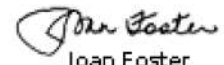


Electronically  
**FILED**

by Superior Court of California  
County of Ventura

**07/20/2023**

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Executive Officer and Clerk



Joan Foster  
Deputy Clerk

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Attorney for Plaintiff,  
DINA VENTURA, AMERICA VASQUEZ, and SONIA BUENROSTRO

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF VENTURA**

DINA VENTURA, an individual; AMERICA  
VASQUEZ, an individual; SONIA  
BUENROSTRO, an individual,

Plaintiff,

v.

WESTCHASE MINI SUITES, LLC, d/b/a  
BEST WESTERN PLUS THOUSAND OAKS  
INN, a California limited liability company; and  
DOES 1 through 20, inclusive,

Defendants.

Case No. 56-2021-00549314-CU-WT-VTA

*Assigned to the Honorable Judge Ronda J. Mckaig,  
Dept. 41*

**FIRST AMENDED COMPLAINT FOR  
DAMAGES FOR:**

- 1. DISCRIMINATION IN VIOLATION OF  
GOV'T CODE §§12940 ET SEQ.;**
- 2. RETALIATION IN VIOLATION OF  
GOV'T CODE §§12940 ET SEQ.;**
- 3. FAILURE TO PREVENT  
DISCRIMINATION AND RETALIATION  
IN VIOLATION OF GOV'T CODE  
§12940(k);**
- 4. FAILURE TO PROVIDE REASONABLE  
ACCOMMODATIONS IN VIOLATION OF  
GOV'T CODE §§12940 ET SEQ.;**
- 5. FAILURE TO ENGAGE IN A GOOD  
FAITH INTERACTIVE PROCESS IN  
VIOLATION OF GOV'T CODE §§12940 ET  
SEQ.;**
- 6. FOR DECLARATORY JUDGMENT**
- 7. WRONGFUL TERMINATION IN  
VIOLATION OF PUBLIC POLICY;**
- 8. FAILURE TO PAY WAGES (CAL. LABOR  
CODE §§201, 1194);**

9. **FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);**
10. **FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);**
11. **WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);**
12. **PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ);**
13. **UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.); AND**
14. **FAILURE TO PROVIDE ONE DAY OF REST FOR EVERY WORKWEEK (CAL. LABOR CODE §§551 and 552);**

**DEMAND OVER \$25,000**

**[DEMAND FOR JURY TRIAL]**

**COME NOW PLAINTIFFS, DINA VENTURA, AMERICA VASQUEZ, AND SONIA BUENROSTRO**, and for causes of action against the Defendants and each of them, allege as follows:

**JURISDICTION**

1. This Court is the proper court, and this action is properly filed in Ventura County, because Defendants' obligations and liability arise therein, because Defendants maintain offices and transact business within Ventura County, and because the work that is the subject of this action was performed by Plaintiffs in Ventura County.

**THE PARTIES**

2. Plaintiff, DINA VENTURA, is and at all times relevant hereto, was a residents of the County of Ventura, State of California.

3. Plaintiff, AMERICA VASQUEZ, is and at all times relevant hereto, was a residents of the County of Ventura, State of California.

4. Plaintiff, SONIA BUENROSTRO, is and at all times relevant hereto, was a residents of the County of Ventura, State of California.

1           5.       Plaintiffs are informed and believe, and based thereupon allege, that at all times relevant  
2 hereto, Defendant WESTCHASE MINI SUITES, LLC, DBA BEST WESTERN PLUS THOUSAND  
3 OAKS INN (hereinafter referred to as “Employer” or “Defendant”) was and is a California limited  
4 liability company doing business at 75 West Thousand Oaks Boulevard, in the City of Thousand Oaks,  
5 County of Ventura, State of California.

6           6.       Plaintiffs are informed and believe, and based thereupon allege, that at all times relevant  
7 hereto, Employer owned and operated a private hotel.

8           7.       At all times relevant herein, Employer and DOES 1-20 were Plaintiffs’ employers, joint  
9 employers and/or special employers within the meaning of Government Code §§12926, subdivision (d),  
10 12940, subdivisions (a), (h), (1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more  
11 persons and are therefore subject to the jurisdiction of this Court.

12           8.       At all times relevant herein, Employer and DOES 1-20 were Plaintiffs’ employers, joint  
13 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare  
14 Commission Order No. 5-2001 and are each any “employer or other person acting on behalf of an  
15 employer” as such term is used in Labor Code section 558, and liable to Plaintiffs on that basis.

16           9.       The true names and capacities, whether individual, corporate, associate, or otherwise, of  
17 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiffs at this time and  
18 therefore said Defendants are sued by such fictitious names. Plaintiffs will seek leave to amend this  
19 complaint to insert the true names and capacities of said Defendants when the same become known to  
20 Plaintiffs. Plaintiffs are informed and believe, and based thereupon allege, that each of the fictitiously  
21 named Defendants is responsible for the wrongful acts alleged herein and is therefore liable to Plaintiffs  
22 as alleged hereinafter.

23           10.      Plaintiffs are informed and believe, and based thereupon allege, that at all times relevant  
24 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,  
25 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the  
26 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part  
27 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,  
28 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

1           11.     Plaintiffs are informed and believe, and based thereupon allege, that Defendants, and each  
2 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit  
3 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the  
4 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code  
5 §12940(i). Plaintiffs are further informed and believe, and based thereupon allege, that Defendants, and  
6 each of them, including those defendants named as DOES 1-20, and each of them, formed and executed  
7 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,  
8 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and  
9 actually causing Plaintiffs harm.

10           12.     Whenever and wherever reference is made in this complaint to any act or failure to act by  
11 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts  
12 and/or failures to act by each Defendant acting individually, jointly and severally.

13           13.     Plaintiffs have filed complaints of discrimination, retaliation, failure to prevent  
14 discrimination or retaliation, failure to accommodate, failure to engage in the interactive process, and  
15 wrongful termination under Government Code §§12940, et seq., the California Fair Employment and  
16 Housing Act (“FEHA”) with the California Department of Fair Employment and Housing (“DFEH”) and  
17 has satisfied Plaintiff’s administrative prerequisites with respect to these and all related filings.

18  
19                   **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

20           14.     Plaintiffs are informed and believe, and based thereon allege, that there exists such a unity  
21 of interest and ownership between Employer and DOES 1-20 that the individuality and separateness of  
22 defendants have ceased to exist.

23           15.     Plaintiffs are informed and believe, and based thereon allege, that despite the formation of  
24 purported corporate existence, Employer and DOES 1-20 are, in reality, one and the same, including, but  
25 not limited to because:

26                   a.     Employer is completely dominated and controlled by one another and DOES 1-20,  
27 who personally committed the frauds and violated the laws as set forth in this complaint, and who have  
28

1 hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or accomplish  
2 some other wrongful or inequitable purpose.

3 b. Employer and DOES 1-20 derive actual and significant monetary benefits by and  
4 through one another's unlawful conduct, and by using one another as the funding source for their own  
5 personal expenditures.

6 c. Employer and DOES 1-20, while really one and the same, were segregated to  
7 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or  
8 accomplishing some other wrongful or inequitable purpose.

9 d. Employer does not comply with all requisite corporate formalities to maintain a  
10 legal and separate corporate existence.

11 e. The business affairs of Employer and DOES 1-20 are, and at all times relevant  
12 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in  
13 inextricable confusion. Employer is, and at all times relevant hereto was, used by one another and DOES  
14 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and were, the  
15 alter ego of one another and DOES 1-20. The recognition of the separate existence of Defendants would  
16 not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiffs  
17 for violations of the Government Code and other statutory violations. The corporate existence of  
18 Employer and DOES 1-20 should be disregarded in equity and for the ends of justice because such  
19 disregard is necessary to avoid fraud and injustice to Plaintiffs herein.

20 16. Accordingly, Employer constitutes the alter ego of one another and DOES 1-20, and the  
21 fiction of their separate corporate existence must be disregarded.

22 17. As a result of the aforementioned facts, Plaintiffs are informed and believe, and based  
23 thereon allege that Employer and DOES 1-20 are Plaintiffs' joint employers by virtue of a joint enterprise,  
24 and that Plaintiffs were employees of Employer and DOES 1-20. Plaintiffs performed services for each  
25 and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared  
26 control of Plaintiffs as employees, either directly or indirectly, and the manner in which Defendants'  
27 business was and is conducted.

**AS TO PLAINTIFF DINA VENTURA**

19. In or about 1994, Defendant hired Plaintiff VENTURA to work as a laundry supervisor and laundry attendant. Plaintiff VENTURA was a full-time, non-exempt employee, and performed Plaintiff VENTURA's job duties satisfactorily before Plaintiff VENTURA was wrongfully terminated on or about March 13, 2020.

20. At the time of Plaintiff VENTURA's termination, Plaintiff VENTURA was 48 years old.

21. Between December 24, 2016 and March 13, 2020, Plaintiff VENTURA's hourly wage rate was \$19.75. During this time period, Plaintiff VENTURA's fixed schedule was six days per week, Monday through Saturday, for approximately 9 to 10 hours per day.

22. Throughout Plaintiff VENTURA's employment, Plaintiff VENTURA was not permitted to, and not advised of Plaintiff VENTURA's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion thereof.

23. Throughout Plaintiff VENTURA's employment, Plaintiff VENTURA did not receive uninterrupted statutory 30-minute meal periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff VENTURA worked. One or more of Plaintiff VENTURA's 30-minute meal periods were interrupted approximately 3 times per week.

24. On or about November 27, 2019, Plaintiff VENTURA injured her lower back while performing her routine work duties. The injury limited Mr. Ventura's ability to perform the major life

1 activity of working and, therefore, constituted a disability. Her supervisor, America Vasquez, observed  
2 the injury and notified another supervisor, Dione Cerrano, of Plaintiff VENTURA's injury.

3 25. Later in the day, Plaintiff VENTURA could no longer continue to work and told the front  
4 desk she needed medical attention. Plaintiff VENTURA obtained medical attention where she was placed  
5 on medical leave for 3 days and was issued work restrictions. Plaintiff VENTURA provided her work  
6 restrictions to Defendants.

7 26. On or about December 2, 2019, Plaintiff VENTURA returned to work and observed Ms.  
8 Cerrano holding the doctor's note. Defendants failed to honor Plaintiff VENTURA's restrictions and  
9 engage in a good faith interactive process to determine whether accommodations were available to her.

10 27. On or about December 5, 2019, Plaintiff VENTURA was re-issued the same work  
11 restrictions, which she gave to Ms. Cerrano and requested accommodations. Ms. Cerrano promised to  
12 accommodate Plaintiff VENTURA but never did.

13 28. On or about December 15, 2019, Plaintiff VENTURA was issued updated work  
14 restrictions and ordered therapy sessions. Plaintiff VENTURA gave her work restrictions and therapy  
15 orders to Ms. Cerrano. In response, Ms. Cerrano threatened to terminate Plaintiff VENTURA if she  
16 attended her therapy sessions. Out of fear of losing her job, Plaintiff VENTURA did not attend her  
17 therapy sessions. Instead, Plaintiff VENTURA repeatedly requested Ms. Cerrano for her work  
18 restrictions to be accommodated as Ms. Cerrano promised.

19 29. Shortly thereafter, on or about March 13, 2020, Defendants terminated Plaintiff  
20 VENTURA.

21 30. Defendants discriminated and retaliated against Plaintiff for requesting an accommodation  
22 by terminating Plaintiff VENTURA's employment.

23 31. At all relevant times, Defendants failed to properly engage in a good faith interactive  
24 process in an effort to properly accommodate Plaintiff VENTURA's disability and/or medical condition  
25 such that Plaintiff VENTURA could continue working for Defendants.

26 32. At all relevant times, Defendants failed to reasonably accommodate Plaintiff VENTURA  
27 even though Plaintiff VENTURA was able to perform the essential job duties of Plaintiff VENTURA's  
28 position or another position with or without accommodations.

34. Defendants' conduct described herein was undertaken, authorized, and/or ratified Defendants' officers, directors and/or managing agents, including, but not limited to those identified herein as Dione Cerrano and DOES 1 through 20, who were authorized and empowered to make decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents and individuals was therefore undertaken on behalf of Defendants who further had advanced knowledge of the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and approved by managing agents whose precise identities are unknown to Plaintiff VENTURA at this time and are therefore identified and designated herein as DOES 1 through 20, inclusive.

35. In or around 1996, Employers hired Plaintiff VASQUEZ to work as a housekeeper and housekeeping supervisor. Plaintiff VASQUEZ was a full-time, non-exempt employee, and performed Plaintiff VASQUEZ's job duties satisfactorily before Plaintiff VASQUEZ was wrongfully terminated on or about March 23, 2020.

36. At the time of Plaintiff VASQUEZ's termination, Plaintiff VASQUEZ was 49 years old.

37. Between December 24, 2016 and March 23, 2020, Plaintiff VASQUEZ's hourly wage rate was between \$11.00 and \$18.75. During this time period, Plaintiff VASQUEZ's fixed schedule was six days per week, Monday through Saturday, with an occasional seventh day on Sunday, for approximately 9 hours per day.

38. Throughout Plaintiff VASQUEZ's employment, Plaintiff VASQUEZ was not permitted to, and not advised of Plaintiff VASQUEZ's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion thereof.



1           39. Throughout Plaintiff VASQUEZ's employment, Plaintiff VASQUEZ did not receive  
2 uninterrupted statutory 30-minute meal periods for days on which Plaintiff VASQUEZ worked at least 5  
3 hours, which was each day Plaintiff VASQUEZ worked. One or more of Plaintiff VASQUEZ's 30-  
4 minute meal periods were interrupted approximately 6 times per week.

5           40. On or about February 7, 2020, Plaintiff VASQUEZ suffered an injury to her back while  
6 performing her job duties. The injury limited Plaintiff VASQUEZ's ability to perform the major life  
7 activity of working and, therefore, constituted a disability.

8           41. Plaintiff VASQUEZ immediately obtained medical attention where she was issued work  
9 restrictions. Later that day, Plaintiff VASQUEZ gave her doctor's note to her supervisor, Dione Cerrano.  
10 Ms. Cerrano and Defendants failed to honor Plaintiff VASQUEZ's work restrictions or engage in a good  
11 faith interactive process to determine what accommodations were available to her. Thus, Plaintiff  
12 VASQUEZ was forced to complete her regular duties in violation of her work restrictions.

13           42. Plaintiff VASQUEZ complained to Ms. Cerrano that these duties were not honoring her  
14 restrictions and was causing more pain. In response, Ms. Cerrano downplayed Plaintiff VASQUEZ  
15 injuries and accused her of lying and embellishing her disability.

16           43. Shortly thereafter, on or about March 23, 2020, Defendants terminated Plaintiff  
17 VASQUEZ.

18           44. Defendants discriminated and retaliated against Plaintiff for requesting accommodation  
19 by terminating Plaintiff VASQUEZ's employment.

20           45. At all relevant times, Defendants failed to properly engage in a good faith interactive  
21 process in an effort to properly accommodate Plaintiff VASQUEZ's disability and/or medical condition  
22 such that Plaintiff could continue working for Defendants.

23           46. At all relevant times, Defendants failed to reasonably accommodate Plaintiff VASQUEZ  
24 even though Plaintiff VASQUEZ was able to perform the essential job duties of Plaintiff VASQUEZ's  
25 position or another position with or without accommodations.

26           47. Plaintiff VASQUEZ's termination was substantially motivated by Plaintiff VASQUEZ's  
27 age, disability or perceived disability, medical condition or perceived medical condition, request for  
28 accommodation, and/or engagement in protected activities, without any discussion of disability

1 accommodations or any good faith attempt to engage in the interactive process with Plaintiff.  
2 Defendants' discriminatory animus is evidenced by the previously mentioned facts.

3 48. Defendants' conduct described herein was undertaken, authorized, and/or ratified  
4 Defendants' officers, directors and/or managing agents, including, but not limited to those identified  
5 herein as Dione Cerrano and DOES 1 through 20, who were authorized and empowered to make decisions  
6 that reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents  
7 and individuals was therefore undertaken on behalf of Defendants who further had advanced knowledge  
8 of the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and  
9 approved by managing agents whose precise identities are unknown to Plaintiff at this time and are  
10 therefore identified and designated herein as DOES 1 through 20, inclusive.

11  
12 **AS TO PLAINTIFF SONIA BUENROSTRO**

13 49. On or about December 16, 2014, Employers hired Plaintiff BUENROSTRO to work as a  
14 housekeeper. Plaintiff was a full-time, non-exempt employee, and performed all of Plaintiff  
15 BUENROSTRO's job duties satisfactorily before Plaintiff BUENROSTRO was wrongfully terminated  
16 on or about April 16, 2020.

17 50. At the time of Plaintiff BUENROSTRO's termination, Plaintiff was 44 years old.

18 51. Between December 24, 2020 and April 16, 2020, Plaintiff's hourly wage rate was \$15.75.  
19 During this time period, Plaintiff BUENROSTRO's fixed schedule was six days per week, Tuesday  
20 through Sunday, for approximately 8 to 9 hours per day.

21 52. Throughout Plaintiff BUENROSTRO's employment, Plaintiff BUENROSTRO was not  
22 permitted to, and not advised of Plaintiff BUENROSTRO's right to take statutory 10-minute rest breaks  
23 for every four hours worked or substantial portion thereof.

24 53. Plaintiff BUENROSTRO's native language is Spanish. Throughout her employment,  
25 English speaking employees received more favorable treatment, while Plaintiff BUENROSTRO received  
26 less favorable treatment due to her national origin and inability to speak English. English speaking  
27 employees were up for promotions and advancement quicker than non-English speaking employees. For  
28 example, Plaintiff BUENROSTRO had been working as a housekeeper with Defendants for

1 approximately 5 years without being promoted, whereas an English-speaking housekeeper was promoted  
2 within two months of being hired by Defendants. Speaking English was not a required skill in order to  
3 receive this promotion.

4 54. On or about April 12, 2020, her supervisor, Dione Doe, told Plaintiff BUENROSTRO that  
5 she would be considered for promotion sooner if she spoke English and even threatened to terminate  
6 Plaintiff BUENROSTRO's employment if she did not learn English.

7 55. Shortly thereafter, on or about April 16, 2020, Defendants terminated Plaintiff  
8 BUENROSTRO.

9 56. Defendants discriminated and retaliated against Plaintiff BUENROSTRO for not being  
10 able to speak English by terminating Plaintiff BUENROSTRO's employment.

11 57. Plaintiff BUENROSTRO's termination was substantially motivated by Plaintiff  
12 BUENROSTRO's age, race, national origin and engagement in protected activities. Defendants'  
13 discriminatory animus is evidenced by the previously mentioned facts.

14 58. Defendants' conduct described herein was undertaken, authorized, and/or ratified  
15 Defendants' officers, directors and/or managing agents, including, but not limited to those identified  
16 herein as Dione Cerrano and DOES 1 through 20, who were authorized and empowered to make decisions  
17 that reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents  
18 and individuals was therefore undertaken on behalf of Defendants who further had advanced knowledge  
19 of the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and  
20 approved by managing agents whose precise identities are unknown to Plaintiff at this time and are  
21 therefore identified and designated herein as DOES 1 through 20, inclusive.

22  
23 **AS TO ALL PLAINTIFFS**

24 59. As a result of Defendants' actions, Plaintiffs have suffered and will continue to suffer  
25 general and special damages, including severe and profound pain and emotional distress, anxiety,  
26 depression, headaches, tension, and other physical ailments, as well as medical expenses, expenses for  
27 psychological counseling and treatment, and past and future lost wages and benefits.

1           60. As a result of the above, Plaintiffs are entitled to past and future lost wages, bonuses,  
2 commissions, benefits and loss or diminution of earning capacity.

3           61. Plaintiffs are informed and believe that Defendants' violations of the Labor Code relating  
4 to (1) failure to provide meal and rest periods, (2) failure to furnish accurate wage statements, and (3)  
5 failure to pay wages are continuing to the present day and such ongoing violations further serve as the  
6 basis of their representative PAGA claim for penalties.

7           62. Plaintiffs claim general damages for emotional and mental distress and aggravation in a  
8 sum in excess of the jurisdictional minimum of this Court.

9           63. Because the acts taken toward Plaintiffs were carried out by officers, directors and/or  
10 managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard  
11 of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages  
12 be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this  
13 Court.

14  
15                                   **FIRST CAUSE OF ACTION**  
16                   **FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**  
17                                   **AGAINST ALL DEFENDANTS**

18           64. Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 58, inclusive, as  
19 though set forth in full herein.

20           65. At all times hereto, the FEHA was in full force and effect and was binding upon  
21 Defendants and each of them.

22           66. As such term is used under FEHA, "on the bases enumerated in this part" means or refers  
23 to discrimination on the bases of one or more of the protected characteristics under FEHA.

24           67. FEHA requires Defendants to refrain from discriminating against an employee on the  
25 basis of age, race, national origin, disability and/or medical condition, real or perceived, and to prevent  
26 discrimination on the basis of age, race, national origin, disability and/or medical condition, real or  
27 perceived, use of medical leave, and engagement in protected activities from occurring.

1           68.     Plaintiffs were members of multiple protected classes as a result of Plaintiffs' age, race,  
2 national origin, disability, medical condition and/or the perception that Plaintiffs were suffering from a  
3 disability and/or medical condition.

4           69.     At all times relevant hereto, Plaintiffs were performing competently in the position  
5 Plaintiffs held with Defendants.

6           70.     Plaintiffs suffered the adverse employment actions of unlawful discrimination, failure to  
7 accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate and/or  
8 return to work, and termination, and was harmed thereby.

9           71.     Plaintiffs are informed and believe that Plaintiffs' age, race, national origin, disability  
10 and/or medical condition, real and perceived, and/or some combination of these protected characteristics  
11 under Government Code §12926(j) were motivating reasons and/or factors in the decisions to subject  
12 Plaintiffs to the aforementioned adverse employment actions.

13          72.     Said conduct violates the FEHA, and such violations were a proximate cause in Plaintiffs'  
14 damage as stated below.

15          73.     The damage allegations of Paragraphs 59 through 63, inclusive, are herein incorporated  
16 by reference.

17          74.     The foregoing conduct of Defendants individually, or by and through their officers,  
18 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiffs or was  
19 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of  
20 Plaintiffs or subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs' rights  
21 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiffs to  
22 punitive damages in an amount appropriate to punish or make an example of Defendants.

23          75.     Pursuant to Government Code §12965(b), Plaintiffs request a reasonable award of  
24 attorneys' fees and costs, including expert fees pursuant to the FEHA.

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**SECOND CAUSE OF ACTION**  
**FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**  
**AGAINST ALL DEFENDANTS**

76. Plaintiffs re-allege and incorporates by reference Paragraphs 1 through 58, inclusive, as though set forth in full herein.

77. At all times hereto, the FEHA was in full force and effect and was binding upon Defendants and each of them.

78. These laws set forth in the preceding paragraph require Defendants to refrain from retaliating against an employee for engaging in protected activity.

79. Plaintiffs engaged in the protected activities of requesting accommodation and complaining about and protesting Defendants' discriminatory conduct towards Plaintiffs based upon Plaintiffs' age, race, national origin, disability, medical condition, real or perceived, and use of medical leave.

80. Plaintiffs suffered the adverse employment actions of unlawful discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate and/or return to work, and termination, and was harmed thereby.

81. Plaintiffs are informed and believe that Plaintiffs' conduct of requesting accommodation, complaining about and protesting about Defendants' discriminatory conduct, and/or some combination of these factors, were motivating reasons and/or factors in the decisions to subject Plaintiffs to the aforementioned adverse employment actions.

82. Defendants violated the FEHA by retaliating against Plaintiffs and terminating Plaintiffs for attempting to exercise Plaintiffs' protected rights, as set forth hereinabove.

83. Plaintiffs are informed and believe, and based thereon allege, that the above acts of retaliation committed by Defendants were done with the knowledge, consent, and/or ratification of, or at the direction of, each other Defendant and the other Managers.

84. The above said acts of Defendants constitute violations of the FEHA and were a proximate cause in Plaintiff's damage as stated below.

1           85.     The damage allegations of Paragraphs 59 through 63, inclusive, are herein incorporated  
2 by reference.

3           86.     The foregoing conduct of Defendants individually, or by and through their officers,  
4 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiffs or was  
5 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of  
6 Plaintiffs or subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs' rights  
7 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiffs to  
8 punitive damages in an amount appropriate to punish or make an example of Defendants.

9           87.     Pursuant to Government Code §12965(b), Plaintiffs request a reasonable award of  
10 attorneys' fees and costs, including expert fees pursuant to the FEHA.

11  
12                                 **THIRD CAUSE OF ACTION**  
13                                 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION**  
14                                 **IN VIOLATION OF GOV'T CODE §12940(k)**  
15                                 **AGAINST ALL DEFENDANTS**

16           88.     Plaintiffs re-allege and incorporates by reference Paragraphs 1 through 58, inclusive, as  
17 though set forth in full herein.

18           89.     At all times hereto, the FEHA, including in particular Government Code §12940(k), was  
19 in full force and effect and was binding upon Defendants. This subsection imposes a duty on Defendants  
20 to take all reasonable steps necessary to prevent discrimination and retaliation from occurring. As alleged  
21 above, Defendants violated this subsection and breached their duty by failing to take all reasonable steps  
22 necessary to prevent discrimination and retaliation from occurring.

23           90.     The above said acts of Defendants constitute violations of the FEHA and were a proximate  
24 cause in Plaintiffs' damage as stated below.

25           91.     The damage allegations of Paragraphs 59 through 63, inclusive, are herein incorporated  
26 by reference.

27           92.     The foregoing conduct of Defendants individually, or by and through their officers,  
28 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiffs or was

1 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of  
2 Plaintiffs or subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs' rights  
3 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiffs to  
4 punitive damages in an amount appropriate to punish or make an example of Defendants.

5 93. Pursuant to Government Code §12965(b), Plaintiffs request a reasonable award of  
6 attorneys' fees and costs, including expert fees pursuant to the FEHA.

7  
8 **FOURTH CAUSE OF ACTION**  
9 **FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**  
10 **IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**  
11 **BY PLAINTIFFS VENTURA AND VASQUEZ**  
12 **AGAINST ALL DEFENDANTS**

13 94. Plaintiffs VENTURA and VASQUEZ re-allege and incorporates by reference Paragraphs  
14 1 through 58, inclusive, as though set forth in full herein.

15 95. At all times hereto, the FEHA, including in particular Government Code §12940(m), was  
16 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on  
17 Defendants to make reasonable accommodation for the known physical disability and/or medical  
18 condition of an employee.

19 96. At all relevant times, Plaintiffs were a member of a protected class within the meaning of,  
20 in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiffs had a disability, a  
21 physical condition that affected Plaintiffs' major life activities, and medical condition of which  
22 Defendants had both actual and constructive knowledge.

23 97. At all times herein, Plaintiffs were willing and able to perform the duties and functions of  
24 the position in which Plaintiffs were employed or could have performed the duties and functions of that  
25 position with reasonable accommodations. At no time would the performance of the functions of the  
26 employment position, with a reasonable accommodation for Plaintiffs' disability or medical condition,  
27 actual or as it was perceived by Defendants, have been a danger to Plaintiffs' or any other person's health  
28 or safety. Accommodation of Plaintiffs' disability, real or perceived, or medical condition, real or



1 perceived by Defendants, would not have imposed an undue hardship on Defendants. Defendants failed  
2 and refused to accommodate Plaintiffs' disability, failed to engage in the interactive process with  
3 Plaintiffs and continue to violate this obligation, up to and including the date of Plaintiffs' termination  
4 or, if Defendant contends Plaintiffs were never terminated, through the present and ongoing.

5 98. The above said acts of Defendants constitute violations of the FEHA and were a proximate  
6 cause in Plaintiffs' damage as stated below.

7 99. The damage allegations of Paragraphs 59 through 63, inclusive, are herein incorporated  
8 by reference.

9 100. The foregoing conduct of Defendants individually, or by and through their officers,  
10 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiffs or was  
11 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of  
12 Plaintiffs or subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs' rights  
13 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiffs to  
14 punitive damages in an amount appropriate to punish or make an example of Defendants.

15 101. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of  
16 attorneys' fees and costs, including expert fees pursuant to the FEHA.

17  
18 **FIFTH CAUSE OF ACTION**

19 **FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS**

20 **IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**

21 **BY PLAINTIFFS VENTURA AND VASQUEZ**

22 **AGAINST ALL DEFENDANTS**

23 102. Plaintiffs VENTURA and VASQUEZ re-allege and incorporates by reference Paragraphs  
24 1 through 58, inclusive, as though set forth in full herein.

25 103. At all times hereto, the FEHA, including in particular Government Code §12940(n), was  
26 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on  
27 Defendants to engage in a timely, good faith, interactive process with the employee to determine effective  
28 reasonable accommodations, if any, in response to a request for reasonable accommodation by an

1 employee with a known physical disability or known medical condition and/or becoming aware of the  
2 employee's need for accommodation.

3 104. At all relevant times, Plaintiffs were a member of a protected class within the meaning of,  
4 in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiffs had a physical  
5 disability that affected Plaintiffs' major life activities, and medical condition of which Defendants had  
6 both actual and constructive knowledge.

7 105. Plaintiffs reported the disability to Defendants and requested accommodation, triggering  
8 Defendants' obligation to engage in the interactive process with Plaintiffs, but at all times herein,  
9 Defendants failed and refused to do so. Thereafter, despite Defendants continuing obligation to engage  
10 in the interactive process with Plaintiffs, Defendants failed and refused to have any dialogue with  
11 Plaintiffs whatsoever, on any of these occasions, and Defendants violated, and continued to violate this  
12 obligation up to and including the date of Plaintiffs' termination or, if Defendant contends Plaintiffs were  
13 never terminated, through the present and ongoing.

14 106. The above said acts of Defendants constitute violations of the FEHA and were a proximate  
15 cause in Plaintiffs' damage as stated below.

16 107. The damage allegations of Paragraphs 59 through 63, inclusive, are herein incorporated  
17 by reference.

18 108. The foregoing conduct of Defendants individually, or by and through their officers,  
19 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiffs or was  
20 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of  
21 Plaintiffs or subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs' rights  
22 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiffs to  
23 punitive damages in an amount appropriate to punish or make an example of Defendants.

24 109. Pursuant to Government Code §12965(b), Plaintiffs request a reasonable award of  
25 attorneys' fees and costs, including expert fees pursuant to the FEHA.

**SIXTH CAUSE OF ACTION**  
**FOR DECLARATORY JUDGMENT**  
**AGAINST ALL DEFENDANTS**

110. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 109, inclusive, as though set forth in full herein.

111. Government Code §12920 sets forth the public policy of the State of California as follows:

It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for these reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advancement, and substantially and adversely affects the interests of employees, employers, and the public in general.

Further, the practice of discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information in housing accommodations is declared to be against public policy.

It is the purpose of this part to provide effective remedies that will eliminate these discriminatory practices.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

112. Government Code §12920.5 embodies the intent of the California legislature and states:

In order to eliminate discrimination, it is necessary to provide effective remedies that will both prevent and deter unlawful employment practices and redress the adverse effects of those practices on aggrieved persons. To that end, this part shall be deemed an exercise of the Legislature's authority pursuant to Section 1 of Article XIV of the California Constitution.

113. Moreover, Government Code §12921, subdivision (a) says in pertinent part:

The opportunity to seek, obtain, and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic

information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation is hereby recognized as and declared to be a civil right.

114. An actual controversy has arisen and now exists between Plaintiffs and Defendants concerning their respective rights and duties as it is believed that Defendants may allege that they did not discriminate and retaliate against Plaintiffs; that Plaintiffs were not terminated as a result of Plaintiffs' age, RACE, national origin, disability and/or perceived disability, medical condition or perceived medical condition, engagement in protected activities, and/or some combination of these protected characteristics. Plaintiffs contend that Defendants did discriminate and retaliate against Plaintiffs on the basis of Plaintiffs' age, race, national origin, disability and/or perceived disability, medical condition or perceived medical condition, engagement in protected activities, and/or some combination of these protected characteristics; and that Plaintiffs were retaliated against and, ultimately wrongfully terminated as a result of Plaintiffs age, race, national origin, medical condition, disability and/or perceived disability, medical condition or perceived medical condition, engagement in protected activities, and/or some combination of these protected characteristics. Plaintiffs are informed and believe, and on that basis allege, that Defendants shall dispute Plaintiff's contentions.

115. Pursuant to Code of Civil Procedure §1060, Plaintiffs seeks a judicial determination of Plaintiffs' rights and duties, and a declaration that Plaintiffs' age, race, national origin, perceived disability, medical condition, perceived medical condition, disability, engagement in protected activities, and/or some combination of these protected characteristics was a substantial motivating factor in the decision to subject Plaintiffs to the aforementioned adverse employment actions.

116. A judicial declaration is necessary and appropriate at this time under the circumstances in order that Plaintiffs, for Plaintiffs and on behalf of employees in the State of California and in conformity with the public policy of the State, obtain a judicial declaration of the wrongdoing of Defendants and to condemn such discriminatory employment policies or practices prospectively. *Harris v. City of Santa Monica* (2013) 56 Cal.4th 203.

117. A judicial declaration is necessary and appropriate at this time such that Defendants may also be aware of their obligations under the law to not engage in discriminatory practices and to not violate the law in the future.

1           118. Government Code §12965(b) provides that an aggrieved party, such as the Plaintiffs  
2 herein, may be awarded reasonable attorneys' fees and costs: "In civil actions brought under this section,  
3 the court, in its discretion, may award to the prevailing party, including the department, reasonable  
4 attorneys' fees and costs, including expert witness fees." Such fees and costs expended by an aggrieved  
5 party may be awarded for the purpose of redressing, preventing, or deterring discrimination.

6  
7                                   **SEVENTH CAUSE OF ACTION**  
8                                   **FOR WRONGFUL TERMINATION**  
9                                   **IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**  
10                                   **AGAINST ALL DEFENDANTS**

11           119. Plaintiffs re-allege and incorporates by reference Paragraphs 1 through 58, inclusive, as  
12 though set forth in full herein.

13           120. At all relevant times mentioned in this complaint, the FEHA was in full force and effect  
14 and was binding on Defendants. This law requires Defendants to refrain, among other things, from  
15 discriminating against any employee on the basis of age, race, national origin, disability, medical  
16 condition, real or perceived, and use of medical leave, and from retaliating against any employee who  
17 engages in protected activity. At all times mentioned in this complaint, Article I, Section 8 of the  
18 California Constitution was in full force and effect and binding on Defendants. This law requires  
19 Defendants to refrain from disqualifying a person from pursuing employment on the basis of race, color,  
20 national origin, or sex.

21           121. At all times mentioned in this complaint, it was a fundamental policy of the State of  
22 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of age,  
23 race, national origin, disability, medical condition, real or perceived, use of medical leave and/or  
24 engagement in protected activity.

25           122. Plaintiffs believe and thereon allege that Plaintiff's age, race, national origin, disability  
26 and/or medical condition, real or perceived, use of medical leave, engagement in protected activity with  
27 respect to these protected classes, and/or some combination thereof, were factors in Defendants' conduct  
28 as alleged hereinabove.

1           123. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiffs'  
2 employment on the basis of age, race, national origin, disability, medical condition, real or perceived, or  
3 use of medical leave, Plaintiffs' complaining of discrimination due to these protected classes, Plaintiffs'  
4 engagement in protected activity, and/or some combination of these factors, were a proximate cause in  
5 Plaintiffs' damages as stated below.

6           124. The above said acts of Defendants constitute violations of the Government Code and the  
7 public policy of the State of California embodied therein as set forth above. Defendants violated these  
8 laws by discriminating and retaliating against Plaintiffs and terminating Plaintiffs employment in  
9 retaliation for exercise of protected rights.

10           125. At all times mentioned in this complaint, it was a fundamental policy of the State of  
11 California that Defendants cannot discriminate and/or retaliate against any employee in violation of  
12 FEHA.

13           126. Plaintiffs are informed and believe, and based thereupon allege, that Plaintiffs' status as a  
14 protected member of the class under FEHA was a proximate cause in Plaintiffs' damages as stated below.

15           127. The damage allegations of Paragraphs 59 through 63, inclusive, are herein incorporated  
16 by reference.

17           128. The foregoing conduct of Defendants individually, or by and through their officers,  
18 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiffs or was  
19 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of  
20 Plaintiffs or subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs' rights  
21 such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiffs to  
22 punitive damages in an amount appropriate to punish or make an example of Defendants.

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27  
28

**EIGHTH CAUSE OF ACTION**  
**FOR FAILURE TO PAY WAGES DUE**  
**LABOR CODE §§201, 1182.12, 1194, 1194.2**  
**AGAINST ALL DEFENDANTS**

129. Plaintiffs re-allege and incorporates each of the foregoing paragraphs as though set forth in full herein.

130. At all relevant times, Defendants failed and refused to pay Plaintiffs wages earned and required by 8 Code of Regulations §11050, as set forth hereinabove. As alleged herein, Defendants routinely failed to pay Plaintiffs for missed rest and meal breaks.

131. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8 Code of Regulations §11050, and Industrial Welfare Commission Order No. 5-2001.

132. Plaintiffs have been deprived of Plaintiffs' rightfully earned compensation as a direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiffs are entitled to recover such amounts, plus interest thereon, attorneys' fees and costs.

133. Labor Code §558(a) provides that any person acting on behalf of an employer who violates, or causes to be violated, any statute or provision regulating hours and days of work in any order of the Industrial Welfare Commission pay a civil penalty in the amount of \$50.00 for each underpaid employee for each pay period in which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting on behalf of an employer is liable in the amount of \$100.00 for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover the underpaid wages.

134. In addition to the unpaid wages, Plaintiffs are entitled to civil penalties in this amount stated above based upon Defendants' underpayment of minimum and overtime wages. Within the one year immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code §558 20 pay periods against Plaintiff VENTURA, 20 pay periods against Plaintiff VASQUEZ, and 20 pay periods against Plaintiff BUENROSTRO, the first of which Defendants are penalized \$50.00, and

1 the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor Code §558  
2 penalties of \$5,850.00.

3  
4 **NINTH CAUSE OF ACTION**  
5 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS**  
6 **LABOR CODE §§226.7, 512**  
7 **AGAINST ALL DEFENDANTS**

8 135. Plaintiffs re-allege and incorporates by reference each of the foregoing paragraphs as  
9 though set forth in full herein.

10 136. Labor Code §512 requires employers to provide every employee with an uninterrupted  
11 meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

12 137. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted  
13 rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion  
14 thereof.

15 138. In the four years last past, Plaintiffs regularly worked in excess of five hours per day, and  
16 was thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on each  
17 day of work.

18 139. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed  
19 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the  
20 applicable sections of 8 Code of Regulations §11050 and Industrial Welfare Commission Order No. 5-  
21 2001, as follows:

22 a. From approximately December 24, 2016 to March 13, 2020, Plaintiff  
23 VENTURA's statutory 30-minute meal periods were interrupted and cut short approximately 3 times per  
24 week for 168 weeks, or on approximately 504 days. During this same time period, Plaintiff VENTURA  
25 was deprived of one or more of Plaintiff VENTURA's statutory 10-minute rest periods on approximately  
26 1,008 days (6 days per week for 168 weeks).

27 b. From approximately December 24, 2016 to December 31, 2017, Plaintiff  
28 VASQUEZ's statutory 30-minute meal periods were interrupted and cut short approximately 6 times per



1 week for 53 weeks, or on approximately 318 days. During this same time period, Plaintiff VASQUEZ  
2 was deprived of one or more of Plaintiff VASQUEZ's statutory 10-minute rest periods on approximately  
3 318 days (6 days per week for 53 weeks).

4 c. From approximately January 1, 2018 to January 31, 2019, Plaintiff VASQUEZ's  
5 statutory 30-minute meal periods were interrupted and cut short approximately 6 times per week for 56  
6 weeks, or on approximately 336 days. During this same time period, Plaintiff VASQUEZ was deprived  
7 of one or more of Plaintiff VASQUEZ's statutory 10-minute rest periods on approximately 336 days (6  
8 days per week for 56 weeks).

9 d. From approximately February 1, 2019 to March 23, 2020, Plaintiff VASQUEZ  
10 statutory 30-minute meal periods were interrupted and cut short approximately 6 times per week for 59  
11 weeks, or on approximately 354 days. During this same time period, Plaintiff VASQUEZ was deprived  
12 of one or more of Plaintiff's statutory 10-minute rest periods on approximately 354 days (6 days per week  
13 for 59 weeks).

14 e. From approximately December 24, 2016 to February 28, 2020, Plaintiff  
15 BUENROSTRO was deprived of one or more of Plaintiff's statutory 10-minute rest periods on  
16 approximately 664 days (4 days per week for 166 weeks).

17 f. From approximately March 1, 2020 to March 15, 2020, Plaintiff BUENROSTRO  
18 was deprived of one or more of Plaintiff's statutory 10-minute rest periods on approximately 10 days (5  
19 days per week for 2 weeks).

20 140. As alleged herein, Plaintiffs are not exempt from the meal and rest break requirements of  
21 8 Code of Regulations §11050 and Industrial Welfare Commission Order No. 5-2001. Consequently,  
22 Plaintiffs are owed one hour of pay at Plaintiffs' then regular hourly rate, or the requisite minimum wage,  
23 whichever is greater, for each day that Plaintiffs were denied such meal periods, and is owed one hour of  
24 pay at Plaintiffs' regular hourly rate, or the requisite minimum wage, whichever is greater, for each day  
25 that Plaintiffs were denied such rest periods, calculated as follows:

26 a. From approximately December 24, 2016 to March 13, 2020, Defendants failed to  
27 provide Plaintiff VENTURA with an uninterrupted statutory meal period on approximately 504 separate  
28 days. Consequently, Plaintiff is owed one hour of pay at \$19.75 for each day, or \$9,954.00, plus interest

1 thereon, for unpaid interrupted meal periods. During this same time period, Defendants failed to provide  
2 Plaintiff with the statutory rest period on approximately 1,008 separate days. Consequently, Plaintiff is  
3 owed one hour of pay at \$19.75 for each day, or \$19,908.00, plus interest thereon, for unpaid rest periods.  
4 Thus, Plaintiff is owed a total of \$29,862.00, plus interest thereon, for unpaid meal and rest periods for  
5 this time period.

6           b. From approximately December 24, 2016 to December 31, 2017, Defendants failed  
7 to provide Plaintiff VASQUEZ with an uninterrupted statutory meal period on approximately 318  
8 separate days. Consequently, Plaintiff is owed one hour of pay at \$11.00 for each day, or \$3,498.00, plus  
9 interest thereon, for unpaid interrupted meal periods. During this same time period, Defendants failed to  
10 provide Plaintiff with the statutory rest period on approximately 318 separate days. Consequently,  
11 Plaintiff is owed one hour of pay at \$11.00 for each day, or \$3,498.00, plus interest thereon, for unpaid  
12 rest periods. Thus, Plaintiff is owed a total of \$6,996.00, plus interest thereon, for unpaid meal and rest  
13 periods for this time period.

14           c. From approximately January 1, 2018 to January 31, 2019, Defendants failed to  
15 provide Plaintiff VASQUEZ with an uninterrupted statutory meal period on approximately 336 separate  
16 days. Consequently, Plaintiff is owed one hour of pay at \$18.75 for each day, or \$6,300.00, plus interest  
17 thereon, for unpaid interrupted meal periods. During this same time period, Defendants failed to provide  
18 Plaintiff with the statutory rest period on approximately 336 separate days. Consequently, Plaintiff is  
19 owed one hour of pay at \$18.75 for each day, or \$6,300.00, plus interest thereon, for unpaid rest periods.  
20 Thus, Plaintiff is owed a total of \$12,600.00, plus interest thereon, for unpaid meal and rest periods for  
21 this time period.

22           d. From approximately February 1, 2019 to March 23, 2020, Defendants failed to  
23 provide Plaintiff VASQUEZ with an uninterrupted statutory meal period on approximately 354 separate  
24 days. Consequently, Plaintiff is owed one hour of pay at \$20.00 for each day, or \$7,080.00, plus interest  
25 thereon, for unpaid interrupted meal periods. During this same time period, Defendants failed to provide  
26 Plaintiff with the statutory rest period on approximately 354 separate days. Consequently, Plaintiff is  
27 owed one hour of pay at \$20.00 for each day, or \$7,080.00, plus interest thereon, for unpaid rest periods.  
28

1 Thus, Plaintiff is owed a total of \$14,160.00, plus interest thereon, for unpaid meal and rest periods for  
2 this time period.

3 e. From approximately December 24, 2016 to February 28, 2020, Defendants failed  
4 to provide Plaintiff BUENROSTRO with the statutory rest period on approximately 664 separate days.  
5 Consequently, Plaintiff is owed one hour of pay at \$15.75 for each day, or \$10,458.00, plus interest  
6 thereon, for unpaid rest periods.

7 f. From approximately March 1, 2020 to March 15, 2020, Defendants failed to  
8 provide Plaintiff BUENROSTRO with the statutory rest period on approximately 10 separate days.  
9 Consequently, Plaintiff is owed one hour of pay at \$15.75 for each day, or \$157.50, plus interest thereon,  
10 for unpaid rest periods.

11 141. Plaintiffs have been deprived of Plaintiffs' rightfully earned compensation for meal and  
12 rest breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

13 142. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover  
14 such amounts in the combined amount of \$74,233.50, pursuant to Labor Code §226.7(b), plus interest  
15 thereon and costs of suit.

16  
17 **TENTH CAUSE OF ACTION**

18 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**

19 **LABOR CODE §§226 ET SEQ.**

20 **AGAINST ALL DEFENDANTS**

21 143. Plaintiffs re-allege and incorporates by reference each of the foregoing paragraphs as  
22 though set forth in full herein.

23 144. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-  
24 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,  
25 total deductions and net wages earned. An employer who violates these code sections is liable to its  
26 employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the  
27 initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay  
28 period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is

1 deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement  
2 at all.

3 145. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates  
4 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation  
5 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

6 146. At all relevant times, Defendants failed to provide the Plaintiffs with timely and accurate  
7 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net  
8 wages earned, the name and address of the legal entity employing Plaintiffs, and all applicable hours and  
9 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate  
10 by Plaintiffs. For the majority of the time and as to nearly all of Plaintiffs' wages, Defendants knowingly  
11 and intentionally, not inadvertently, failed to provide Plaintiffs with paystubs. Not one of the paystubs  
12 that Plaintiffs received complied with Labor Code §226, and contained almost none of the required  
13 information, including hours actually worked.

14 147. As alleged herein, Plaintiffs are not exempt from the requirements of Labor Code §226.

15 148. This failure has injured Plaintiffs, by misrepresenting and depriving Plaintiffs of hour,  
16 wage, and earnings information to which Plaintiffs are entitled, causing Plaintiffs difficulty and expense  
17 in attempting to reconstruct time and pay records, causing Plaintiffs not to be paid wages Plaintiffs are  
18 entitled to, causing Plaintiffs to be unable to rely on earnings statements in dealings with third parties,  
19 eviscerating Plaintiffs' right under Labor Code §226(b) to review itemized wage statement information  
20 by inspecting the employer's underlying records, and deceiving Plaintiffs regarding Plaintiffs'  
21 entitlement to overtime, meal period, and rest period wages. For the time periods that Plaintiffs were not  
22 provided with paystubs at all, Plaintiffs' aforementioned injuries are presumed as a matter of law.

23 149. Plaintiffs were paid on a bi-weekly basis, and therefore Defendants violated Labor Code  
24 §226 approximately 20 times per Plaintiff during the one year preceding the filing of this complaint.  
25 Consequently, Defendants are liable to Plaintiffs for Plaintiffs' actual damages, or penalties in the  
26 statutory maximum amount of \$4,000.00, whichever is greater.

1           150. In addition thereto, for Defendants' 60 violations, Defendants are penalized \$250.00 for  
2 the first violation, and the remainder of which Defendants are penalized \$1,000.00 each, for a total due  
3 in Labor Code §226.3 penalties of \$57,750.00.

4           151. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and  
5 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other  
6 applicable provisions, as well as attorneys' fees and costs.

7  
8                                   **ELEVENTH CAUSE OF ACTION**  
9                                   **FOR WAITING TIME PENALTIES**  
10                                  **LABOR CODE §§201-203**  
11                                  **AGAINST ALL DEFENDANTS**

12           152. Plaintiffs re-allege and incorporates by reference each of the foregoing paragraphs as  
13 though set forth in full herein.

14           153. At all relevant times, Defendants failed to pay all of the Plaintiffs' accrued wages and  
15 other compensation due immediately upon termination or within 72 hours of resignation, as required.  
16 These wages refer to, at a minimum, unpaid meal and rest period compensation that Defendants should  
17 have paid, but did not pay to Plaintiffs during the term of Plaintiffs' employment and which were, at the  
18 latest, due within the time restraints of Labor Code §§201-203.

19           154. As alleged herein, Plaintiffs are not exempt from the requirements of Labor Code §§201-  
20 203.

21           155. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff  
22 VENTURA is entitled to payment of Plaintiffs' meal and rest periods as previously pleaded herein, and  
23 more than \$6,517.50 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of  
24 \$217.25, inclusive of overtime.

25           156. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff  
26 VASQUEZ is entitled to payment of Plaintiffs' meal and rest periods as previously pleaded herein, and  
27 more than \$5,700.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of  
28 \$190.00, inclusive of overtime.

1           157. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff  
2 BUENROSTRO is entitled to payment of Plaintiffs' meal and rest periods as previously pleaded herein,  
3 and more than \$3,780.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate  
4 of \$126.00, inclusive of overtime

5           158. Based on Defendants' conduct as alleged herein, Defendants are liable for \$15,997.50 in  
6 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'  
7 fees and costs.

8  
9                                   **TWELFTH CAUSE OF ACTION**  
10                               **FOR PRIVATE ATTORNEY GENERAL ACT**  
11                               **LABOR CODE §2699**  
12                               **AGAINST ALL DEFENDANTS**

13           159. Plaintiffs re-allege and incorporates by reference each of the foregoing paragraphs as  
14 though set forth in full herein.

15           160. Under Labor Code §2699, Plaintiffs, as aggrieved employees, may bring an action against  
16 Defendants, on behalf of themselves and other current or former employees, seeking statutory civil  
17 penalties for Defendants' violations of the California Labor Code.

18           161. Plaintiffs were aggrieved employees within the meaning of Labor Code §§2699(c) and  
19 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiffs, as  
20 previously pleaded in this Complaint.

21           162. On October 20, 2020, more than 63 calendar days before filing this Complaint, Plaintiffs  
22 provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail  
23 to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby  
24 satisfying the requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201,  
25 202, 203, 226, 226.7, 226.8, 510, 512, 1174, 1182.12, 1194, 1194.2, and 1197, each of which is  
26 enumerated among the serious violations set forth in Labor Code §2699.5.

1 163. As of the filing of this Complaint, Plaintiffs have not received any response from the Labor  
2 and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently,  
3 Plaintiffs may now commence a civil action, pursuant to Labor Code §2699.3.

4 164. As a direct and proximate result of Defendants' California Labor Code violations as set  
5 forth in this Complaint, Plaintiffs are entitled to civil penalties of \$100.00 for each aggrieved employee  
6 per pay period for the initial violation, and \$200.00 for each aggrieved employee per pay period for each  
7 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly  
8 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly  
9 provide for a penalty, §§226.3, 226.7, 510, 512, and 558.

10 165. Plaintiffs may also seek these penalties on behalf of themselves and these same penalties  
11 on behalf of all other aggrieved employees.

12 166. Plaintiffs are informed and believe that Defendants' violations of the Labor Code relating  
13 to (1) failure to provide meal and rest periods, (2) failure to furnish accurate wage statements, and (3)  
14 failure to pay wages are continuing to the present day and such ongoing violations further serve as the  
15 basis of their representative PAGA claim for penalties.

16 167. Plaintiffs are also entitled to reasonable attorneys' fees and costs, and 25% of the  
17 recovered civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

18  
19 **THIRTEENTH CAUSE OF ACTION**  
20 **FOR UNFAIR COMPETITION**  
21 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**  
22 **AGAINST ALL DEFENDANTS**

23 168. Plaintiffs re-allege and incorporates by reference each of the foregoing paragraphs as  
24 though set forth in full herein.

25 169. Defendants' violations of 8 Code of Regulations §11050, Industrial Welfare Commission  
26 Order No. 5-2001, Labor Code §§201-203, 226, 226.7, 510, 512, 1194, 1194.2, 2699, and other applicable  
27 provisions, as alleged herein, including Defendants' failure to provide meal and rest breaks, Defendants'  
28 failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation

1 due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete  
2 and accurate payroll records for the Plaintiffs, constitute unfair business practices in violation of Business  
3 & Professions Code §§17200, et seq.

4 170. As a result of Defendants' unfair business practices, Defendants have reaped unfair  
5 benefits and illegal profits at the expense of Plaintiffs and members of the public. Defendants should be  
6 made to disgorge their ill-gotten gains and restore such monies to Plaintiffs.

7 171. Defendants' unfair business practices entitle Plaintiffs to seek preliminary and permanent  
8 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore  
9 to the Plaintiffs the monies and benefits unlawfully withheld from Plaintiffs.

10  
11 **FOURTEENTH CAUSE OF ACTION**

12 **FOR FAILURE TO PROVIDE ONE DAY OF REST FOR EVERY WORKWEEK**

13 **(CAL. LABOR CODE §§551 and 552)**

14 **BY PLAINTIFF VASQUEZ**

15 **AGAINST ALL DEFENDANTS**

16 172. Plaintiff VASQUEZ re-allege and incorporates by reference each of the foregoing  
17 paragraphs as though set forth in full herein.

18 173. At all relevant times, Defendants failed and refused to provide Plaintiff with one day of  
19 rest for every workweek in violation of California Labor Code §§ 551, 552.

20 174. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §§ 551,  
21 552, 8 Code of Regulations §11090, and Industrial Welfare Commission Order No. 9-2001.

22 175. Cal. Lab. Code § 551 requires that, "Every person employed in any occupation of labor is  
23 entitled to one day's rest therefrom in seven."

24 176. Cal. Lab. Code § 552 further requires that, "No employer of labor shall cause his  
25 employees to work more than six days in seven"

26 177. Defendants caused Plaintiff to go without a day of rest when it induced Plaintiff to forego  
27 rest to which Plaintiff was entitled to by scheduling or directing Plaintiff to involuntarily work seven days  
28



1 in a row in each workweek without a day of rest. Plaintiff worked more than six (6) hours of work during  
2 each shift.

3  
4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiffs seek judgment against Defendants and each of them, in an amount  
6 according to proof as follows:

7 1. For a money judgment representing compensatory damages including lost wages,  
8 earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,  
9 together with interest on these amounts; for other special damages; and for general damages for mental  
10 pain and anguish and emotional distress and loss of earning capacity;

11 2. For statutory penalties or damages pursuant to Labor Code §558 in the amount of no less  
12 than \$5,850.00;

13 3. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512,  
14 in the amount of no less than \$74,233.50;

15 4. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;

16 5. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no  
17 less than \$57,750.00;

18 6. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less  
19 than \$15,997.50;

20 7. For statutory penalties pursuant to Labor Code §2699(f), in in an amount according to  
21 proof on Plaintiffs' own behalf, and similar amounts on behalf of all of Defendants' aggrieved employees,  
22 in an amount according to proof;

23 8. For prejudgment interest on each of the foregoing at the legal rate from the date the  
24 obligation became due through the date of judgment in this matter.

25 **WHEREFORE**, Plaintiffs further seeks judgment against Defendants, and each of them, in an  
26 amount according to proof, as follows:

27 9. For a declaratory judgment reaffirming Plaintiffs' equal standing under the law and  
28 condemning Defendants' discriminatory practices;

1 10. For injunctive relief barring Defendants' discriminatory employment policies and  
2 practices in the future, and restoring Plaintiffs to Plaintiffs' former position with Defendants;

3 11. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish  
4 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

5 12. For injunctive relief compelling Defendants to report to federal and state authorities wages  
6 earned by Plaintiffs, and other employees, and pay all state and federal taxes owing, employer matching  
7 funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all  
8 this in an amount according to the proof;

9 13. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful  
10 conduct, and failure to pay wages and other compensation in accordance with the law;

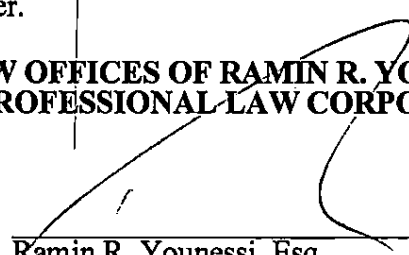
11 14. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor  
12 Code and/or any other basis;

13 15. For post-judgment interest; and

14 16. For any other relief that is just and proper.

15 DATED: June 5, 2023

**LAW OFFICES OF RAMIN R. YOUNESSI  
A PROFESSIONAL LAW CORPORATION**

17 By: 

18 Ramin R. Younessi, Esq.  
19 Attorney for Plaintiff  
20 DINA VENTURA, AMERICA VASQUEZ,  
AND SONIA BUENROSTRO

21 **JURY TRIAL DEMANDED**

22 Plaintiff demands trial of all issues by jury.

23 DATED: June 5, 2023

**LAW OFFICES OF RAMIN R. YOUNESSI  
A PROFESSIONAL LAW CORPORATION**

26 By: 

27 Ramin R. Younessi, Esq.  
28 Attorney for Plaintiff  
DINA VENTURA, AMERICA VASQUEZ,  
AND SONIA BUENROSTRO

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3435 Wilshire Boulevard, Suite 2200, Los Angeles, California 90010.

On July 20, 2023, I served the documents described as **FIRST AMENDED COMPLAINT FOR DAMAGES** on the interested parties in this action as follows:

☐ By emailing true copies addressed to each addressee as follows:

Michael C. Murphy, Esq. *Attorneys for Defendant,*  
Michael C. Murphy, Jr., Esq.  
LAW OFFICES OF MICHAEL C. MURPHY  
michael@murphlaw.net  
Michael.Jr@murphlaw.net

☒ BY ELECTRONIC MAIL: Pursuant to Code of Civil Procedure §§ 1010.6(a)(2), 1010.6(e), and 1013(g), and/or California Rules of Court 2.251(b)(1)-(2), I transmitted a copy of the aforementioned document to each addressee above to the email address(es) indicated.

Executed on July 20, 2023, at Los Angeles, California.

☒ STATE I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ FEDERAL I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Tony Noda *Tony Noda*