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Superior Court of California
County of Santa Barbara
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By: Sarah Sisto, Deputy

Attorney for Plaintiff
ANDREW SPECK, an individual, for himself and on behalf of others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA BARBARA

ANACAPA DIVISION

ANDREW SPECK, an individual, for
himself and on behalf of others similarly
situated,

Plaintiff,

vs.

COASTAL MASSAGE SANTA
BARBARA, a corporation, FRANCHESTA
MARBURY-HAMMONDS, an individual,
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 21CV03869

CLASS ACTION

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

- 1. Unpaid Minimum Wages;**
- 2. Waiting Time Penalties;**
- 3. Missed Meal Periods;**
- 4. Missed Rest Periods;**
- 5. Missing or Improper Wage Statements;**
- 6. Failure to Allow Inspection of Personnel File;**
- 7. Unfair Business Practices;**
- 8. Penalties under Labor Code §2699;**
- 9. Disability discrimination in violation of the California Fair Employment and Housing Act ("FEHA");**
- 10. Age discrimination in violation of the California Fair Employment and Housing Act ("FEHA");**
- 11. Failure to accommodate;**
- 12. Failure to engage in interactive process; and,**
- 13. Retaliation in violation of the FEHA.**

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8. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, each of the Defendants was the agent, servant, employee, co-venturer, and co-conspirator of each of the remaining Defendants, and was at all times herein mentioned, acting within the course, scope, purpose, consent, knowledge, ratification, and authorization of such

1 agency, employment, joint venture, and conspiracy.

2 9. Plaintiff is informed and believes and based thereon alleges that Defendants, and
3 each of them, exercised control over the wages, hours, or working condition of Plaintiff and other
4 workers with respect to, *inter alia*, rules, prices, hours of work, customer relations, training,
5 location where the services were provided, and the instrumentalities used in the work.

6 10. On or about September 2, 2020, Mr. Speck filed a complaint of discrimination on
7 the basis of disability and age, and retaliation in employment with the California Department of
8 Fair Employment and Housing (“DFEH”). On or about July 22, 2021, the DFEH issued its Notice
9 of Right-to-Sue authorizing the filing of a lawsuit, and Mr. Speck timely filed this action. Mr.
10 Speck has therefore exhausted his available administrative remedies and timely filed this action
11 within the prescribed period following issuance of the Notice of Right-to-Sue.

12 ***Relevant facts***

13 11. Plaintiff is informed and believes and based thereon alleges that Hammonds
14 personally exercised control over the wages, hours or working conditions of the employees in the
15 Coastal Massage Massage Envy franchises.

16 12. Mr. Speck has been employed by Defendants in Santa Barbara, California, since
17 March, 2011 as a massage therapist. His most recent wage was \$19.50 per service hour.

18 13. At all times relevant herein, the hours and working conditions of Mr. Speck, as
19 well as other similarly situated workers’ wages and hours are regulated by Title 8, California
20 Code of Regulations Section 11020, Industrial Welfare Commission Order No. 2001 Regulating
21 Wages, Hours and Working Conditions int the Personal Services Industry (“Wage Order 2”).

22 14. Effective January 1, 2018, Labor Code §204.11 made certain changes to the
23 requirements for commissioned employees in beauty salons and barber shops. Although not
24 required, Defendants attempted to pay its massage therapists, including Mr. Speck, consistent
25 with those requirements.

26 ***Relevant law***

27 15. California Labor Code §90.5 provides,

28 “It is the policy of this state to vigorously enforce minimum labor

standards in order to ensure employees are not required or permitted to work under substandard unlawful conditions or for employers that have not secured the payment of compensation, and to protect employers who comply with the law from those who attempt to gain a competitive advantage at the expense of their workers by failing to comply with minimum labor standards.”

16. Wage Order 2, §2(G), provides, “‘Hours worked’ means the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.”

17. Piece work wages in California are regulated by, among other things, Labor Code §226.2. Section 226.2 requires that workers who are paid on a piece-rate basis must be paid separately for their rest periods and “other nonproductive time.” Section 226.2 defines other nonproductive time as “time under the employer’s control, exclusive of rest and recovery periods, that is not directly related to the activity being compensated on a piece-rate basis.” For workers in California who are paid on a piece-rate basis, this means that they must be paid at least the minimum wage for all hours worked, and for their rest period time, in addition to their piece-rate compensation.

Defendants’ payroll practices

18. On or about June 8, 2018, Defendants decided that they would no longer pay massage therapists, including Mr. Speck, in conformity with the requirements of Labor Code 204.11. Instead, Defendants reverted to the “piece work” calculation of wages that it had paid massage therapists, including Mr. Speck, prior to 2018. As a result, Mr. Speck and other massage therapists were not paid for standby, preparatory, and other non-massage time, including their rest breaks.

19. Defendants, however, attempted to disguise their piecework method of paying wages by utilizing a variable “Service Bonus,” labeled “SRVBONUS” on the paycheck deduction statements of its massage therapists, including Mr. Speck since June, 2018. Defendants have calculated wages as follows:

a. First, Defendants multiply all service hours performed by the service hour rate,

1 currently \$19.50 per service hour for Mr. Speck.

2 b. Next, Defendants multiply all hours worked, including nonproductive preparatory
3 and standby time, by the California minimum wage., currently \$12 per hour.

4 c. Finally, Defendants calculates the difference between (1) the service hours at the
5 service hour rate and (2) all hours worked at the minimum wage rate, and pay that
6 amount as the Service Bonus. The service bonus varies every pay period due to
7 the variable ratio between service hours and all hours worked. The net result of
8 this process is that Mr. Speck and other massage therapists are paid, in sum and
9 substance, only their hourly service rate for their service hours.

10 20. Massage therapists, including Mr. Speck are not separately compensated for
11 “other nonproductive time,” which is defined as “time under the employer’s control, exclusive of
12 rest and recovery periods, that is not directly related to the activity being compensated on a
13 piece-rate basis.” Defendants attempt to address this requirement by paying minimum wage for
14 all hours worked, then adding a “service premium” for massage hours.

15 21. However, the amount of the “service premium” varies based on the ratio of all
16 hours and the number of massage hours. The “service premium” is to make equivalent the pay
17 earned under the new “minium wage plus service premium” scheme to the former “pay for
18 massage hours only” scheme. Therefore, Defendants’s plan violates California law.

19 22. In Gonzales v. Downtown LA Motors (2013) 215 Cal.App.4th 36 (“Gonzales”),
20 the court made it clear that piece-rate compensation cannot be “averaged” over all hours worked
21 to provide compensation for non-productive time. In Bluford v. Safeway, Inc. (2013) 216
22 Cal.App.4th 864 (“Bluford”) the court held that a piece-rate compensation formula that does not
23 compensate separately for rest periods does not comply with California minimum wage law.

24 23. Gonzales and Bluford collectively require that the California minimum wage law
25 required that employees be separately compensated for rest periods and other nonproductive
26 times at the legal minimum wage or contractual hourly rate, and that a system wherein the
27 employer meets the minimum wage requirement by averaging hourly compensation does not
28 comply with the law. (Bluford, supra, 216 Cal.App.4th at 872; Gonzalez, supra, 215 Cal.App.4th

1 at 48-49.)

2 24. The sole purpose of the variable “service bonus” is to convert a nominal minimum
3 wage hourly rate for all hours to a piece work plan in which only service hours are compensated
4 at \$19.50 per hour. This is therefore still an improper piecework plan which does not compensate
5 massage therapists for non-service hours. In Gonzales, the court concluded that piece-rate
6 compensation cannot be “averaged” over all hours worked to provide compensation for
7 non-productive time.

8 25. “Averaging piece-rate wages over total hours worked results in underpayment of
9 employee wages required ‘by contract’ under Labor Code section 223, as well as an improper
10 collection of wages paid to an employee under Labor Code section 221, as illustrated by the
11 following example: a technician who works four piece-rate hours in a day at a rate of \$20 per
12 hour and who leaves the jobsite when that work is finished has earned \$80 for four hours of
13 work. A second technician who works the same piece-rate hours at the same rate but who
14 remains at the jobsite for an additional four hours waiting for customers also earns \$80 for the
15 day; however, averaging his piece-rate wages over the eight-hour workday results in an average
16 pay rate of \$10 per hour, a 50 percent discount from his promised \$20 per hour piece rate. The
17 second technician forfeits to the employer the pay promised “by statute” under Labor Code
18 section 223 because if his piece-rate pay is allocated only to piece-rate hours, he is not paid at all
19 for his nonproductive hours.” (Gonzalez, supra, 215 Cal.App.4th at 50.)

20 26. As result, Mr. Speck and other piece rate massage therapists are entitled to unpaid
21 minimum and overtime wages under Labor Code §1194, and an amount equal to the unpaid
22 minimum wage under Labor Code §1194.2

23 27. Massage therapist employees of Defendants, including Mr. Speck, are entitled to
24 compensation for violations of California wage and hour law related to their uncompensated
25 standby, preparatory, and waiting time. California law states that any hour an employee spends
26 performing work on behalf of the organization, or work that the organization knew or had reason
27 to know was being performed by the employee, is considered hours worked and therefore
28 deemed compensable time, regardless of where the work was performed.

1 ***Class allegations***

2 28. This action is brought under Code of Civil Procedure §382 on behalf of a class.
3 The class is composed of all California persons who have performed work for Defendants for a
4 piece work wage, between July 15, 2016 and the present (the “Class”).

5 29. This action is also brought by Plaintiff on behalf of a subclass of persons whose
6 employment with Defendants ended at any time since July 15, 2016 for unpaid minimum wages
7 (the “Minimum Wage Subclass”).

8 30. This action is also brought by Plaintiff on behalf of a subclass of persons whose
9 employment with Defendants ended at any time since July 15, 2016 for unpaid overtime wages
10 (the “Overtime Wage Subclass”).

11 31. This action is also brought by Plaintiff on behalf of a subclass of persons whose
12 employment with Defendants ended at any time since July 15, 2016 for waiting time penalties
13 under Labor Code §203 (the “Penalty Subclass”).

14 32. This action is also brought by Plaintiff under Code of Civil Procedure §382 on
15 behalf of a subclass. The subclass is composed of all California persons who work or have
16 worked for Defendants for a piece work wage, and for whom Defendants have not provided the
17 appropriate uninterrupted thirty (30) minute meal breaks, since July 15, 2016, for wage premiums
18 for missed uninterrupted thirty (30) minute meal breaks (the “Meal Break Subclass”).

19 33. This action is also brought by Plaintiff under Code of Civil Procedure §382 on
20 behalf of a subclass. The subclass is composed of all California persons who work or have
21 worked for Defendants for a piece work wage, and for whom Defendants have not provided the
22 appropriate paid uninterrupted ten (10) minute rest breaks, since July 15, 2016, for wage
23 premiums for missed paid uninterrupted ten (10) minute rest breaks (the “Rest Break Subclass”).

24 34. This action is also brought by Plaintiff under Code of Civil Procedure §382 on
25 behalf of a subclass. The subclass is composed of all California persons who work or have
26 worked for Defendants for a piece work wage, since July 15, 2016, for damages based on
27 Defendants’ violation of Labor Code §226 (the “Wage Statement Subclass”).

28 35. The members of the Class and various Subclasses are so numerous that joinder of

1 all members would be impractical and that the disposition of their claims in a class action rather
2 than in individual actions will benefit the parties and the court. The individual damages suffered
3 by class members are so small that individual actions or other individual remedies are
4 impracticable. There is a well-defined community of interest in the questions of law and fact
5 affecting the plaintiff and the Class and the various Subclasses in that the legal questions of
6 whether Defendant's conduct and business practice constitutes a violation of the relevant
7 California Wage Order, the Labor Code, and Business & Professions Code §17200 *et seq.* are
8 common to the Class and the various Subclasses.

9 36. The questions of law and fact common to all members of the Class and the
10 various Subclasses predominate over any questions affecting only individual members and a
11 class action is preferable to any other available method for the fair and efficient adjudication of
12 this controversy.

13 37. On May 29, 2020, the California Judicial Council approved a revision to
14 Emergency Rule 9 regarding the statutes of limitations for filing civil cases during the
15 COVID-19 pandemic. The amended Emergency Rule 9 is no longer tied to the statewide state of
16 emergency declaration. The new rule tolls statutes of limitations and repose for civil causes of
17 action as follows: (a) statutes of limitations and repose for civil causes of action that exceed 180
18 days are tolled from April 6, 2020 until October 1, 2020; and (b) statutes of limitations and
19 repose for civil causes of action that are 180 days or less are tolled from April 6, 2020 until
20 August 3, 2020.

21 ***Relevant California Fair Employment and Housing Act facts***

22 38. Since at least 1997, Mr. Speck has suffered from physical disabilities and has had
23 work restrictions from his doctors. His work restrictions included but were not limited to no
24 lifting more than 50 pounds from the ground, no lifting more than 75 pounds from the knee and
25 waist level, no bending at or below knee level, and no reaching above shoulder level.

26 39. On or about February 17, 2018, Christina Lowe, Manager, gave Mr. Speck a
27 verbal warning and threatened to terminate him due to a client's complaint about Mr. Speck's
28 service and hand tremor. Mr. Speck explained his hand tremor was due to a medical condition

1 and protested her warning indicating they were violating California law by threatening to fire him
2 due to a disability. Ms. Lowe disregarded his protest and told Mr. Speck that regardless of what
3 he thought, he would be terminated if he received more complaints.

4 40. Plaintiff is informed and believes and based thereon alleges that Christina Lowe
5 was a supervisory employee and managing agent of Defendants at all times relevant herein.

6 41. On or about February 21, 2018, Mr. Speck wrote an email to Hammonds and
7 Nikki Michelle, Assistant Manager, further explaining his hand tremor. Mr. Speck requested that
8 in the future clients be notified of his tremor. Hammonds responded that notifying clients about
9 his tremor was a good idea, that it would be communicated to clients, and that they would have a
10 meeting regarding same. However, instead of notifying clients and discussing the issue further,
11 Defendants denied him Swedish massage assignments. This was significant because message
12 therapist must perform Swedish massages in order to maintain their skills and Swedish massage
13 is less strenuous than deep tissue massage.

14 42. Plaintiff is informed and believes and based thereon alleges that Nikki Michelle
15 was a supervisory employee and managing agent of Defendants at all times relevant herein.

16 43. From about April, 2018 through April, 2019, Mr. Speck inquired with the front
17 desk staff about not being assigned Swedish massage. The front desk staff generally told Mr.
18 Speck that they had been informed by management that he did not and could not perform
19 Swedish massage. Mr. Speck clarified he was qualified to do Swedish massages and that his
20 bookings of same should not be denied or suppressed. Nonetheless, Mr. Speck's Swedish
21 massage appointments continued to be suppressed.

22 44. On or about April 15, 2018, Defendants discussed the implementation of new
23 housekeeping and janitorial duties for massage therapist which included laundry, vacuuming, and
24 cleaning paint stains, and dust build-up running down the walls, some of which could violate Mr.
25 Speck's work restrictions and aggravate his orthopedic injuries.

26 45. On or about April 16, 2018, Mr. Speck had a meeting with Ms. Michelle
27 regarding Mr. Speck's concerns about the new housekeeping and janitorial duties.
28

1 46. On or about April 25, 2018, Mr. Speck emailed Ms. Michelle, Patricia Pizarro,
2 Regional Manager, Pam Tanase, Corporate Regional Supervisor/Director, and Hammonds
3 requesting a reasonable accommodation of no new housekeeping and janitorial duties for his
4 orthopedic injuries.

5 47. Plaintiff is informed and believes and based thereon alleges that Patricia Pizarro
6 was a supervisory employee and managing agent of Defendants at all times relevant herein.

7 48. Plaintiff is informed and believes and based thereon alleges that Pam Tanase was a
8 supervisory employee and managing agent of Defendants at all times relevant herein.

9 49. On April 26, 2018, Ms. Pizarro communicated that Hammonds had approved Mr.
10 Speck's request for reasonable accommodation and approved no housekeeping and janitorial
11 duties. Ms. Pizarro indicated they would revisit his housekeeping and janitorial duties. Shortly
12 thereafter, Ms. Pizarro resigned.

13 50. In or around April, 2019, Kevin Valencia, the new Assistant Manager, updated the
14 "Modality Chart" used to guide the front desk as to which services each massage therapist could
15 perform. Mr. Speck noticed his availability was limited to "Deep Tissue only." Mr. Valencia
16 told Mr. Speck that he had been informed that Mr. Speck did not and could not perform Swedish
17 massage, and resisted modifying the Modality Chart to include Swedish massage as one of Mr.
18 Speck's modalities. Mr. Speck complained to Barbara Aruda, Acting Manager. After he
19 complained, Ms. Aruda updated the Modality Chart to include Swedish massage as a modality
20 Mr. Speck could perform.

21 51. Plaintiff is informed and believes and based thereon alleges that Kevin Valencia
22 was a supervisory employee and managing agent of Defendants at all times relevant herein.

23 52. Plaintiff is informed and believes and based thereon alleges that Barbara Aruda was
24 a supervisory employee and managing agent of Defendants at all times relevant herein.

25 53. In or about September, 2019, Defendants started violating Mr. Speck's work
26 accommodations. Mr. Speck reminded management and the front desk of his reasonable
27 accommodations.

28 54. After Mr. Speck raised his work accommodations, Defendants began to retaliate

1 against him.

2 55. On or around October 31, 2019, Mr. Speck was suspended by Sarah Alhadithi,
3 Regional Manager, for a week because of an alleged complaint filed against him by a female
4 client. This allegation was false and not properly investigated. Mr. Speck believes his suspension
5 was in retaliation for requesting reasonable accommodations.

6 56. Plaintiff is informed and believes and based thereon alleges that Sarah Alhadithi
7 was a supervisory employee and managing agent of Defendants at all times relevant herein.

8 57. On or around November 1, 2019, a younger male massage therapist was hired and
9 scheduled the same days and similar times as Mr. Speck. Some of Mr. Speck's past and future
10 clients were assigned to the new massage therapist while Mr. Speck was suspended. Throughout
11 November, 2019 to January 20, 2020, some of Mr. Speck's clients were told he was no longer
12 working or was unavailable and his appointments were booked with the newly hired massage
13 therapist.

14 58. On or about November 6, 2019, Mr. Speck emailed Ms. Tanase to discuss his
15 suspension and his complaints about violations of his reasonable accommodations.

16 59. On or about November 7, 2019, Ms. Alhadithi sent Mr. Speck an email
17 requesting a call regarding his suspension. Mr. Speck replied he would call her the following day.

18 60. On or about November 8, 2019, Mr. Speck called Ms. Alhadithi and was informed
19 by Ms. Alhadithi that he would be reprimanded for failure to "deep clean his room" and perform
20 other housekeeping and janitorial duties for massage therapists. Mr. Speck informed Ms.
21 Alhadithi that he was exempt from such duties by Hammonds. Further, Mr. Speck noted that the
22 duties she assigned were not standard housekeeping and janitorial duties for massage therapist.
23 Ms. Alhadithi noted stated she would look into it.

24 61. On or about November 9, 2019, Mr. Speck was in fact reprimanded for failure to
25 deep clean his station. Mr. Speck noticed these task were not assigned to other massage therapists
26 and he was being singled out. Mr. Speck again reminded Ms. Alhadithi of his reasonable
27 accommodations. Ms. Alhadithi noted she would look into it. However, Ms. Alhadithi did not
28 inquire further or discuss with Mr. Speck the nature of his accomodation.

1 62. On or about November 12, 2019, Mr. Speck emailed Ms. Alhadithi about his
2 reasonable accomodations.

3 63. On November 15, 2019, Ms. Alhadithi sent Mr. Speck an email stating, “You are
4 not exempt for cleaning. Whatever deal you had with last management is over. If you are capable
5 of performing five to six hours of massage then, during your down time, you are capable to clean
6 up after yourself and keep your room clean. This is the final conversation and email I will have
7 about this matter it’s wasting my time with the back and forth...” By this email, Ms. Alhadithi
8 expressly denied Mr. Speck’s reasonable accommodation for his disability and refused to engage
9 Mr. Speck in the interactive process.

10 64. Thereafter, Mr. Speck was treated less favorably than other employees because of
11 his physical disability. Mr. Speck continued to be assigned additional housekeeping and janitorial
12 duties and was signaled out.

13 65. Mr. Speck also experienced discrimination based on his age.

14 66. Defendants generally would make comments about older employees not being
15 able to use computers, iPads, and text messaging devices well because of their age.

16 67. From on or around December 15, 2019 to January 20, 2020, Mr. Speck was
17 denied access and use of the computer and printer/copier in the manager’s room. Mr. Speck was
18 aware younger employees were allowed to use the computer and printer/copier in the manager’s
19 room.

20 68. On or about January 24, 2020, Mr. Speck sent an email to Brittany Jordan,
21 Manager, requesting medical leave due Ms. Alhadithi’s violations of his reasonable
22 accommodations and retaliatory behavior.

23 69. Plaintiff is informed and believes and based thereon alleges that Brittany Jordan
24 was a supervisory employee and managing agent of Defendants at all times relevant herein.

25 70. On or about January 30, 2020, Mr. Speck’s doctor placed him on medical leave
26 with a return to work date of March 15, 2020 with restrictions of no heavy lifting and no
27 bending. Mr. Speck provided copies to Ms. Jordan and Ms. Alhadithi of same.

28 71. On or about February 27, 2020, Mr. Speck’s doctor placed him on leave for six

1 months while he underwent orthopedic evaluation and prepared for surgery.

2 72. On or about March 15, 2020, Mr. Speck sent Ms. Jordan an updated doctor's note.

3 73. During March, April, May, and June, 2020 Defendants closed due to Covid-19
4 and Mr. Speck was never contacted by Defendants regarding reopening of the business.

5 74. On or about July 13, 2020, Meghan Johnson, Manager, emailed employees about
6 the temporary closure.

7 75. Plaintiff is informed and believes and based thereon alleges that Meghan Johnson
8 was a supervisory employee and managing agent of Defendants at all times relevant herein.

9 76. On or about July 14, 2020, Mr. Speck responded he may be able to return to work
10 part-time with work restrictions.

11 77. On or about August 19, 2020, Mr. Speck emailed Ms. Johnson to inquire whether
12 he could resume work intermittently while he continued his medical evaluation and treatment.

13 78. On or about August 21 2020, Ms. Johnson replied that : "the company will do our
14 best to make reasonable accommodations to modify your work duties to the best of our ability.
15 The cleaning and sanitizing in the current times (with the virus and new protocols) is a little
16 more challenging to accommodate, but as we get closer to a reopening I will communicate with
17 you to discuss what we can do and what that accommodation might look like."

18 79. On or about August 23, 2020, Mr. Speck sent an email complaint to Ms. Johnson
19 about Ms. Alhadithi's violations of his reasonable accommodations and retaliatory behavior.

20 80. On or about August 25, 2020, Ms. Johnson replied that she needed a note from a
21 physician stating what the work restrictions were and their duration. She further stated that the
22 doctor's note in his file could not be verified and that was the reason behind the
23 accommodation being revoked. This was the first time Mr. Speck was made aware of this.

24 81. On or about November 25, 2020, Mr. Speck received updated work restrictions
25 from his doctor of no work requiring more than 10 hours per week, no work more than five hours
26 per day, no lifting greater than 20 pounds, no frequent bending forward at the waist level, no
27 bending to bring shoulders down to waist level, and no frequent squatting.

28 82. On or about December 4, 2020, Mr. Speck provided his updated work restrictions

1 to Ms. Johnson. Mr. Speck informed her he expected to return to work part-time in a few weeks.
2 Ms. Johnson replied that she had considered his August 23, 2020 email as a resignation and that
3 he could re-apply once they opened.

4 83. On or about December 18, 2020, Mr. Speck received new work restrictions from
5 his doctor of no more than 20 hours per week, no more than six hours per daym no lifting more
6 than 20 pounds, no unnecessary, frequent, or repetitive bending forward that brings shoulders
7 below waist level, squatting, or reaching for things below the knee level. Mr. Speck did not
8 provide copies of his updated restrictions to Ms. Johnson because she had stated he had resigned,
9 and they had closed again due to Covid-19.

10 **FIRST CAUSE OF ACTION**

11 **(Unpaid Minimum Wages under Labor Code §1194)**

12 84. Plaintiff repeats and realleges the allegations contained in the preceding
13 paragraphs and incorporates the same by reference as though fully set forth herein.

14 85. This action is brought by Plaintiff and the Minimum Wage Subclass under Labor
15 Code §§1194 and 1194.2, which provides that any employee receiving less than the legal
16 minimum wage is entitled to recover the unpaid balance of the full amount of this minimum
17 wage compensation in a civil action plus an additional equal amount as liquidated damages,
18 interest thereon, reasonable attorney's fees, and costs of suit.

19 86. Plaintiff and the Minimum Wage Subclass regularly worked for Defendants
20 without the lawful minimum wage required by Labor Code §1194.

21 87. Defendants failed to compensate Plaintiff and the Minimum Wage Subclass for
22 hours worked as required by, *inter alia*, Labor Code §1194.

23 88. As such, Plaintiff and the Minimum Wage Subclass have not been paid the
24 California minimum wage for these hours worked.

25 89. As a result of Defendants' conduct in not paying Plaintiff and the Minimum Wage
26 Subclass the legal minimum wage for all hours worked, Plaintiff and the Minimum Wage
27 Subclass have been deprived of the legal minimum wage for all hours they worked.

28 90. As a direct and proximate result of Defendants' conduct as alleged above,

1 Plaintiff and the Minimum Wage Subclass have sustained and will sustain damages in the
2 amount the legal minimum wage for all hours they worked.

3 **SECOND CAUSE OF ACTION**

4 **(Waiting Time Penalties under Labor Code §203)**

5 91. Plaintiff repeats and realleges the allegations contained in the preceding
6 paragraphs and incorporates the same by reference as though fully set forth herein.

7 92. This action is brought by Plaintiff and the Penalty Subclass under Labor Code
8 §203, which, at all times relevant herein, provided that if an employer willfully fails to pay any
9 wages of an employee who is discharged or quits, the wages of such employee shall continue as
10 from the due date thereof at the same rate until paid or until an action therefor is commenced, for
11 not more than 30 days.

12 93. More than thirty days have past since Plaintiff and the Penalty Subclass were
13 discharged or quit their employment with Defendants.

14 94. As a result of Defendants' willful conduct in not paying all wages and premiums
15 to which Plaintiff and the Penalty Subclass were entitled, Plaintiff and the Penalty Subclass are
16 entitled to thirty days wages as penalty wages under Labor Code §203 together with interest
17 thereon and attorney's fees and costs.

18 **THIRD CAUSE OF ACTION**

19 **(Missed Meal Periods under Labor Code §§226.7 and 512)**

20 95. Plaintiff repeats and realleges the allegations contained in the preceding
21 paragraphs and incorporates the same by reference as though fully set forth herein.

22 96. This action is brought by Plaintiff and the Meal Period Subclass under Labor
23 Code §§226.7 and 512 and Section 11(A) of the relevant California Wage Order, which provides
24 that employers must provide employees who work more than six (6) hours per day with a thirty
25 (30) minute meal period wherein the employee is relieved of all duties. This action is further
26 brought under Labor Code §226.7(b) and Section 11(B) of the relevant California Wage Order,
27 which provides that if an employer fails to provide an employee with a thirty (30) minute meal
28 period, the employer shall pay the employee one hour of pay for each work day that a thirty (30)

1 minute meal period was missed.

2 97. Plaintiff and the Meal Period Subclass were not provided with thirty (30) minute
3 meal periods during their employment with Defendants.

4 98. As a direct and proximate result of Defendants' conduct as alleged above,
5 Plaintiff and the Meal Period Subclass have sustained damages in the amount of one hour of
6 wages for each day they missed their thirty (30) minute meal periods.

7 **FOURTH CAUSE OF ACTION**

8 **(Missed Rest Periods under Labor Code §226.7)**

9 99. Plaintiff repeats and realleges the allegations contained in the preceding
10 paragraphs and incorporates the same by reference as though fully set forth herein.

11 100. This action is brought by Plaintiff and the Rest Period Subclass under Labor Code
12 §226.7 and Section 12(A) of the relevant California Wage Order, which provides that employers
13 shall authorize and permit employees to take a rest period of ten (10) minutes for each four (4)
14 hours, or major fraction thereof, worked. This action is further brought under Labor Code
15 §226.7(b) and Section 12(B) of the relevant California Wage Order, which provides that if an
16 employer fails to provide an employee with a rest period, the employer shall pay the employee
17 one hour of pay for each work day that a rest period was missed.

18 101. Plaintiff and the Rest Period Subclass were not provided rest periods during their
19 employment with Defendants.

20 102. As a direct and proximate result of Defendants' conduct as alleged above,
21 Plaintiff and the Rest Period Subclass have sustained damages in the amount of one hour of
22 wages for each day they missed their rest periods.

23 **FIFTH CAUSE OF ACTION**

24 **(Missing or Improper Wage Statements under Labor Code §226)**

25 103. Plaintiff repeats and realleges the allegations contained in the preceding
26 paragraphs and incorporates the same by reference as though fully set forth herein.

27 104. This action is brought by Plaintiff and the Wage Statement Subclass under Labor
28 Code §226, which sets for reporting requirements for employers when paying wages.

1 a. Subdivision (e) of Labor Code §226 provides, “An employee suffering injury as a
2 result of a knowing and intentional failure by an employer to comply with
3 subdivision (a) is entitled to recover the greater of all actual damages or fifty
4 dollars (\$50) for the initial pay period in which a violation occurs and one
5 hundred dollars (\$100) per employee for each violation in a subsequent pay
6 period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and
7 is entitled to an award of costs and reasonable attorney’s fees.”

8 b. Subdivision (e)(2)(A) of Labor Code §226 provides, “An employee is deemed to
9 suffer injury for purposes of this subdivision if the employer fails to provide a
10 wage statement.”

11 c. Subdivision (g) of Labor Code §226 provides, “An employee may also bring an
12 action for injunctive relief to ensure compliance with this section, and is entitled
13 to an award of costs and reasonable attorney’s fees.”

14 105. Defendants knowingly and intentionally failed to provide wage statements to
15 Plaintiff and the Wage Statement Subclass.

16 106. Plaintiff and the Wage Statement Subclass have been damaged by Defendants’
17 failures to comply with Labor Code §226 because Defendants failed to provide a wage statement.

18 107. As a direct and proximate result of Defendants’ conduct as alleged above,
19 Plaintiff is entitled to a civil penalty of fifty dollars (\$50) for the initial pay period, and one
20 hundred dollars (\$100) for each subsequent pay period for which Defendants violated the
21 reporting requirements of Labor Code §226, up to a maximum of \$4,000, together with interest
22 thereon and attorney’s fees and costs.

23 **SIXTH CAUSE OF ACTION**

24 **(Failure to Allow Inspection of Personnel File)**

25 108. Plaintiff repeats and realleges the allegations contained in the preceding
26 paragraphs and incorporates the same by reference as though fully set forth herein.

27 109. This action is brought by Plaintiff for himself under Labor Code §226,
28 subdivision (f), which provides: “A failure by an employer to permit a current or former

1 employee to inspect or copy records within the time set forth in subdivision (c) entitles the
2 current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar
3 (\$750) penalty from the employer.”

4 110. On or about September 21, 2020, Plaintiff, through his counsel, made a written
5 request for inspection of Plaintiff’s personnel files.

6 111. Defendants did not allow Plaintiff to inspect his personnel files within 21 days of
7 Plaintiff’s request.

8 112. As a direct and proximate result of Defendants’ conduct as alleged above,
9 Plaintiff is entitled to a civil penalty of \$750, together with interest thereon and attorney’s fees
10 and costs.

11 **SEVENTH CAUSE OF ACTION**

12 **(Unfair Business Practices)**

13 113. Plaintiff repeats and realleges the allegations contained in the preceding
14 paragraphs and incorporates the same by reference as though fully set forth herein.

15 114. Plaintiff brings this action for themselves and on behalf of the People of the State
16 of California under the provisions of the Business & Professions Code §§17200 *et seq.* Among
17 the persons adversely affected the unfair business practices of Defendants as alleged herein are
18 all Defendants’ employees who did not receive the lawful minimum or overtime wages, wage
19 statements, or meal or rest period premiums, to which they were entitled.

20 115. A representative action pursuant to Business & Professions Code §§17200, 17203
21 and 17204 on behalf of the general public is appropriate and necessary because Defendants did
22 not provide their employees with the lawful minimum or overtime wages, wage statements, or
23 meal or rest period premiums, as a general business practice contrary to the law of the State of
24 California.

25 116. Business & Professions Code §§17200 *et seq.* defines unfair competition to
26 include any “unfair,” “unlawful,” or “deceptive” business practice. Business & Professions Code
27 §§17200 *et seq.* provides for injunctive and restitutionary relief for violations. Defendants’
28 failure to provide their employees with the lawful minimum or overtime wages, wage statements,

1 or meal or rest period premiums, constitutes an unfair, unlawful and deceptive business practice.

2 117. As a direct and proximate result of Defendants' conduct as alleged herein,
3 Plaintiffs and current and former employees of Defendants have been damaged as a result of
4 Defendants' failure to provide their employees with the lawful minimum or overtime wages,
5 wage statements, or meal or rest period premiums.

6 118. Under Business & Professions Code §§17200 and 17203, Plaintiffs and current
7 and former employees of Defendants are entitled to restitution of all unpaid minimum and
8 overtime wages, and unpaid meal and rest premium wages equal to one hour for each day they
9 missed meal and/or rest periods, wrongfully withheld by Defendants, together with interest
10 thereon.

11 119. Under Business & Professions Code §§17200 and 17203, Plaintiff and current and
12 former employees of Defendants are also entitled to recover penalties under Labor Code §§203
13 and 226.

14 120. Under Business & Professions Code §17203, Plaintiff seeks on his own behalf
15 and on behalf of the People of the State of California an order enjoining Defendants from
16 continuing its aforesaid unlawful practices. Injunctive relief is appropriate to avoid a multiplicity
17 of suits for continuing violations of Business & Professions Code §§17200 *et seq.*

18 **EIGHTH CAUSE OF ACTION**

19 **(Penalties under Labor Code §§2698 and 2699 (Private Attorney General Act))**

20 121. Plaintiff repeats and realleges the allegations contained in the foregoing
21 paragraphs and incorporates the same by reference herein.

22 122. On or about September 21, 2020, Plaintiff provided written notice by certified
23 mail to the Labor and Workforce Development Agency ("LWDA") and Defendants of the
24 specific violations of the California Labor Code that Defendants have violated and continue to
25 violate, including the facts and theories that supported each alleged violation.

26 123. To date, the LWDA has not sent notice to Plaintiff that it intended to investigate
27 the alleged violations.

28 124. Accordingly, Plaintiff has exhausted all administrative procedures required of him

1 under Labor Code §§2698, 2699 and 2699.3, and as a result, is justified as a matter of right in
2 bringing forward this cause of action.

3 125. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
4 §§2698 and 2699 because of Defendants' violation of numerous provisions of the California
5 Labor Code.

6 126. Plaintiff seeks penalties for Defendants' conduct as alleged herein as permitted by
7 law. Specifically, Plaintiff seeks penalties under Labor Code §2699, for the following:

- 8 a. Defendants' failure to comply with the requirement of Labor Code §1194 to pay
9 minimum wages;
- 10 b. Defendants' failure to comply with the requirement of Labor Code §510 to pay
11 minimum wages;
- 12 c. Defendants' failure to comply with the requirement of Labor Code §§204 and 210
13 to pay, without condition and within the time set by the applicable article, all
14 wages, or parts thereof, which Defendants conceded to be due;
- 15 d. Defendants' failure to comply with the requirement of Labor Code §225.5 to pay
16 wages due;
- 17 e. Defendants' failure to comply with the requirement of Labor Code §§201 and 202
18 to pay wages due to former employees;
- 19 f. Defendants' failure to comply with the requirement of Labor Code §203 to pay
20 waiting time penalties to former employees;
- 21 g. Defendants' failure to comply with the requirement of Labor Code §226.7 to
22 provide lawful thirty (30) minute meal breaks;
- 23 h. Defendants' failure to comply with the requirement of Labor Code §226.7 to
24 provide lawful ten (10) minute rest breaks;
- 25 i. Defendants' commission of a misdemeanor in violation of Labor Code §226.6 by
26 knowingly and intentionally violating the provisions of Labor Code §226.

27 127. Under Labor Code §2699, Plaintiff and other aggrieved employees should be
28 awarded twenty-five percent (25%) of all penalties due under California law, interest, attorneys'

1 fees and costs.

2 128. Under Labor Code §2699, the State of California should be awarded seventy-five
3 percent (75%) of the penalties due under California law.

4 **NINTH CAUSE OF ACTION**

5 **(Employment Discrimination on the Basis of Disability)**

6 129. This cause of action is brought pursuant to the California Fair Employment and
7 Housing Act (“FEHA”), Government Code §12940, subdivision (a), which prohibits the
8 discrimination against a person in the terms, conditions, or privilege of employment on the basis of
9 a person’s disability, and the corresponding regulations of the California Fair Employment and
10 Housing Commission.

11 130. At all times relevant herein, Defendants regularly employed five or more persons,
12 bringing Defendants within the provisions of the FEHA prohibiting employers or their agents from
13 discriminating against employees on the basis of disability.

14 131. Plaintiff is informed and believes and based thereon alleges that Defendants
15 regarded Plaintiff as having a physical disability. Plaintiff has, or is considered by Defendants as
16 having, a “physical disability,” as that term is used in Government Code §§12926, subdivision (m)
17 and 12940, subdivision (a), because Plaintiff’s orthopedic injuries which affect Plaintiff’s
18 neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech
19 organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and/or
20 endocrine systems and limits Plaintiff’s ability to participate in major life activities.

21 132. Plaintiff is informed and believes and based thereon alleges that his physical
22 disability and/or the fact that Defendants regarded him as having a physical disability was a
23 motivating factor in Defendants’ treatment.

24 133. The conduct of Defendants, and each of them, as alleged in this Complaint,
25 constitutes an unlawful employment practice under Government Code §12940, subdivision (a).

26 134. As a direct and proximate result of the discriminatory conduct of Defendants, and
27 each of them, as alleged herein, Plaintiff has suffered and continues to suffer substantial losses in
28 earnings and job benefits, and has suffered extreme and severe mental anguish and emotional

1 distress of the sort naturally associated with employment discrimination based on disability.
2 Plaintiff is thereby entitled to special, general, and compensatory damages in an amount in excess
3 of \$50,000.00, to be proven at the time of trial.

4 135. The outrageous conduct of Defendants, and each of them, as described herein, was
5 willful and done with fraud, oppression, and malice and with a conscious disregard for Plaintiff's
6 right to be free from discrimination on the basis of a person's disability and with the intent, design,
7 and purpose of injuring Plaintiff. Defendants, and each of them, authorized, condoned, and ratified
8 the unlawful conduct by failing to take immediate and appropriate corrective action. By reason
9 thereof, Plaintiff is entitled to punitive and exemplary damages from Defendants, and each of them,
10 in an amount appropriate to punish and make an example of Defendants.

11 **TENTH CAUSE OF ACTION**

12 **(Employment Discrimination on the Basis of Age)**

13 136. Plaintiff repeats and realleges the allegations in the foregoing paragraphs and
14 incorporates the same by reference as though fully set forth herein.

15 137. This section is brought pursuant to the California Fair Employment and Housing
16 Act ("FEHA"), Government Code §12940, subd. (a), which forbids discrimination against a
17 person in the terms, conditions, or privilege of employment on the basis of the person's age, and
18 the corresponding regulations of the California Fair Employment and Housing Commission.

19 138. At all times relevant herein, Defendants regularly employed five or more persons,
20 bringing Defendants within the provisions of the FEHA prohibiting employers or their agents
21 from discriminating against employees on the basis of age.

22 139. Plaintiff is over the age of 40, bringing him within the protections of the FEHA.

23 140. Plaintiff is informed and believes and based thereon alleges that his age was a
24 motivating factor in Defendants' decision to terminate his employment.

25 141. The conduct of Defendants as alleged in this Complaint constitutes an unlawful
26 employment practice under Government Code §12940, subd. (a).

27 142. As a direct and proximate result of the discrimination by Defendants, Plaintiff has
28 suffered and continue to suffer substantial losses in earnings and job benefits, and has suffered

1 extreme and severe mental anguish and emotional distress of the sort naturally associated with
2 employment discrimination based on age. Plaintiff is thereby entitled to special, general, and
3 compensatory damages in an amount in excess of \$50,000.00, to be proven at the time of trial.

4 143. The outrageous conduct of Defendants, and each of them, as described herein, was
5 willful and done with fraud, oppression, and malice and with a conscious disregard for Plaintiff's
6 right to report unlawful conduct in the workplace and with the intent, design, and purpose of
7 injuring Plaintiff. Defendants, and each of them, authorized, condoned, and ratified the unlawful
8 conduct by failing to take immediate and appropriate corrective action. By reason thereof,
9 Plaintiff is entitled to punitive and exemplary damages from Defendants, and each of them, in an
10 amount appropriate to punish and make an example of Defendants.

11 **ELEVENTH CAUSE OF ACTION**

12 **(Failure to Accommodate)**

13 144. Plaintiff repeats and realleges the allegations in the foregoing paragraphs and
14 incorporates the same by reference as though fully set forth herein.

15 145. This cause of action is brought under California Government Code §12940,
16 subdivision (m)(1), which makes it unlawful for an employer to fail to make reasonable
17 accommodation for the known physical or mental disability of an applicant or employee.

18 146. After Plaintiff placed Defendants on notice of his disability and provided work
19 restrictions, Defendants had an affirmative duty to engage in a timely, good faith, interactive
20 process with Plaintiff, in order to determine effective reasonable accommodations. Defendants
21 failed to comply with this mandatory duty and thereby failed to even attempt to accommodate
22 Plaintiff's disabilities.

23 147. The conduct of Defendants, and each of them, as alleged in this Complaint,
24 constitutes an unlawful employment practice under Government Code §12940, subdivision (m).

25 148. As a direct and proximate result of the discriminatory conduct of Defendants, and
26 each of them, as alleged herein, Plaintiff has suffered and continues to suffer substantial losses in
27 earnings and job benefits, and has suffered extreme and severe mental anguish and emotional
28 distress of the sort naturally associated with employment discrimination based on disability.

1 Plaintiff is thereby entitled to special, general, and compensatory damages in an amount in excess
2 of \$50,000.00, to be proven at the time of trial.

3 149. The outrageous conduct of Defendants, and each of them, as described herein, was
4 willful and done with fraud, oppression, and malice and with a conscious disregard for Plaintiff's
5 right to reasonable accommodations and with the intent, design, and purpose of injuring Plaintiff.
6 Defendants, and each of them, authorized, condoned, and ratified the unlawful conduct by failing
7 to take immediate and appropriate corrective action. By reason thereof, Plaintiff is entitled to
8 punitive and exemplary damages from Defendants, and each of them, in an amount appropriate to
9 punish and make an example of Defendants.

10 **TWELFTH CAUSE OF ACTION**

11 **(Failure to Engage in Interactive Process)**

12 150. Plaintiff repeats and realleges the allegations in the foregoing paragraphs and
13 incorporates the same by reference as though fully set forth herein.

14 151. This cause of action is brought under California Government Code §12940,
15 subdivision (n), which makes it unlawful for an employer to fail to engage in a timely, good faith,
16 interactive process with the employee to determine effective reasonable accommodations, if any, in
17 response to a request for reasonable accommodation by an employee with a known physical or
18 mental disability or known medical condition.

19 152. After Plaintiff placed Defendants on notice of his disability and provided work
20 restrictions, Defendants had an affirmative duty to engage in a timely, good faith, interactive
21 process with Plaintiff, in order to determine effective reasonable accommodations. Defendants
22 failed to comply with this mandatory duty.

23 153. The conduct of Defendants, and each of them, as alleged in this Complaint,
24 constitutes an unlawful employment practice under Government Code §12940, subdivision (n).

25 154. As a direct and proximate result of the discriminatory conduct of Defendants and
26 each of them, as alleged herein, Plaintiff has suffered and continues to suffer substantial losses in
27 earnings and job benefits, and has suffered extreme and severe mental anguish and emotional
28 distress of the sort naturally associated with employment discrimination based on disability.

1 Plaintiff is thereby entitled to special, general, and compensatory damages in an amount in excess
2 of \$50,000.00, to be proven at the time of trial.

3 155. The outrageous conduct of Defendants, and each of them, as described herein, was
4 willful and done with fraud, oppression, and malice and with a conscious disregard for Plaintiff's
5 right to engage in an interactive process with the employer to determine effective reasonable
6 accommodations and with the intent, design, and purpose of injuring Plaintiff. Defendants, and
7 each of them, authorized, condoned, and ratified the unlawful conduct by failing to take immediate
8 and appropriate corrective action. By reason thereof, Plaintiff is entitled to punitive and exemplary
9 damages from Defendants, and each of them, in an amount appropriate to punish and make an
10 example of Defendants.

11 **THIRTEENTH CAUSE OF ACTION**

12 **(Retaliation)**

13 156. Plaintiff repeats and realleges the allegations in the foregoing paragraphs and
14 incorporates the same by reference as though fully set forth herein.

15 157. This cause of action is brought under California Government Code §12940,
16 subdivision (m)(2), which prohibits retaliation against a person because that person has requested
17 an accommodation.

18 158. Plaintiff is informed and believes and based thereon alleges that his termination of
19 employment was substantially motivated by his requests for accommodations and complaints as
20 discussed above.

21 159. As a direct and proximate result of the discriminatory conduct of Defendants, and
22 each of them, Plaintiff has suffered and continues to suffer substantial losses in earnings and job
23 benefits, and extreme and severe mental anguish and emotional distress of the sort naturally
24 associated with retaliation and wrongful termination in employment.

25 160. The outrageous conduct of Defendants, and each of them, as described herein, was
26 willful and done with fraud, oppression, and malice and with a conscious disregard for Plaintiff's
27 right to request accommodation and with the intent, design, and purpose of injuring Plaintiff.
28 Defendants, and each of them, authorized, condoned, and ratified the unlawful conduct by failing

1 to take immediate and appropriate corrective action. By reason thereof, Plaintiff is entitled to
2 punitive and exemplary damages from Defendants, and each of them, in an amount appropriate to
3 punish and make an example of Defendants.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for judgment as follows:

6 1. For unpaid minimum wages, according to proof, together with interest thereon for
7 Plaintiff and the Minimum Wage Subclass;

8 2. For liquidated damages on the unpaid minimum wages under Labor Code
9 §1194.2, according to proof, together with interest thereon for Plaintiff and the Minimum Wage
10 Subclass;

11 3. For 30-day penalties under Labor Code §203, together with interest thereon, for
12 Plaintiff and the Penalty Subclass;

13 4. For one hour of pay for each workday that meal period(s) were not provided as
14 required by law, together with interest thereon, for Plaintiff and the Meal Break Subclass;

15 5. For one hour of pay for each workday that rest period(s) were not authorized or
16 permitted as required by law, missed, together with interest thereon, for Plaintiff and the Rest
17 Break Subclass;

18 6. For a wage premium of fifty dollars (\$50) for the first period for which
19 Defendants supplied Plaintiff and the Wage Statement Subclass with wage in violation of Labor
20 Code §226 and one hundred dollars (\$100) for each subsequent pay period for which Defendants
21 supplied Plaintiff and the Wage Statement Subclass with wage statements in violation of Labor
22 Code §226;

23 7. For an order enjoining Defendants from continuing to issue paycheck deduction
24 statements in violation of Labor Code §226;

25 8. For a seven-hundred-fifty-dollar (\$750) penalty for failure to provide Plaintiff's
26 personnel file;

27 9. For restitution of full amounts, plus interest at the legal rate, of all unpaid wages
28 and wage premiums for Plaintiff and the Class;

- 1 10. For penalties under Labor Code §2699;
- 2 11. For attorneys' fees, expenses and costs under Labor Code §§1194, 226, 2699,
- 3 and/or Code of Civil Procedure §1021.5;
- 4 12. For an order enjoining Defendants from continuing to engage in the
- 5 aforementioned unlawful business practice in violation of Business & Professions Code §17200;
- 6 13. For interest under Labor Code §§218.6, 226, and 1194; and,
- 7 14. For special, general, and compensatory damages, including lost wages and benefits,
- 8 and emotional distress damages, in excess of \$50,000.00, according to proof;
- 9 15. For punitive damages in an amount sufficient to punish Defendants for the wrongful
- 10 conduct alleged herein and to deter such conduct in future.
- 11 16. For such other and further relief as the Court deems just and proper.
- 12

13 DATED: September 29, 2021

James H. Cordes and Associates,

[ELECTRONICALLY SIGNED; CRC RULE 2.257]

/s/ *Angelica J. Caro*

Angelica J. Caro, Esq.

Attorney for Plaintiff

ANDREW SPECK, an individual, for
himself and on behalf of others similarly
situated