone to host the mandatory work-lunch meeting indoors at the

¹¹ See also Cal. Labor Code §6402 (“No employer shall require, **or permit** any employee to go or be in any employment or place of employment which is not safe and healthful.”); Cal. Labor Code §6403(b) and (c) (no “employer shall fail or neglect ... [t]o do every other thing reasonably necessary to protect the life, safety, and health of employees.”); Cal. Labor Code §6404 (“No employer shall occupy or maintain any place of employment that is not safe and healthful.”); Cal. Labor Code §6407 (“Every employer ... shall comply with occupational safety and health standards”).

1 restaurant where Ms. Holmes Ordered her food to-go and proceeded to take notes while Quintilone
 2 sat without a face covering, spoke in a boisterous voice, and drank his beer with lunch. Quintilone
 3 was not only in violation of California’s Stay Home Order, but in direct violation of guidance issued
 4 by OSHA and the CDC, which were issued to ensure employers are meeting the minimum
 5 requirements to provide a safe and healthful workplace.

6 27. Indeed, on March 9, 2020, OSHA issued “Guidance on Preparing Workplaces for
 7 COVID-19,” detailing how, *inter alia*, COVID affects workplaces. The guidance instructed
 8 employers with the development of an infectious disease preparedness and response plan, preparing
 9 to implement basic infection prevention measures, developing policies for prompt identification and
 10 isolation of sick people, developing, implementing, and communicating about workplace
 11 flexibilities and protections, and implementing workplace controls.¹² Quintilone did none of this
 12 and threatened to fire staff if they did not come to work while sick.

13 28. Similarly, on April 9, 2020, the CDC published “Interim Guidance for Businesses
 14 and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19).”¹³ The CDC, in
 15 accordance with OSHA, advised that minimum workplace controls should be implemented to
 16 protect against the spread of SARS-CoV-2, including, *inter alia*:

- 17 (a) daily prescreening for COVID symptoms;
- 18 (b) regular monitoring for COVID symptoms;
- 19 (c) face coverings;
- 20 (d) implementing measures to maintain social distancing of six feet, staggering
 21 work shifts, and allowing telework where possible;
- 22 (e) routine disinfecting and cleaning of workspaces;

24
 25 ¹² See U.S. Department of Labor Offers Guidance for Preparing Workplaces for Coronavirus,
 26 U.S. Department of Labor, <https://www.dol.gov/newsroom/releases/osha/osha20200309>, (last
 visited September 14, 2020).

27 ¹³ See Interim Guidance for Businesses and Employers Responding to Coronavirus Disease
 28 2019 (COVID-19), Centers for Disease Control and Prevention (May 06, 2020),
<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html> (last
 visited September 14, 2020).

- 1 (f) increased ventilation;
- 2 (g) providing accurate information to employees about COVID, including how
- 3 it spreads and risks of exposure;
- 4 (h) training employees on proper hand washing practices and other preventative
- 5 measures;
- 6 (i) providing access to soap and water and alcohol-based hand sanitizers
- 7 throughout the work area, and allowing breaks to allow employees to wash their hands and clean
- 8 workstations;
- 9 (j) immediately sending sick employees home;
- 10 (k) not requiring employees to produce a positive COVID test or healthcare note
- 11 for employees to take sick leave;
- 12 (l) flexible leave policies to allow employees to stay home, particularly by
- 13 creating non-punitive sick leave policies;
- 14 (m) identifying exposure through contact tracing by reviewing contacts over the
- 15 48 hours before symptoms of the disease emerged;
- 16 (n) requiring employees with COVID symptoms and/or diagnosed with COVID
- 17 to self-quarantine for designated periods; and
- 18 (o) immediately notifying other co-workers of possible COVID exposures while
- 19 maintaining confidentiality of the name and personal health-related information of the worker who
- 20 tested positive.¹⁴

21
22
23 ¹⁴ See *When You Can be Around Others After You Had or Likely Had COVID-19*, Centers for
24 Disease Control and Prevention (September 10, 2020), https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fprevent-getting-sick%2Fwhen-its-safe.html (last visited September 14, 2020); see also
25 *What to Do If You Are Sick*, Centers for Disease Control and Prevention (May 08, 2020),
26 <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html> (last visited
27 September 14, 2020); *Guidance for Preparing Workplaces for COVID-19*, U.S. Department of
28 Labor Occupational Safety and Health Administration, <https://www.osha.gov/Publications/OSHA3990.pdf> (last visited September 14, 2020);

29. During the relevant period, Quintilone failed to comply with this guidance.¹⁵ Around May 27, 2020, Ms. Holmes asked Quintilone if he would at a minimum wear a face covering while near her and to socially distance at least six feet. Ms. Holmes made clear to Quintilone that her husband was high risk with diabetes and that their daughter had previously been hospitalized for a respiratory infection and that she needed to keep both herself and family safe and healthy. In response, Quintilone dismissed Holmes' concerns and went into a tirade about how he does not "give a fuck about the Chinese flu." Accordingly, on about June 3, 2020, Ms. Holmes put a sign outside her internal office space stating "Mask Required Beyond this Point." In response, Quintilone mocked Ms. Holmes to co-workers by putting on a mask and stating "look, I have panties on my face." For the most part, Quintilone proceeded to refuse to wear a face covering while in the office.

30. Ms. Holmes continued to express to Quintilone how uncomfortable she was with his non-compliance with the health and safety rules and guidelines. Notwithstanding, Quintilone continued to hold work events, such as a team building exercise in spaces where it was not possible to socially distance and alcohol was involved. He mocked Ms. Holmes for wearing her face covering at this event.

31. Quintilone continued to place Ms. Holmes and other workers in danger of contracting COVID in defiance of the State and local guidelines, orders, and regulations. On June 12, 2020, Quintilone made the employees attend another mandatory work-lunch meeting at another restaurant. He surprised the workers by arranging transportation to the restaurant by boat, wherein

Discontinuation of Isolation for Persons with COVID-19 Not in Healthcare Settings, Centers for Disease Control Prevention (July 17, 2020) <https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html> (last visited September 14, 2020).

¹⁵ Notably, on June 18, 2020, the State Health Officer ordered that all people in California "must wear face coverings" when engaged in work when, *inter alia*, in "any room or enclosed area where other people ... are present when unable to physically distance", working or walking "through common areas", interacting with "any member of the public", and/or working in "any space visited by members of the public, regardless of whether anyone from the public is present at the time." See California Department of Public Health, *Guidance for the Use of Face Coverings*, (June 18, 2020), https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Guidance-for-Face-Coverings_06-18-2020.pdf (last visited September 14, 2020).

1 the employees were cramped into a small space making it impossible to socially distance. Of course,
2 Quintilone refused to wear a face covering.

3 32. Quntilone continued to flout the health and safety guidelines in the office and around
4 Ms. Holmes. Worse yet, on Friday, June 19, 2020, without wearing a face covering, Quintilone
5 proceeded to enter the office wherein Ms. Holmes was working and approached her to face level
6 and within arms-length to tell her that his girlfriend's daughter tested positive for COVID, a person
7 with whom Quintilone was in repeated contact. Based on information and belief, Quintilone had
8 already known of the positive contact prior to this day. Quintilone dismissed the issue, simply
9 stating, "don't worry, I'm not sick."

10 33. Two days later (Sunday, June 21, 2020), Quintilone became very ill with COVID
11 symptoms, including a "splitting ass headache and a high fever," and he tested positive for COVID
12 the following day. Yet, the same day he tested positive (Monday, June 22, 2020), Quintilone came
13 to the office in person. Unbelievably, when staff members left the office to go get tested for COVID,
14 Quintilone angrily blew up in disbelief that two employees would leave the office without his
15 express permission. He proceeded to rant to Ms. Holmes about how he should not have told her
16 about his COVID symptoms because he knew she would "blow this way out of proportion."

17 34. Ms. Holmes told Quintilone that neither she, nor anybody else, should be working in
18 the office in person because it was unsafe to do so. She advised him that she wanted to work
19 remotely to comply with the Stay Home Order. In response, Quintilone told her that if she was not
20 willing to work in the office, then she needed to find another job. Accordingly, the following day,
21 because Quintilone wholly refused to abide by State and local orders or governmental guidance
22 pertaining to COVID, Ms. Holmes had no choice but to accept Quintilone's unlawful termination
23 of her employment.

24 35. Unfortunately, on Tuesday, June 23, 2020, Ms. Holmes started suffering COVID
25 symptoms, including fever, chest pains, and a cough unlike any she had ever experienced. Ms.
26 Holmes self-isolated and got tested on Wednesday, June 24, 2020. She tested positive for COVID,
27 and even while isolated spread the virus to her husband who developed severe symptoms and tested
28 positive on Friday June 28, 2020. Ms. Holmes and her husband both sanitized and wore N95 masks

1 to continue caring for their daughter. Sadly, Ms. Holmes seventh month-old high-risk baby girl was
 2 unable to escape contracting COVID, all caused by Quintilone's inexcusable misconduct. As Ms.
 3 Holmes' baby girl's temperature spiked on Sunday, June 28, 2020, she was rushed to the emergency
 4 room to be seen by a Rady Children's Hospital Pediatrician where she endured tests, including an
 5 invasive and painful multiple insertion of a catheter. Meanwhile, while Ms. Holmes and her
 6 husband were trying to care for their baby with the help of medical professionals, they too remained
 7 extremely sick with fevers, difficulty breathing, bleeding, and extreme exhaustion. While none of
 8 the family gravely succumbed to COVID, they continued to suffer symptoms, including fatigue,
 9 breathlessness, and bleeding.

10 36. Ms. Holmes' high-risk diabetic husband had severe symptoms that left him
 11 incapacitated much of the time and reliant on his CPAP machine to breathe. He developed
 12 significant internal bleeding and pain, believed to have been triggered by the infection and had to
 13 undergo surgery delayed over a month for his body to clear the virus. This left Ms. Holmes as the
 14 sole potential source of income for the family as well as the sole care provider for their infant
 15 daughter.

16 37. At least one, if not more, other employees also became ill with COVID symptoms
 17 around the same time. Based on information and belief, like Ms. Holmes, they too contracted
 18 COVID from Quintilone's misconduct and spread it to their families.

19 38. Because of Quintilone's misconduct, Ms. Holmes has suffered and continues to
 20 suffer lost wages, emotional distress, and other damages. Ms. Holmes is a victim of Defendant's
 21 unlawful practices and therefore brings this action to recover damages, costs, expenses, attorneys'
 22 fees, restitution, injunctive, and declaratory relief.

23 PRIVATE ATTORNEY GENERAL ACT

24 39. California's Private Attorney General Act ("PAGA") (Labor Code §2698, *et seq.*)
 25 was in effect during all relevant times during Ms. Holmes' employment with Quintilone. PAGA
 26 provides that any civil penalty which may be assessed and collected by the Labor and Workforce
 27 Development Agency ("LWDA") for violations of the California Labor Code may, as an alternative,
 28 be recovered through a civil action brought by an aggrieved employee on behalf of herself or himself

1 and other current or former employees pursuant to procedures outlined in California Labor Code
2 §2699.3.

3 40. Under PAGA, an “aggrieved employee,” is “any person employed by the alleged
4 violator and against whom one or more of the alleged violations was committed.” Ms. Holmes was
5 employed by Quintilone and the alleged violations were committed against her during her
6 employment and she is, therefore, an aggrieved employee as defined by California Labor Code
7 §2699(c).

8 41. Pursuant to Labor Code §§2699.3 and 2699.5, an aggrieved employee, including Ms.
9 Holmes, may pursue a civil action to recover PAGA civil penalties in addition to any other available
10 penalties after: (1) giving written notice by certified mail (“Employee’s Notice”) to the LWDA and
11 the employer of the specific provisions of the California Labor Code alleged to have been violated,
12 including the facts and theories to support the alleged violations; and (2) the LWDA advises the
13 employee and employer it declines to investigate the alleged violations within 60 calendar days of
14 the postmark date of the Employee’s Notice. Labor Code §2699.3(a)(1)-(2).

15 42. On September 21, 2020, Ms. Holmes provided written notice by online submission
16 and by certified mail to the LWDA and by certified mail to Quintilone of the specific provisions of
17 the California Labor Code alleged to have been violated, including the facts and theories to support
18 the alleged violations, pursuant to California Labor Code §2699.3.

19 43. The employer may cure the alleged violation within 33 calendar days of the
20 Employee’s Notice. Labor Code §2699.3(c)(2)(A). If the alleged violations are not cured within the
21 33-day period, Ms. Holmes may commence a civil action to recover penalties pursuant to Labor
22 Code §2699.

23 44. If the alleged violations are not cured in whole within the 33-day period by
24 Quintilone, Ms. Holmes intends on amending her complaint to add a cause of action arising under
25 Labor Code §2699. *See* Labor Code §2699.3(a)(2)(C) (“Notwithstanding any other provision at law,
26 a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising
27 under this part at any time within 60 days of the time periods specified in this part.”).

28

FIRST CAUSE OF ACTION**Wrongful Termination In Violation of Labor Code §6311**

45. Ms. Holmes re-alleges and incorporates herein by reference each allegation in the preceding and subsequent paragraphs.

46. Labor Code §6311 provides:

No employee shall be laid off or discharged for refusing to perform work in the performance of which this code, including Section 6400, any occupational safety or health standard or any safety order of the division or standards board will be violated, where the violation would create a real and apparent hazard to the employee or his or her fellow employees.

47. Labor Code §6311 further provides:

Any employee who is laid off or discharged in violation of this section or is otherwise not paid because he or she refused to perform work in the performance of which this code, any occupational safety or health standard or any safety order of the division or standards board will be violated and where the violation would create a real and apparent hazard to the employee or his or her fellow employees shall have a right of action for wages for the time the employee is without work as a result of the layoff or discharge.

48. Here, Quintilone terminated Ms. Holmes' employment because she refused to perform duties under conditions which violate several occupational safety and health standards, including, without limitation, Labor Code §§6400(a), 6402, 6403(a)-(c), 6404, and 6407. *Cf. Fusco v. Sonoma County Junior College Dist.*, 2010 U.S. Dist. LEXIS 7363, *6 (N.D. Cal. Jan. 29, 2010) (finding proper a claim under Labor Code §6311 based on, *inter alia*, an alleged violation of Labor Code §6400 alone, without a violation of any other health standards or safety orders). Quintilone also terminated Ms. Holmes' employment because she refused to perform duties under conditions which violate 29 U.S.C. §654(a)(1) and the orders of Governor Newsom, the State Health Officer, and local orders relating to COVID, in addition to the OSHA and CDC guidelines. Alternatively, Ms. Holmes' employment was constructively discharged based on her refusal to perform duties under conditions which violate the aforementioned laws, rules, standards, guidelines, and orders. Ms. Holmes was subjected to working conditions that violated public policy which were knowingly created by Quintilone. The conditions were so intolerable that no reasonable alternatives existed but for any reasonable person to resign.

49. As a proximate result of Defendant's wrongful conduct, Ms. Holmes has suffered, and continues to suffer, substantial losses in earnings and job benefits in an amount to be determined according to proof at the time of trial.

50. As a further proximate result of Defendant's wrongful conduct, Ms. Holmes has suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental anguish, all in an amount to be determined according to proof at the time of trial.

51. In doing the acts herein alleged, Quintilone engaged in conduct with malice, oppression, and/or fraud. Quintilone acted with intent to cause injury and/or his conduct was done with a willful and knowing disregard of the rights and safety of others. He was aware of the probable dangerous consequences of his conduct and deliberately failed to avoid those consequences. Quintilone's conduct was also despicable and subjected Ms. Holmes to cruel and unjust hardship in knowing disregard of her rights. Based on information and belief, Quintilone also concealed material facts relating to his exposure to someone positive with COVID. Quintilone's conduct was reprehensible in that it caused Ms. Holmes and her family physical and emotional harm, he disregarded the health and safety of others, he used his status as the owner of the firm to take advantage of his employees, and his conduct involved a pattern and practice of violating ethical, moral, and safety rules. Ms. Holmes is therefore entitled to punitive damages against Quintilone in an amount appropriate to punish and make an example of Quintilone.

52. Ms. Holmes is also entitled to costs and reasonable attorneys' fees pursuant to Code of Civil Procedure §1021.5, Labor Code §2699.3, and any other applicable provision for attorneys' fees and costs.

SECOND CAUSE OF ACTION

Discrimination and Wrongful Termination In Violation of Labor Code §6310(a)(1) and (b)

53. Ms. Holmes re-alleges and incorporates herein by reference each allegation in the preceding and subsequent paragraphs.

54. "No person shall discharge or in *any manner discriminate* against any employee because the employee" made "any oral or written complaint [relating to employee safety or health]

to ... his or her employer, or his or her representative.” Labor Code §6310(a)(1). “Any employee who is discharged, *threatened with discharge* ... or in any other manner discriminated against in the terms or conditions of employment” by her employer because she made a bona fide “oral or written complaint to ... his or her employer ... of unsafe working conditions, or work practices, in his or her employment or place of employment ... shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer.” Labor Code §6310(b).¹⁶

55. Here, Quintilone discriminated against Ms. Holmes by threatening to terminate Ms. Holmes’ employment and discharging her because she made a complaint to Quintilone, her employer, of unsafe working conditions and work practices in her place of employment. Ms. Holmes refused to perform duties under conditions which violate several occupational safety and health standards, including, without limitation, Labor Code §§6400(a), 6402, 6403(a)-(c), 6404, and 6407. In response, Quintilone discriminated against and terminated Ms. Holmes’ employment. Quintilone also terminated Ms. Holmes’ employment because she refused to perform duties under conditions which violate 29 U.S.C. §654(a)(1) and the orders of Governor Newsom, the State Health Officer, and local orders relating to COVID, in addition to the OSHA and CDC guidelines.

56. As a proximate result of Quintilone’s wrongful conduct, Ms. Holmes has suffered, and continues to suffer, substantial losses in earnings and job benefits in an amount to be determined according to proof at the time of trial.

57. As a further proximate result of Quintilone’s wrongful conduct, Ms. Holmes has suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental anguish, all in an amount to be determined according to proof at the time of trial.

58. In doing the acts herein alleged, Quintilone engaged in conduct with malice, oppression, and/or fraud. Quintilone acted with intent to cause injury and/or his conduct was done with a willful and knowing disregard of the rights and safety of others. He was aware of the probable dangerous consequences of his conduct and deliberately failed to avoid those consequences.

¹⁶ Emphasis added, unless otherwise specified.

Quintilone's conduct was also despicable and subjected Ms. Holmes to cruel and unjust hardship in knowing disregard of her rights. Based on information and belief, Quintilone also concealed material facts relating to his exposure to someone positive with COVID. Quintilone's conduct was reprehensible and inexcusable in that it caused Ms. Holmes and her family physical and emotional harm, he disregarded the health and safety of others, he used his status as the owner of the firm to take advantage of his employees, and his conduct involved a pattern and practice of violating ethical, moral, and safety rules. Ms. Holmes is therefore entitled to punitive damages against Quintilone in an amount appropriate to punish and make an example of Quintilone.

59. Ms. Holmes is also entitled to costs and reasonable attorneys' fees pursuant to Code of Civil Procedure §1021.5, Labor Code §2699.3, and any other applicable provision for attorneys' fees and costs.

THIRD CAUSE OF ACTION

Wrongful Termination In Violation of Labor Code §1102.5(c)

60. Ms. Holmes re-alleges and incorporates herein by reference each allegation in the preceding and subsequent paragraphs.

61. Pursuant to Labor Code §1102.5(c), it is unlawful for any employer, or any person acting on behalf of the employer, to "retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation."

62. Here, Quintilone terminated Ms. Holmes' employment because she refused to perform duties under conditions which violate statutes, including, without limitation, Labor Code §§6400(a), 6402, 6403(a)-(c), 6404, and 6407. Quintilone also terminated Ms. Holmes' employment because she refused to work under conditions which violate 29 U.S.C. §654(a)(1) and the orders of Governor Newsom, the State Health Officer, and local orders relating to COVID, in addition to the OSHA and CDC guidelines. Alternatively, Ms. Holmes' employment was constructively discharged based on her refusal to perform duties under conditions which violate the aforementioned laws, rules, standards, guidelines, and orders. Ms. Holmes was subjected to

1 working conditions that violated public policy which were knowingly created by Quintilone. The
2 conditions were so intolerable that no reasonable alternatives existed but for any reasonable person
3 to resign.

4 63. As a proximate result of Quintilone's wrongful conduct, Ms. Holmes has suffered,
5 and continues to suffer, substantial losses in earnings and job benefits in an amount to be determined
6 according to proof at the time of trial.

7 64. As a further proximate result of Quintilone's wrongful conduct, Ms. Holmes has
8 suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental
9 anguish, all in an amount to be determined according to proof at the time of trial.

10 65. In doing the acts herein alleged, Quintilone engaged in conduct with malice,
11 oppression, and/or fraud. Quintilone acted with intent to cause injury and/or his conduct was done
12 with a willful and knowing disregard of the rights and safety of others. He was aware of the probable
13 dangerous consequences of his conduct and deliberately failed to avoid those consequences.
14 Quintilone's conduct was also despicable and subjected Ms. Holmes to cruel and unjust hardship in
15 knowing disregard of her rights. Based on information and belief, Quintilone also concealed
16 material facts relating to his exposure to someone positive with COVID. Quintilone's conduct was
17 reprehensible in that it caused Ms. Holmes and her family physical and emotional harm, he
18 disregarded the health and safety of others, he used his status as the owner of the firm to take
19 advantage of his employees, and his conduct involved a pattern and practice of violating ethical,
20 moral, and safety rules. Ms. Holmes is therefore entitled to punitive damages against Quintilone in
21 an amount appropriate to punish and make an example of Quintilone

22 66. Ms. Holmes is also entitled to costs and reasonable attorneys' fees pursuant to Code
23 of Civil Procedure §1021.5, Labor Code §2699.3, and any other applicable provision for attorneys'
24 fees and costs.

25 **FOUTH CAUSE OF ACTION**

26 **Wrongful Termination In Violation of Public Policy**

27 67. Ms. Holmes re-alleges and incorporates herein by reference each allegation in the
28 preceding and subsequent paragraphs.

68. Jurisdiction is invoked in this Court pursuant to the public policy and common law of the State of California. *See Tameny v. Atlantic Richfield Co.*, 27 Cal. 3d 167 (1980); *City of Moorpark v. Super. Ct.*, 18 Cal. 4th 1143, 1155, (1998); *Ferrick v. Santa Clara Univ.*, 231 Cal. App. 4th 1337, 1345 (2014) (reiterating that Labor Code §1102.5 “reflects the broad public policy interest in encouraging workplace whistle-blowers to report unlawful acts without fearing retaliation”). The general duty clauses to make employment safe and healthy “establish a general **public policy** requiring employers to provide a safe and secure workplace.” *Boone v. Carlsbad Cmty Church*, 2008 U.S. Dist. LEXIS 44675 at *9-10 (S.D. Cal. June 6, 2008); *Franklin v. The Monadnock Co.*, 151 Cal. App. 4th 252 (2007); *Frazier v. UPS*, 2005 U.S. Dist. LEXIS 13894, * (E.D. Cal. May 3, 2005) (“The right to refuse work under unsafe conditions is arguably a right protected by California public policy.”); *Hentzel v. Singer Co.*, 138 Cal. App. 3d 290, 296 (1982) (overruled on other grounds) (“California has long maintained a policy of protecting the right of employees to voice their dissatisfaction with working conditions.”); *Cf.* Labor Code §6310(a)(1) (“No person shall discharge or in any manner discriminate against any employee because the employee has...made any oral or written complaint [relating to employee safety or health] to ... his or her employer”)

69. Here, Ms. Holmes refused to participate in and reported Quintilone’s unlawful conduct which protects employees who refuse to perform duties under conditions which violate California’s public policies, including, without limitation, Labor Code §§1102.5, 6310, 6311, 6400(a), 6402, 6403(a)-(c), 6404, and 6407. Quintilone also terminated Ms. Holmes’ employment because she refused to work under conditions which violate 29 U.S.C. §654(a)(1) and the orders of Governor Newsom, the State Health Officer, and local orders relating to COVID, in addition to the OSHA and CDC guidelines. Alternatively, Ms. Holmes’ employment was constructively discharged based on her refusal to perform duties under conditions which violate the public policies of the aforementioned laws, rules, standards, guidelines, and orders. Ms. Holmes was subjected to working conditions that violated public policy which were knowingly created by Quintilone. The conditions were so intolerable that no reasonable alternatives existed but for any reasonable person to resign.

71. As a further proximate result of Quintilone's wrongful conduct, Ms. Holmes has suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental anguish, all in an amount to be determined according to proof at the time of trial.

7 72. In doing the acts herein alleged, Quintilone engaged in conduct with malice,
8 oppression, and/or fraud. Quintilone acted with intent to cause injury and/or his conduct was done
9 with a willful and knowing disregard of the rights and safety of others. He was aware of the probable
10 dangerous consequences of his conduct and deliberately failed to avoid those consequences.
11 Quintilone's conduct was also despicable and subjected Ms. Holmes to cruel and unjust hardship in
12 knowing disregard of her rights. Based on information and belief, Quintilone also concealed
13 material facts relating to his exposure to someone positive with COVID. Quintilone's conduct was
14 reprehensible in that it caused Ms. Holmes and her family physical and emotional harm, he
15 disregarded the health and safety of others, he used his status as the owner of the firm to take
16 advantage of his employees, and his conduct involved a pattern and practice of violating ethical,
17 moral, and safety rules. Ms. Holmes is therefore entitled to punitive damages against Quintilone in
18 an amount appropriate to punish and make an example of Quintilone.

73. Ms. Holmes is also entitled to costs and reasonable attorneys' fees pursuant to Code of Civil Procedure §1021.5, Labor Code §2699.3, and any other applicable provision for attorneys' fees and costs.

Failure to Reimburse Necessary Business Expenses In Violation of Labor Code §2802

25 74. Ms. Holmes re-alleges and incorporates herein by reference each allegation in the
26 preceding and subsequent paragraphs.

27 75. Labor Code §2802(a) provides: “An employer shall indemnify his or her employee
28 for all necessary expenditures or losses incurred by the employee in direct consequence of the

1 discharge of his or her duties, or of his or her obedience to the directions of the employer, even
 2 though unlawful, unless the employee, at the time of obeying the directions, believed them to be
 3 unlawful.”

4 76. Ms. Holmes incurred necessary expenditures in direct consequence of the discharge
 5 of her employment duties and her obedience to Quintilone’s directions, namely, phone and mileage
 6 expenses. While Quintilone reimbursed Ms. Holmes five dollars on a single paycheck for phone
 7 charges, he failed to reimburse her for any additional phone charges incurred by Ms. Holmes in the
 8 discharge of her duties in an amount to be determined at trial.

9 77. As a result of Quintilone’s unlawful acts, Ms. Holmes is entitled to recover her
 10 unreimbursed expenditures, interest, and attorneys’ fees and costs, in amounts to be proven at the
 11 time of trial. Labor Code §§2802(b)-(c) and 2699(g).

12 SIXTH CAUSE OF ACTION

13 Violation of the Unfair Competition Law (“UCL”), 14 Business & Professions Code §§17200 *et seq.*

15 78. Ms. Holmes re-alleges and incorporates herein by reference each allegation in the
 16 preceding and subsequent paragraphs.

17 79. Quintilone is a “person” as defined by the Business & Professions Code §17021. The
 18 actions of Quintilone as alleged in this complaint constitute unlawful and unfair business practices
 19 within the meaning of Business & Professions Code §§17200, *et seq.*

20 80. Quintilone engaged in the following unlawful activities:

- 21 (a) Violations of Labor Code §1102.5(c);
- 22 (b) Violation of Labor Code §2802;
- 23 (c) Violations of Labor Code §6310(a)(1) and (b);
- 24 (d) Violations of Labor Code §6311;
- 25 (e) Violations of Labor Code §6400(a);
- 26 (f) Violations of Labor Code §6402;
- 27 (g) Violations of Labor Code 6403(a)-(c);
- 28 (h) Violations of Labor Code §6404;

- (i) Violations of Labor Code §6407;
- (j) Violations of 29 U.S.C. §654(a)(1);
- (k) Violations of Governor Newsom's March 4, 2020 Executive Order No. N-33-20 (Stay Home Order);
- (l) Violations of the March 19, 2020 State Health Officer Order;
- (m) Violations of the State Health Officer guidelines found at <https://covid19.ca.gov/stay-home-except-for-essential-needs/>;
- (n) Violations of the May 1, 2020 Order of the Riverside Health Officer;
- (o) Violations of OSHA and CDC COVID-related guidelines for businesses;
- (p) Violations of the California Department of Public Health's June 18, 2020 mandatory guidance for use of face coverings; and
- (q) Violations of California's public policies.

81. Quintilone's activities also constitute unfair practices, because his practices violate the above-noted laws, and/or violate an established public policy, and/or the practices are immoral, unethical, oppressive, unscrupulous, and substantially injurious to Ms. Holmes, Mr. Quintilone's clients, prospective clients, other employees, and the public. The identified violations of the noted laws constitute unfair business practices because they were done repeatedly over a period, and in a systematic manner to the detriment of Ms. Holmes, other employees, and the public to gain a business advantage over his competitors who observed the legal requirements.

82. Because of Quintilone's violations of the Labor Code and other identified laws, Ms. Holmes has suffered injury-in-fact and has lost money or property because of Quintilone's practices. This injury-in-fact and loss of money or property consists of the lost wages, benefits, and other restitutionary remedies provided by the laws as detailed in this complaint and other resulting harms.

83. Ms. Holmes is entitled to restitution, an injunction, declaratory, and other equitable relief against such unlawful and unfair practices to prevent future damage for which there is no adequate remedy at law. As a direct and proximate result of the unlawful and unfair business practices of Quintilone, Ms. Holmes is entitled to equitable and injunctive relief, including full

1 restitution of all wages which have been unlawfully lost because of the business acts and practices
 2 described herein and enjoining Quintilone to cease and desist from engaging in the practices
 3 described herein, specifically including closing his physical office and permitting remote work when
 4 required by law, for the maximum time permitted by Business & Professions Code §17208,
 5 including any tolling.

6 84. The unlawful and unfair conduct alleged herein is continuing. Ms. Holmes believes
 7 and alleges that if Quintilone is not enjoined from the conduct set forth in this complaint, Quintilone
 8 will continue to violate the above-noted laws.

9 85. Ms. Holmes seeks to enforce important rights affecting the public interest, including
 10 those of Qunntilone's clients, prospective clients, staff, and the community within the meaning of
 11 C.C.P. §1021.5. She seeks recovery of reasonable attorneys' fees and costs pursuant thereto and
 12 Labor Code §2699(g).

13 SEVENTH CAUSE OF ACTION

14 Violation of the Private Attorneys General Act 15 ("PAGA"), Labor Code §§2698, *et seq.*

16 86. Ms. Holmes re-alleges and incorporates herein by reference each allegation in the
 17 preceding and subsequent paragraphs.

18 87. Pursuant to Labor Code §§2698, *et seq.*, any provision of the Labor Code that
 19 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,
 20 divisions, commissions, boards, agencies, or employees for violation of the code may, as an
 21 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of
 22 herself and other current or former employees pursuant to the procedures specified in Labor Code
 23 §2699.3.

24 88. Defendant's conduct violates numerous Labor Code sections including, but not
 25 limited to, the following: Labor Code §§1102.5(c), 2802, 6310(a)(1) and (b), 6311, 6400(a), 6402,
 26 6403(a)-(c), 6404, and 6407.

27 89. For all provisions of the Labor Code as noted in the statute except those for which a
 28 civil penalty is specifically provided, Labor Code §2699(f) imposes upon Defendant a penalty of

\$100 for each aggrieved employee per pay period for the initial violation and \$200 for each aggrieved employee per pay period for each subsequent pay period in which Quintilone violated these provisions of the Labor Code.

90. Ms. Holmes and other employees of Quintilone are “aggrieved employees” because they are and/or were employed by the alleged violator, Quintilone, and had one or more of the alleged violations committed against them. Ms. Holmes is properly suited to represent the interests of all other aggrieved employees that also had one or more of the alleged violations committed against them.

91. Quintilone’s conduct, as alleged herein, has been and continues to be unfair, unlawful, and harmful to Ms. Holmes, other employees, and the general public. Ms. Holmes seeks to enforce important rights affecting the public interest within the meaning of C.C.P. §1021.5.

92. Pursuant to Labor Code §§2699(a), 2699.3, and 2699.5, when the time limits are exhausted under PAGA, Ms. Holmes, on behalf of herself and all aggrieved employees, may seek to recover all civil penalties available under the law, in addition to other remedies, for violations of the Labor Code sections cited above.

93. For bringing this action, Ms. Holmes entitled to reasonable attorneys’ fees and costs pursuant to Labor Code §2699(g), C.C.P. §1021.5, and/or as otherwise allowed by law.

PRAYER

WHEREFORE, Ms. Holmes seeks judgment as follows:

- A. For compensatory damages, including loss of wages and benefits, according to proof;
- B. For punitive and exemplary damages, according to proof;
- C. For an injunction restraining Defendant from continuing to engage in unlawful and unfair business practices;
- D. For costs of suit;
- E. For attorneys’ fees;
- F. For pre-judgment interest; and
- G. For such other and further relief as the Court deems just and proper.

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DEMAND FOR JURY TRIAL

Ms. Holmes demands a trial by jury on all claims.

Dated: September 21, 2020

HAEGGQUIST & ECK, LLP
ALREEN HAEGGQUIST (221858)
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