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MARTÍN GONZALEZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

MARTIN GONZALEZ, an individual,

Plaintiff,

v.

GERARDO GONZALEZ CORP., a California
corporation; JALPITA'S FRAMES, a business
entity of unknown format; GERARDO
HUÉRTE, an individual; and DOES 1 through
20, inclusive,

Defendants.

Case No. **21STCV29541**

COMPLAINT FOR DAMAGES FOR:

- 1. DISCRIMINATION IN VIOLATION OF
GOV'T CODE §§ 12940 ET SEQ.;**
- 2. HARASSMENT IN VIOLATION OF
GOV'T CODE §§ 12940 ET SEQ.;**
- 3. RETALIATION IN VIOLATION OF
GOV'T CODE §§ 12940 ET SEQ.;**
- 4. FAILURE TO PREVENT
DISCRIMINATION, HARASSMENT AND
RETALIATION IN VIOLATION OF
GOV'T CODE § 12940(k);**
- 5. RETALIATION IN VIOLATION OF
GOV'T CODE §§ 12945.2 ET. SEQ.;**
- 6. FAILURE TO PROVIDE REASONABLE
ACCOMMODATIONS IN VIOLATION OF
GOV'T CODE §§ 12940 ET SEQ.;**
- 7. FAILURE TO ENGAGE IN A GOOD
FAITH INTERACTIVE PROCESS IN
VIOLATION OF GOV'T CODE §§ 12940
ET SEQ.;**
- 8. RETALIATION (LAB. CODE §§98.6, 232.5,
1030, 6310, ET SEQ.);**
- 9. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**
- 10. FOR DECLARATORY JUDGMENT;**

11. FAILURE TO PAY WAGES AND IMPROPER DEDUCTIONS (CAL. LABOR CODE §§201, 221, 226.7, 510, 1194);
12. FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§ 1182.12, 1194, 1194.2, 1197);
13. FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§ 510, 1194);
14. FAILURE TO PROVIDE REST PERIODS (CAL. LABOR CODE § 226.7);
15. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§ 226, ET SEQ.);
16. WAITING TIME PENALTIES (CAL. LABOR CODE §§ 201-203);
17. PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §§ 2699, ET SEQ);
18. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS (CAL. LABOR CODE §§ 226, 1198.5);
19. UNFAIR COMPETITION (BUS. & PROF. CODE § 17200 ET SEQ.); AND

DEMAND OVER \$25,000

[DEMAND FOR JURY TRIAL]

COMES NOW PLAINTIFF, MARTIN GONZALEZ, and for causes of action against the Defendants and each of them, alleges as follows:

JURISDICTION

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

THE PARTIES

2. Plaintiff, MARTIN GONZALEZ, is and at all times relevant hereto was a resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant GERARDO GONZALEZ CORP. (hereinafter referred to as “GGC”) was and is California corporation doing substantial business at 614 East 62nd Street, Los Angeles, California 90001, in the County of Los Angeles, State of California.

4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant JALPITA’S FRAMES (hereinafter referred to as “JALPITA’S”) was and is a business entity of unknown format doing substantial business at 614 East 62nd Street, Los Angeles, California 90001, in the County of Los Angeles, State of California.

5. GGC and JALPITA’S FRAMES are collectively hereinafter referred to as “EMPLOYERS.”

6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, EMPLOYERS owned and operated a mattress and bedding company.

7. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant GERARDO HUERTE (hereinafter referred to “HUERTE”) was and is an individual residing in the County of Los Angeles, State of California. At all times relevant herein, HUERTE was a “supervisor” within the meaning of Government Code section 12926, subdivision (t).).

8. Plaintiff is informed and believes, and thereon alleges that at all time relevant to this action, HUERTE and DOES 1-20 were managers and/or supervisors of EMPLOYERS, acting as managing agents for EMPLOYERS; HUERTE and DOES 1-20 were each acting within the course and scope of his or her employment and on behalf of Defendant such that his or her acts or omissions are imputed to EMPLOYERS under the doctrine of *respondeat superior*; or, alternatively, at all times relevant to this action, EMPLOYERS cloaked HUERTE and DOES 1-20 with the appearance of actual authority, such that Plaintiff was justified in relying thereon, and therefore his or her acts or omissions are imputed to EMPLOYERS under the doctrine of *respondeat superior*.

9. EMPLOYERS and HUERTE are collectively hereinafter referred to “DEFENDANTS.”

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

5 11. At all times relevant herein, EMPLOYERS and DOES 1-20 were Plaintiff's employers,
6 joint employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
7 Commission Order No. 4-2001, and are each an "employer or other person acting on behalf of an
8 employer" as such term is used in Labor Code section 558 and/or 558.1, and liable to Plaintiff on that
9 basis.

10 12. The true names and capacities, whether individual, corporate, associate, or otherwise, of
11 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
12 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
13 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
14 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
15 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
16 alleged hereinafter.

17 13. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
18 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,
19 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
20 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part
21 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,
22 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

23 14. Plaintiff is informed and believes, and based thereupon alleges, that DEFENDANTS, and
24 each of them, including those defendants named as HUERTE and DOES 1-20, and each of them, acted
25 in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited,
26 compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so,
27 including pursuant to Government Code §12940(i). Plaintiff is further informed and believes, and based
28 thereupon alleges, that Defendants, and each of them, including those defendants named as HUERTE and

DOES 1-20, and each of them, formed and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff harm.

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

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

ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER

17. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between EMPLOYERS, HUERTE and DOES 1-20 that the individuality and separateness of defendants have ceased to exist.

18. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of purported corporate existence, EMPLOYERS, HUERTE and DOES 1-20 are, in reality, one and the same, including, but not limited to because:

a. EMPLOYERS are completely dominated and controlled by one another and HUERTE and DOES 1-20, who personally committed the frauds and violated the laws as set forth in this complaint, and who have hidden and currently hide behind EMPLOYERS to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or inequitable purpose.

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

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

4 d. EMPLOYERS do not comply with all requisite corporate formalities to maintain
5 a legal and separate corporate existence.

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

16 19. Accordingly, EMPLOYERS constitute the alter ego of one another and HUERTE and
17 DOES 1-20, and the fiction of their separate corporate existence must be disregarded.

18 20. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
19 thereon alleges that EMPLOYERS, HUERTE and DOES 1-20 are Plaintiff's joint employers by virtue
20 of a joint enterprise, and that Plaintiff was an employee of EMPLOYERS and DOES 1-20. Plaintiff
21 performed services for each and every one of DEFENDANTS, and to the mutual benefit of all
22 DEFENDANTS, and all DEFENDANTS shared control of Plaintiff as an employee, either directly or
23 indirectly, and the manner in which DEFENDANTS' business was and is conducted.

24 21. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
25 between DOES 1-20, DEFENDANTS, or any of them, (1) there is an express or implied agreement of
26 assumption pursuant to which DEFENDANTS and/or DOES 1-20 agreed to be liable for the debts of the
27 other DEFENDANTS, (2) the transaction between DEFENDANTS and/or DOES 1-20 and the other
28 DEFENDANTS amounts to a consolidation or merger of the two corporations, (3) DEFENDANTS

1 and/or DOES 1-20 are a mere continuation of the other DEFENDANTS, or (4) the transfer of assets to
2 DEFENDANTS and/or DOES 1-20 is for the fraudulent purpose of escaping liability for
3 DEFENDANTS' debts. Accordingly, DEFENDANTS and/or DOES 1-20 are the successors of one or
4 more of the other DEFENDANTS and are liable on that basis.

5
6 **FACTUAL ALLEGATIONS**

7 22. On or about May 2010, EMPLOYERS hired Plaintiff to work as an assembler. Plaintiff
8 was a full-time, non-exempt employee, and performed all of Plaintiff's job duties satisfactorily before
9 DEFENDANTS wrongfully terminated Plaintiff's employment on or about November 15, 2020.

10 **Wage And Hour Allegations**

11 23. At all relevant times, Plaintiff's fixed schedules was five or six days per week, as Plaintiff
12 worked Saturdays approximately two times per month. Plaintiff worked from 5:00 a.m. through 1:00
13 p.m.

14 24. From approximately 2017 through November 15, 2020, EMPLOYERS promised to pay
15 Plaintiff \$13.00 per hour; and, from February 1, 2020 through November 15, 2020, EMPLOYERS
16 promised to pay Plaintiff \$14.00 per hour.

17 25. At all relevant times, Plaintiff was not permitted to, and not advised of his right to take
18 one or more of his statutory 10-minute rest break for every four hours worked or majority portion
19 thereof, nor was Plaintiff even told he had the right to do so.

20 26. Also, oftentimes Plaintiff was not paid on EMPLOYERS' set payday, and it would take
21 them approximately one week longer to pay Plaintiff.

22 27. Furthermore, throughout Plaintiff's employment, EMPLOYERS violated Labor Code §
23 221 by collecting and/or receiving from Plaintiff, and other aggrieved employees, part of their wages paid
24 by EMPLOYERS to said employees.

25 28. EMPLOYERS violated Labor Code §§ 204 and 223 because EMPLOYERS failed to pay
26 wages for all hours worked paid at least twice during each calendar month to employees as required "by
27 contract" under Labor Code section 223, as well as an improper collection of wages paid to an employee
28

1 under Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist.
2 Mar. 6, 2013).

3 29. During the Claim Period, Plaintiff was not provided with paystubs that complied with
4 Labor Code §226, as EMPLOYERS consistently provided incorrect and inaccurate paystubs.

5 30. EMPLOYERS violated Labor Code §227.3 because EMPLOYERS failed to pay
6 Plaintiff, and other aggrieved employees, unused, vested vacation time.

7 31. Plaintiff is informed and believes, and thereon alleges, that herself and other employees
8 were subject to the same violations and, therefore, are aggrieved employees within the meaning of
9 California Labor Code §2699. Thus, Plaintiff, as an aggrieved employee, reserves her right to bring an
10 action against Defendants, on behalf of herself and other current and former employees.

11 32. *Additionally, pursuant to Huff v. Securitas Security Services USA, Inc.* (2018) 23
12 Cal.App.5th 745, as an aggrieved employee, Plaintiff may investigate and pursue claims and penalties on
13 behalf of other aggrieved employees for other violations that she was not personally “aggrieved” by.

14 **FEHA And Retaliation Under The Labor Code Factual Allegations**

15 33. During Plaintiff’s employment with DEFENDANTS, Plaintiff suffered a work-related
16 injury while lifting parts at work, injuring his bilateral shoulders. Plaintiff’s work-related injury caused
17 the major life activity of working to be more difficult, thus constituting a disability.

18 34. Plaintiff immediately notified DEFENDANTS of his injury. DEFENDANTS failed to
19 make a report or offer Plaintiff workers’ compensation benefits or treatment, and instead required Plaintiff
20 to continue working.

21 35. Thereafter, because Plaintiff was forced to continue working despite his disability,
22 Plaintiff sustained a second work-related injury on or about June 2020, where Plaintiff injured his thumb.
23 Again, Plaintiff immediately notified DEFENDANTS, who once again failed to provide Plaintiff with
24 treatment and/or accommodations.

25 36. Instead, Plaintiff drove himself to the doctor, who issued work restrictions for Plaintiff.
26 DEFENDANTS did not respect these restrictions and, in fact, demanded Plaintiff’s presence at work.

27 37. Plaintiff continued trying to work, during which time DEFENDANTS failed to advise him
28 of his rights to workers’ compensation benefits, nor did they offer any accommodation – despite

1 Plaintiff's obvious difficulty performing his work, as well as verbally asking his supervisors for
2 assistance.

3 38. During the same time period, in July 2020, Plaintiff requested from EMPLOYERS to be
4 paid the minimum wages according to the City of Los Angeles minimum wage. EMPLOYERS failed
5 and refused to pay Plaintiff the City of Los Angeles minimum wage.

6 39. Shortly thereafter, Plaintiff experienced a sudden, unexpected death in his family and
7 sought medical treatment. At all relevant times, DEFENDANTS were aware of Plaintiff's ongoing
8 medical treatment for the family loss.

9 40. Due to Plaintiff's age, ongoing medical treatment and/or due to Plaintiff's injury and
10 requesting treatment for his injury, DEFENDANTS terminated Plaintiff on or about November 15, 2020.

11 41. Plaintiff was fifty-six (56) years of age at the time of his wrongful termination and was
12 the most senior work or one of the most senior workers at the time of his termination. After Plaintiff's
13 wrongful termination, EMPLOYERS replaced Plaintiff with a younger employee.

14 42. Throughout Plaintiff's employment, DEFENDANTS created and fostered a hostile work
15 environment based on Plaintiff's age, real or perceived disability, and/or real or perceived medical
16 condition, use of or anticipated use of medical leave, association with a family member of a protected
17 class, engagement in protected activities, and/or other protected characteristics. For instance,
18 DEFENDANTS treated Plaintiff poorly after he was injured and refused to not only engage in a good
19 faith interactive process and accommodate Plaintiff's work-related disability, but refused to even provide
20 information as to how to receive workers' compensation benefits.

21 43. HUERTE led a campaign to harass Plaintiff and created and maintained a hostile work
22 environment. On information and belief, HUERTE engaged in harassing conduct out of intentional
23 meanness, bigotry, and other personal motives.

24 44. DEFENDANTS had actual or constructive knowledge of Plaintiff's disability and/or
25 medical condition but did not offer to accommodate Plaintiff's real or perceived disability and/or medical
26 condition. DEFENDANTS did not engage in any genuine good faith interactive process with Plaintiff to
27 determine accommodations for his real or perceived disability and/or medical condition, failed to bring
28

1 any alternative available positions to Plaintiff's attention, consider Plaintiff for said positions, offer any
2 such positions to Plaintiff or discuss Plaintiff's qualifications for any alternative available position.

3 45. DEFENDANTS' termination of Plaintiff's employment was substantially motivated by
4 Plaintiff's age, real or perceived disability, real or perceived medical condition, use of or anticipated use
5 of medical leave, association with a family member of a protected class, and/or engagement in protected
6 activity. DEFENDANTS' discriminatory animus is evidenced by the previously mentioned facts.

7 46. DEFENDANTS discriminated, harassed, and retaliated against Plaintiff by not paying him
8 on time, forcing him to work after his injury and reporting of the same, and by ultimately wrongfully
9 terminating him and for exercising Plaintiff's right to request time off as an accommodation of Plaintiff's
10 disability.

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

19 48. As a result of DEFENDANTS' actions, Plaintiff has suffered and will continue to suffer
20 general and special damages, including severe and profound pain and emotional distress, anxiety,
21 depression, headaches, tension, and other physical ailments, as well as medical expenses, expenses for
22 psychological counseling and treatment, and past and future lost wages and benefits.

23 49. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,
24 commissions, benefits and loss or diminution of earning capacity.

25 50. Plaintiff claims general damages for emotional and mental distress and aggravation in a
26 sum in excess of the jurisdictional minimum of this Court.

27 51. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
28 managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard

1 of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages
2 be levied against DEFENDANTS and each of them, in sums in excess of the jurisdictional minimum of
3 this Court.

4
5 **FIRST CAUSE OF ACTION**
6 **FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**
7 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

8 52. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as
9 though set forth in full herein.

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

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

14 55. FEHA requires Defendants to refrain from discriminating against an employee on the
15 basis of age, real or perceived disability, and/or real or perceived medical condition, use of or anticipated
16 use of medical leave, association with a family member of a protected class, and/or engagement in
17 protected activities, and to prevent from occurring discrimination, harassment, and retaliation on the same
18 bases.

19 56. Plaintiff was a member of multiple protected classes as a result of Plaintiff's age, real or
20 perceived disability, and/or real or perceived medical condition, use of or anticipated use of medical
21 leave, association with a family member of a protected class, and/or engagement in protected activities.

22 57. At all times relevant hereto, Plaintiff was performing competently in the position Plaintiff
23 held with Defendants.

24 58. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination,
25 failure to accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate
26 and/or return to work, and termination, and was harmed thereby.

27 59. Plaintiff is informed and believes that Plaintiff's age, real or perceived disability, and/or
28 real or perceived medical condition, use of or anticipated use of medical leave, association with a family

1 member of a protected class, and/or engagement in protected activities, and/or some combination of these
2 protected characteristics under Government Code § 12926(j) were motivating reasons and/or factors in
3 the decisions to subject Plaintiff to the aforementioned adverse employment actions.

4 60. Said conduct violates the FEHA, and such violations were a proximate cause in Plaintiff's
5 damage as stated below.

6 61. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated
7 by reference.

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

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

16
17 **SECOND CAUSE OF ACTION**

18 **FOR HARASSMENT IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**

19 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

20 64. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as
21 though set forth in full herein.

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

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

26 67. These laws set forth in the preceding paragraph require Defendants to refrain from
27 harassing, or creating, or maintaining a hostile work environment against an employee based upon the
28 employee's age, real or perceived disability, and/or real or perceived medical condition, use of or

1 anticipated use of medical leave, association with a family member of a protected class, and/or
2 engagement in protected activities, as set forth hereinabove.

3 68. Defendants' harassing conduct was severe or pervasive, was unwelcome by Plaintiff, and
4 a reasonable person in Plaintiff's circumstances would have considered the work environment to be
5 hostile or abusive.

6 69. Defendants violated the FEHA and the public policy of the State of California which is
7 embodied in the FEHA by creating a hostile work environment and harassing Plaintiff because of
8 Plaintiff's age, real or perceived disability, and/or real or perceived medical condition, use of or
9 anticipated use of medical leave, association with a family member of a protected class, engagement in
10 protected activities, and/or some combination of these protected characteristics, as set forth hereinabove.

11 70. The above said acts were perpetrated upon Plaintiff by a supervisor, and/or Defendants
12 knew or should have known of the conduct but failed to take immediate and appropriate corrective action.

13 71. The above said acts of Defendants constitute violations of the FEHA and violations of the
14 public policy of the State of California. Such violations were a proximate cause in Plaintiff's damage as
15 stated below.

16 72. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated
17 by reference.

18 73. 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 Plaintiff or was
20 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
21 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
22 such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
23 punitive damages in an amount appropriate to punish or make an example of Defendants.

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

THIRD CAUSE OF ACTION
FOR RETALIATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

75. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as though set forth in full herein.

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

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

78. Plaintiff engaged in the protected activities of requesting accommodation, requesting medical leave and/or exercising Plaintiff's right to medical leave, and complaining about and protesting Defendants' discriminatory and harassing conduct towards Plaintiff based upon Plaintiff's age, real or perceived disability, and/or real or perceived medical condition, use of or anticipated use of medical leave, association with a family member of a protected class, and/or engagement in protected activities.

79. Plaintiff suffered the adverse employment actions of unlawful harassment, 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.

80. Plaintiff is informed and believes that Plaintiff's conduct of requesting accommodation, requesting medical leave and/or exercising Plaintiff's right to medical leave, complaining about and protesting about Defendants' discriminatory and harassing conduct, and/or some combination of these factors, were motivating reasons and/or factors in the decisions to subject Plaintiff to the aforementioned adverse employment actions.

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

82. Plaintiff is informed and believes, and based thereon alleges, 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.

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

3 84. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated
4 by reference.

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

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

13
14 **FOURTH CAUSE OF ACTION**
15 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION**
16 **IN VIOLATION OF GOV'T CODE § 12940(k)**
17 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

18 87. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as
19 though set forth in full herein.

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

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

27 90. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated
28 by reference.

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

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

FIFTH CAUSE OF ACTION

FOR RETALIATION IN VIOLATION OF GOV'T CODE §§ 12945.2 ET SEQ.

AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

93. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as though set forth in full herein.

94. At all times hereto, the California Family Rights Act, codified by Government Code §§ 12945.2, et al. (“CFRA”) was in full force and effect and was binding upon Defendants and each of them. Under the CFRA, it shall be an unlawful employment practice for any covered employer to refuse to grant a request by any qualified employee to take up to a total of 12 workweeks in any 12-month period for family care and medical leave for the employee’s own serious medical condition. Under the CFRA, it is also an unlawful employment practice for a covered employer to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against, any individual because the individual has exercised or attempted to exercise his or her right to take protected family care and medical leave under the CFRA. Under the CFRA, it is also an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under the CFRA.

95. At all times hereto, Plaintiff was an employee eligible for CFRA leave. At all times hereto, Plaintiff had been employed by Defendants for more than 12 months, and had worked at least 1,250 hours during the previous 12 months. Further, Defendants employed at least 50 employees within 75 miles of the worksite at which Plaintiff worked.

1 96. Defendants violated the CFRA by failing and/or refusing to provide Plaintiff with the
2 family care and medical leave that Plaintiff requested.

3 97. Defendants violated the CFRA by retaliating against Plaintiff for exercising or attempting
4 to exercise Plaintiff's right to protected medical leave under the CFRA.

5 98. Defendants violated the CFRA by interfering with or restraining Plaintiff from exercising
6 or attempting to exercise Plaintiff's right to protected medical leave under the CFRA, by failing to give
7 Plaintiff notice of Plaintiff's rights under the CFRA, including the right to take protected leave.

8 99. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination
9 and wrongful termination.

10 100. Plaintiff is informed and believes that exercising or attempting to exercise Plaintiff's right
11 to medical leave was a motivating reason and/or factor in the decisions to subject Plaintiff to the
12 aforementioned adverse employment actions.

13 101. The above said acts of Defendants constitute violations of the CFRA, and were a
14 proximate cause in Plaintiff's damage as stated below.

15 102. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated
16 by reference.

17 103. 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 Plaintiff or was
19 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
20 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
21 such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
22 punitive damages in an amount appropriate to punish or make an example of Defendants.

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

SIXTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS
IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

105. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as though set forth in full herein.

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

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

108. At all times herein, Plaintiff was willing and able to perform the duties and functions of the position in which Plaintiff was employed, or could have performed the duties and functions of that position with reasonable accommodations. At no time would the performance of the functions of the employment position, with a reasonable accommodation for Plaintiff's disability or medical condition, actual or as it was perceived by Defendants, have been a danger to Plaintiff's or any other person's health or safety. Accommodation of Plaintiff's disability or disability or medical condition, real or perceived by Defendants, would not have imposed an undue hardship on Defendants. Defendants failed and refused to accommodate Plaintiff's disability, failed to engage in the interactive process with Plaintiff and continue to violate this obligation, up to and including the date of Plaintiff's termination or, if Defendant contends Plaintiff was never terminated, through the present and ongoing.

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

110. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated by reference.

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

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

9
10 **SEVENTH CAUSE OF ACTION**
11 **FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS**
12 **IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**
13 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

14 113. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as
15 though set forth in full herein.

16 114. At all times hereto, the FEHA, including in particular Government Code § 12940(n), was
17 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on
18 Defendants to engage in a timely, good faith, interactive process with the employee to determine effective
19 reasonable accommodations, if any, in response to a request for reasonable accommodation by an
20 employee with a known physical disability or known medical condition and/or becoming aware of the
21 employee's need for accommodation.

22 115. At all relevant times, Plaintiff was a member of a protected class within the meaning of,
23 in particular, Government Code §§ 12940(a) & 12986(1) et seq. because Plaintiff had a physical disability
24 that affected Plaintiff's major life activities, and medical condition of which Defendants had both actual
25 and constructive knowledge.

26 116. Plaintiff reported the disability to Defendants and requested accommodation, triggering
27 Defendants' obligation to engage in the interactive process with Plaintiff, but at all times herein,
28 Defendants failed and refused to do so. Thereafter, despite Defendants' continuing obligation to engage

1 in the interactive process with Plaintiff, Defendants failed and refused to have any dialogue with Plaintiff
2 whatsoever, on any of these occasions, and Defendants violated, and continued to violate this obligation
3 up to and including the date of Plaintiff's termination or, if Defendant contends Plaintiff was never
4 terminated, through the present and ongoing.

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

7 118. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated
8 by reference.

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

15 120. 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 **EIGHTH CAUSE OF ACTION**

19 **RETALIATION**

20 **LABOR CODE §§98.6, 232.5, 1102.5.**

21 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

22 121. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as
23 though set forth in full herein.

24 122. Labor Code §98.6(a) prohibits an employer from discharging or in any manner
25 discriminating or retaliating against an employee who, among other things, has exercised her or her rights
26 under that Chapter, including conduct delineated in Chapter 5 of the Labor Code, which encompasses
27 §1102.5. An employee who has been discharged or retaliated against in violation of Labor Code §98.6
28 is entitled to recovery of a civil penalty against the employer in an amount not exceeding ten thousand

1 dollars (\$10,000.00) for each violation of that section.

2 123. At all relevant times, Labor Code §232.5 was in full force and effect and binding on
3 Defendants. Labor Code §232.5(b) prohibits an employer from discharging, formally disciplining, or
4 otherwise discriminating against an employee who discloses information about the employer's working
5 conditions.

6 124. Labor Code §1102.5(b) prohibits an employer from retaliating against an employee for
7 disclosing to persons with authority over the employee for disclosing *or believing that the employee may*
8 *disclose* what the employee reasonably believes is a violation of state or federal statute, or a violation of
9 or noncompliance with a local, state, or federal rule or regulation. An employee who has been discharged
10 or retaliated against in violation of Labor Code §1102.5 is entitled to recovery of a civil penalty against
11 the employer in an amount not exceeding ten thousand dollars (\$10,000.00) for each violation of that
12 section. The Labor code furthers that any employer who willfully refuses to rehire, promote, or otherwise
13 restore an employee is guilty of a misdemeanor.

14 125. Sections 98.6, 232.5, and 1102.5, create an entitlement to recovery by Plaintiff in a civil
15 action for the unlawful actions by Defendants.

16 126. Plaintiff is informed and believes, and based thereupon alleges, that one of the reasons
17 that Plaintiff was terminated from Plaintiff's employment with Defendants as a result of Plaintiff's
18 complaints about not being paid the correct minimum wages due and not receiving rest breaks.

19 127. Plaintiff was terminated from her employment with Defendants as a result of complaining
20 about EMPLOYERS failure to provide minimum wages and for complaining to EMPLOYERS about not
21 receiving breaks coworker, along with the exercise of his rights under Labor Code §§ 98.6, 1030, et seq.,
22 and 1102.5, Defendants' retaliatory animus is evidenced by, among other things, the following facts:
23 EMPLOYERS's conduct occurred following Plaintiff complaining about wages and unfair treatment;
24 there were no legitimate performance issues or any other reason, nor even offered, for terminating
25 Plaintiff; and due to Plaintiff exercising or attempting to engage in protected activity.

26 128. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
27 Defendants, and Defendants' officers and/or managing agents, including HUERTE, and those identified
28 herein as DOES 1-20, who were authorized and empowered to make decisions that reflect and/or create

1 policy for Defendants. The aforementioned conduct of said managing agents and individuals was
2 therefore undertaken on behalf of Defendants. Defendants further had advanced knowledge of the actions
3 and conduct of said individuals whose actions and conduct were ratified, authorized, and approved by
4 managing agents whose precise identities are unknown to Plaintiff at this time and are therefore identified
5 and designated herein as DOES 1-20, inclusive.

6 129. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated
7 by reference.

8 130. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty of \$10,000.00 for
9 Defendants' violations of Labor Code §§ 98.6 and 1102.5.

10 131. Because the acts taken toward Plaintiff were carried out by managerial employees acting
11 in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and
12 in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against
13 Defendants and each of them, in sums in excess of the jurisdictional minimum of this court.

14
15 **NINTH CAUSE OF ACTION**
16 **FOR WRONGFUL TERMINATION**
17 **IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**
18 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

19 132. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 46, inclusive, as
20 though set forth in full herein.

21 133. At all relevant times mentioned in this complaint, the FEHA was in full force and effect
22 and was binding on Defendants. This law requires Defendants to refrain, among other things, from
23 discriminating against any employee on the basis of age, real or perceived disability, real or perceived
24 medical condition, use of or anticipated use of medical leave, association with a family member of a
25 protected class, and/or engagement in protected activities.

26 134. At all times mentioned in this complaint, it was a fundamental policy of the State of
27 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of use
28 of CFRA leave or anticipated CFRA leave or in violation of FEHA.

1 135. Plaintiff believes and thereon alleges that Plaintiff's use of or anticipated use of CFRA
2 leave, age, real or perceived disability, and/or real or perceived medical condition, use of or anticipated
3 use of medical leave, association with a family member of a protected class, and/or engagement in
4 protected activities, and/or some combination thereof, were factors in Defendants' conduct as alleged
5 hereinabove.

6 136. At all times mentioned in this complaint, Labor Code §§ 98.6, 232.5, and 1102.5 were in
7 full force and effect and binding on Defendants. Labor Code §98.6 reflects the State's broad public policy
8 interest in protecting the rights of individual employees and job applicants who could not otherwise afford
9 to protect themselves from violations of the Labor Code. Labor Code §1102.5 reflects the State's broad
10 public policy interest in encouraging workplace "whistleblowers," who may without fear of retaliation
11 report concerns regarding an employer's suspected illegal conduct, irrespective of whether the reporting
12 is made to governmental agencies or to the employer itself, and irrespective of whether the employee's
13 suspicions are correct that the challenged conduct actually violates some law. Indeed, the law in
14 California is that an employee's good faith but mistaken belief in the illegality of his or her co-workers',
15 supervisor's, and employer's conduct is protected from employer retaliation in the whistle-blowing
16 context. These laws require Defendants to refrain, among other things, from discharging, suspending, or
17 in any other manner discriminating against an employee because the employee has made a bona fide oral
18 or written complaint to his or her employer and disclosed the employer's working conditions, or the
19 employer believes that the employee disclosed or may disclose information to a government or law
20 enforcement agency, and the employee shall be entitled to reinstatement and reimbursement for lost
21 wages and work benefits caused by the acts of the employer. The Labor code furthers that any employer
22 who willfully refuses to rehire, promote, or otherwise restore an employee is guilty of a misdemeanor.

23 137. Plaintiff believes and thereon alleges that Plaintiff's request of being paid correct wages
24 and Plaintiff's engagement in protected activity, including complaining to supervisors of Labor Code
25 violations, were factors in Defendants' conduct as alleged hereinabove.

26 138. At all relevant times mentioned in this complaint, Labor Code § 98.6 was in full force and
27 effect and was binding upon Defendants and each of them. This law prohibits retaliation against
28 employees who complain about unpaid wages and/or attempt to exercise the rights under the Labor Code.

1 Labor Code §98.6 reflects the State's broad public policy interest in protecting the rights of individual
2 employees and job applicants who could not otherwise afford to protect themselves from violations of
3 the Labor Code.

4 139. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's
5 employment on the basis of age; disability, real or perceived; medical condition, real or perceived; use
6 of medical leave; and engagement in protected activities, and/or some combination of these factors, were
7 a proximate cause in Plaintiff's damages as stated below.

8 140. The above said acts of Defendants constitute violations of the Government Code and the
9 public policy of the State of California embodied therein as set forth above. Defendants violated these
10 laws by discriminating and retaliating against Plaintiff and terminating Plaintiff's employment in
11 retaliation for exercise of protected rights.

12 141. At all times mentioned in this complaint, it was a fundamental policy of the State of
13 California that Defendants cannot discriminate and/or retaliate against any employee for requesting or
14 using medical leave.

15 142. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's use of or
16 anticipated use of CFRA leave, age, real or perceived disability, and/or real or perceived medical
17 condition, use of or anticipated use of medical leave, association with a family member of a protected
18 class, and/or engagement in protected activities was a proximate cause in Plaintiff's damages as stated
19 below.

20 143. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's
21 engagement in protected activities under Labor Code § 98.6 was a proximate cause in Plaintiff's damages
22 as stated below.

23 144. The damage allegations of Paragraphs 47 through 51, inclusive, are herein incorporated
24 by reference.

25 145. The foregoing conduct of Defendants individually, or by and through their officers,
26 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
27 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
28 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights

1 such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
2 punitive damages in an amount appropriate to punish or make an example of Defendants.

3
4 **TENTH CAUSE OF ACTION**
5 **FOR DECLARATORY JUDGMENT**
6 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

7 146. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 145, inclusive, as
8 though set forth in full herein.

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

11 It is hereby declared as the public policy of this state that it is necessary to
12 protect and safeguard the right and opportunity of all persons to seek,
13 obtain, and hold employment without discrimination or abridgment on
14 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.

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

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

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

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

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

26 In order to eliminate discrimination, it is necessary to provide effective
27 remedies that will both prevent and deter unlawful employment practices
28 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

1 pursuant to Section 1 of Article XIV of the California Constitution.

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

3 The opportunity to seek, obtain, and hold employment without
4 discrimination because of race, religious creed, color, national origin,
5 ancestry, physical disability, mental disability, medical condition, genetic
6 information, marital status, sex, gender, gender identity, gender expression,
7 age, or sexual orientation is hereby recognized as and declared to be a civil
8 right.

9 150. An actual controversy has arisen and now exists between Plaintiff and Defendants
10 concerning their respective rights and duties as it is believed that Defendants may allege that they did not
11 discriminate and retaliate against Plaintiff; that Plaintiff was not terminated as a result of Plaintiff's age,
12 real or perceived disability, and/or real or perceived medical condition, use of or anticipated use of
13 medical leave, association with a family member of a protected class, and/or engagement in protected
14 activities, and/or some combination of these protected characteristics. Plaintiff contends that Defendants
15 did discriminate and retaliate against Plaintiff on the basis of Plaintiff's age, real or perceived disability,
16 and/or real or perceived medical condition, use of or anticipated use of medical leave, association with a
17 family member of a protected class, and/or engagement in protected activities, and/or some combination
18 of these protected characteristics; and that Plaintiff was retaliated against and, ultimately wrongfully
19 terminated as a result of Plaintiff's age, real or perceived disability, and/or real or perceived medical
20 condition, use of or anticipated use of medical leave, association with a family member of a protected
21 class, and/or engagement in protected activities, and/or some combination of these protected
22 characteristics. Plaintiff is informed and believes, and on that basis alleges, that Defendants shall dispute
23 Plaintiff's contentions.

24 151. Pursuant to Code of Civil Procedure § 1060, Plaintiff desires a judicial determination of
25 Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the basis of Plaintiff's
26 age, real or perceived disability, and/or real or perceived medical condition, use of or anticipated use of
27 medical leave, association with a family member of a protected class, and/or engagement in protected
28 activities, and/or some combination of these protected characteristics.

 152. Pursuant to Code of Civil Procedure § 1060, Plaintiff seeks a judicial determination of
Plaintiff's rights and duties, and a declaration that Plaintiff's age, real or perceived disability, and/or real

1 or perceived medical condition, use of or anticipated use of medical leave, association with a family
2 member of a protected class, and/or engagement in protected activities, and/or some combination of these
3 protected characteristics was a substantial motivating factor in the decision to subject Plaintiff to the
4 aforementioned adverse employment actions.

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

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

13 155. Government Code § 12965(b) provides that an aggrieved party, such as the Plaintiff
14 herein, may be awarded reasonable attorney's fees and costs: "In civil actions brought under this section,
15 the court, in its discretion, may award to the prevailing party, including the department, reasonable
16 attorney's fees and costs, including expert witness fees." Such fees and costs expended by an aggrieved
17 party may be awarded for the purpose of redressing, preventing, or deterring discrimination and
18 harassment.

19
20 **ELEVENTH CAUSE OF ACTION**

21 **FOR FAILURE TO PAY WAGES DUE AND IMPROPER DEDUCTIONS**

22 **LABOR CODE §§201, 221, 226.7, 510, 1194**

23 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

24 156. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as
25 though set forth in full herein.

26 157. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
27 required by 8 Code of Regulations § 11040, as set forth hereinabove. As alleged herein, Defendants
28 routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

1 158. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code § 510,
2 8 Code of Regulations § 11040, and Industrial Welfare Commission Order No. 4-2001.

3 159. During Plaintiff's employment, Defendants violated Labor Code §221 by collecting
4 and/or receiving from Plaintiff, and other aggrieved employees, part of their wages paid by Defendants
5 to said employees.

6 160. Defendants violated Labor Code §§ 204 and 223 because Defendants failed to pay wages
7 for all hours worked paid at least twice during each calendar month to employees as required "by
8 contract" under Labor Code section 223, as well as an improper collection of wages paid to an employee
9 under Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist.
10 Mar. 6, 2013).

11 161. Plaintiff also seeks to recover unpaid wages for working when Plaintiff should have been
12 on her meal break in violation of applicable law and, under the Unfair Competition Law (UCL), it should
13 be restored to Plaintiff in the form of compensation for the time work, as EMPLOYERS took that time
14 from Plaintiff. *Cortez v. Purolator Air Filtration Products*, 96 Cal.Rptr.2d 518, 528 (2000) ("the concept
15 of restoration or restitution, as used in the UCL, is not limited only to the return of money or property
16 that was once in the possession of that person ... earned wages that are due and payable pursuant to
17 section 200 et seq. of the Labor Code are as much the property of the employee who has given his or her
18 labor to the employer in exchange for that property as is property a person surrenders through an unfair
19 business practice").

20 162. Plaintiff has been deprived of Plaintiff's rightfully earned compensation as a direct and
21 proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is entitled to
22 recover such amounts, plus interest thereon, attorneys' fees and costs.

23 163. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated
24 above based upon Defendants' underpayment of wages and in violation of Labor Code §§ 226.7, 510,
25 1194.

TWELFTH CAUSE OF ACTION
FOR FAILURE TO PAY MINIMUM WAGES
LABOR CODE §§ 1182.12, 1194, 1194.2, 1197
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

164. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as though set forth in full herein.

165. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed by law is unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid hours exceeded the minimum wage. Under California law, Plaintiff is entitled to at least the minimum wage for every hour worked.

166. The historical minimum wage requirements in California are as follows:

Effective	26+ employees	1-25 employees
1/1/21	\$14.00	\$13.00
1/1/20	\$13.00	\$12.00
1/1/19	\$12.00	\$11.00
1/1/18	\$11.00	\$10.50

167. The historical minimum wage requirements in Los Angeles City are as follows:

Effective	26+ employees	1-25 employees
1/1/21	\$15.00	\$15.00
1/1/20	\$15.00	\$14.25
1/1/19	\$14.25	\$13.25
1/1/18	\$13.25	\$12.00

168. In the four years immediately preceding the filing of this complaint, Employers failed and refused to pay Plaintiff the legal minimum wage in the State of California and for the City of Los Angeles, as set forth in Labor Code §1182.12, in each of the following ways:

169. From July 1, 2020, through November 15, 2020, Plaintiff worked approximately 44 hours per week without getting paid the minimum wage of \$14.25, and was underpaid \$0.25 per each hour

1 worked. Therefore, Plaintiff is owed \$214.50 calculated at 44 hours per week for 19.5 weeks at \$0.25 per
2 hour.

3 170. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum
4 wages in the amount of \$214.50.

5 171. Defendants' failure to pay the legal minimum wage to Plaintiff as alleged herein is
6 unlawful and creates entitlement, pursuant to Labor Code § 1197, to recovery by Plaintiff in a civil action
7 for the unpaid balance of the full amount of the unpaid wages owed, calculated as the difference between
8 the straight time compensation paid and applicable minimum wage, including interest thereon.

9 172. Pursuant to Labor Code § 1194, Plaintiff requests that the court award reasonable
10 attorneys' fees and costs incurred by Plaintiff in this action.

11 173. In addition, pursuant to Labor Code § 1194.2, Plaintiff is entitled to recover liquidated
12 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
13 additional \$214.50, plus interest thereon.

14
15 **THIRTEENTH CAUSE OF ACTION**

16 **FOR FAILURE TO PAY OVERTIME COMPENSATION**

17 **LABOR CODE §§ 510, 1194**

18 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

19 174. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as
20 though set forth in full herein.

21 175. Labor Code § 510 requires employers to pay their non-exempt employees one and one-
22 half times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or
23 40 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of
24 12 hours in a single day. It also requires employers to pay their non-exempt employees overtime
25 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
26 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
27 consecutive day of work.
28

1 176. At all relevant times, Defendants required Plaintiff to work more than eight hours per
2 day and/or more than 40 hours per workweek.

3 177. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
4 compensation required by Labor Code § 510, 8 Code of Regulations § 11040, and Industrial Welfare
5 Commission Order No. 4-2001.

6 178. In the four years last past, Plaintiff worked approximately 4 hours of overtime each
7 week, all of which should have been paid at 1.5 times Plaintiff's regular hourly wage rate at that time.
8 Defendants failed to pay Plaintiff the requisite overtime wages in each of the following ways in the four
9 years immediately preceding the filing of this complaint:

10 a. From approximately July 1, 2020, through November 15, 2020, Plaintiff worked
11 an average of 4 overtime hours per week. Plaintiff's overtime rate for this period was \$21.38 per hour.
12 Therefore, Plaintiff was underpaid and is owed \$7.13 for each of those 78 hours, totaling \$556.14.

13 179. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
14 Code § 510, 8 Code Regulations § 11040, and Industrial Welfare Commission Order No. 4-2001.

15 180. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
16 of \$556.14, above and beyond the minimum wages sought in the preceding cause of action for these same
17 hours.

18 181. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation as a
19 direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is
20 entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

21
22 **FOURTEENTH CAUSE OF ACTION**
23 **FOR FAILURE TO PROVIDE REST BREAKS**

24 **LABOR CODE § 226.7**
25 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

26 182. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as
27 though set forth in full herein.

1 183. Labor Code § 226.7 requires an employer to provide every employee with an uninterrupted
2 rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion
3 thereof.

4 184. In the four years last past, Plaintiff regularly worked in excess of five hours per day, and
5 was thereby entitled to take two 10-minute rest periods on each day of work.

6 185. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
7 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code § 226.7 and the
8 applicable sections of 8 Code of Regulations §11040 and Industrial Welfare Commission Order No. 4-
9 2001.

10 186. As alleged herein, Plaintiff is not exempt from the rest break requirements of 8 Code of
11 Regulations § 11040 and Industrial Welfare Commission Order No. 4-2001. Consequently, Plaintiff is
12 owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage, whichever
13 is greater, for each day that Plaintiff was denied such rest periods, calculated as follows:

14 187. From approximately July 1, 2020, through November 15, 2020, Plaintiff was deprived of
15 one or more of Plaintiff's statutory 10-minute rest periods on approximately 107 days (5.5 days per week
16 for 19.5 weeks). Consequently, Plaintiff is owed one hour of pay at \$14.25 for each day, or \$1,524.74,
17 plus interest thereon, for unpaid rest periods. Thus, Plaintiff is owed a total of \$1,524.74, plus interest
18 thereon, for unpaid rest periods for this time period.

19 188. Plaintiff has been deprived of Plaintiff's rightfully earned compensation for meal and rest
20 breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

21 189. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
22 such amounts in the combined amount of \$1,524.74, pursuant to Labor Code §226.7(b), plus interest
23 thereon and costs of suit.

FIFTEENTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS
LABOR CODE §§ 226 ET SEQ.
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

190. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as though set forth in full herein.

191. Pursuant to Labor Code §§ 226 and 1174, employers have a duty to provide their non-exempt employees with itemized statements showing total hours worked, hourly wages, gross wages, total deductions and net wages earned. An employer who violates these code sections is liable to its employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code § 226(e)(2), an employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement at all.

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

193. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate wage and hour statements showing gross wages earned, total hours worked, all deductions made, net wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and rates in effect during each pay period and the corresponding number of hours worked at each hourly rate by Plaintiff. For the majority of the time and as to nearly all of Plaintiff's wages, Defendants knowingly and intentionally, not inadvertently, failed to provide Plaintiff with paystubs at all, and instead paying Plaintiff entirely in cash without any calculations of how Plaintiff's gross wages were calculated. Not one of the paystubs that Plaintiff received complied with Labor Code § 226, and contained almost none of the required information, including hours actually worked.

194. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code § 226.

1 195. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
2 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
3 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
4 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
5 Plaintiff's right under Labor Code § 226(b) to review itemized wage statement information by inspecting
6 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
7 meal period, and rest period wages. For the time periods that Plaintiff was not provided with paystubs at
8 all, Plaintiff's aforementioned injuries are presumed as a matter of law.

9 196. Plaintiff was paid on a biweekly basis, and therefore Defendants violated Labor Code §226
10 approximately 26 times during the last year that Plaintiff worked for Defendants. Consequently,
11 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
12 amount of \$4,000.00, whichever is greater.

13 197. In addition thereto, for Defendant's violations, Defendants are penalized \$50.00 for the
14 first violation, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor
15 Code § 226.3 penalties of an amount according to proof.

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

19
20 **SIXTEENTH CAUSE OF ACTION**

21 **FOR WAITING TIME PENALTIES**

22 **LABOR CODE §§ 201-203**

23 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

24 199. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as
25 though set forth in full herein.

26 200. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
27 other compensation due immediately upon termination or within 72 hours of resignation, as required.
28 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest

1 period compensation that Defendants should have paid, but did not pay to Plaintiff during the term of
2 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§
3 201-203.

4 201. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§ 201-
5 203.

6 202. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
7 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and
8 more than \$3,874.50 in wait time penalties, calculated based on a daily average wage of \$128.25, times
9 30 days.

10 203. Based on Defendants' conduct as alleged herein, Defendants are liable for \$3,874.50 in
11 statutory penalties pursuant to Labor Code § 203 and other applicable provisions, as well as attorneys'
12 fees and costs.

13
14 **SEVENTEENTH CAUSE OF ACTION**
15 **FOR PRIVATE ATTORNEY GENERAL ACT**
16 **LABOR CODE § 2699**
17 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

18 204. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as
19 though set forth in full herein.

20 205. Under Labor Code § 2699, Plaintiff, as an aggrieved employee, may bring an action
21 against Defendants, on behalf of himself and other current or former employees, seeking statutory civil
22 penalties for Defendants' violations of the California Labor Code.

23 206. Plaintiff was an aggrieved employee within the meaning of Labor Code §§ 2699(c) and
24 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as
25 previously pleaded in this Complaint.

26 207. On December 22, 2020, more than 63 calendar days before filing this Complaint, Plaintiff
27 provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail
28 to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby

1 satisfying the requirements of Labor Code § 2699.3(a). These violations included Labor Code §§ 98.6,
2 201.3, 202, 203, 204, 221, 223, 226, 226.7, 227.3, 246, 510, 551, 552, 1102.5, 1102.6, 1194, 1194.2, each
3 of which is enumerated among the serious violations set forth in Labor Code § 2699.5.

4 208. As of the filing of this Complaint, Plaintiff has not received any response from the Labor
5 and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently,
6 Plaintiff may now commence a civil action, pursuant to Labor Code § 2699.3.

7 209. As a direct and proximate result of Defendants' California Labor Code violations as set
8 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
9 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each
10 subsequent violation, pursuant to Labor Code § 2699(f), for those Labor Code sections not expressly
11 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
12 provide for a penalty, §§ 226.3, 226.7, 510, 512, and 558.

13 210. Here, Plaintiff's civil action alleges violations of provisions listed in Labor Code §2699.5
14 and violations of provisions other than those listed in Labor Code §2699.5. As such, Labor Code
15 §2699.3(a) and §2699.3(c) apply to this action.

16 211. As of the filing of this Complaint, Plaintiff has not received any response from the Labor
17 and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently,
18 Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

19 212. Further, as of the filing of this Complaint, Plaintiff has not received from Defendants
20 written notice by certified mail that the alleged violations have been cured, including a description of the
21 actions taken. As such, Plaintiffs have complied with Labor Code §2699.3(c) and have been given
22 authorization therefrom to commence a civil action which includes a cause of action pursuant to Labor
23 Code §2699.

24 **PENALTIES**

25 213. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor Code
26 that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development
27 Agency ("LWDA") (or any of its departments, divisions, commissions, board agency or employees), such
28 civil penalties may, as an alternative, be recovered through a civil action brought by an aggrieved

1 employee on behalf of himself or herself and other current or former employees) and Labor Code
2 §2699(f) (which establishes a civil penalty for violations of all Labor Code provisions except those which
3 a civil penalty is specifically provided), the aggrieved employees seek recover of all applicable civil
4 penalties, as follows:

5 a) As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor Code
6 except for those for which a civil penalty is specifically provided, in the amount of one hundred
7 dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two
8 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent
9 violation, including those violations notated in Paragraph **Error! Reference source not**
10 **found.;** and

11 b) As applicable, civil penalties under Labor Code §558 (in addition to and entirely independent
12 and apart from any other penalty provided for in the Labor Code), for violations of Labor Code
13 §§1-556, in the amount of \$50 for each underpaid aggrieved employee for each pay period the
14 aggrieved employee was underpaid, and \$100 for each subsequent violation for each underpaid
15 employee for each pay period for which the employee was underpaid, with all wages recovered
16 pursuant to Labor Code §557 paid to the aggrieved employees. Plaintiff is entitled to recover
17 approximately \$2,550 for civil penalties, including for violations under Labor Code §§ 226.7,
18 512, 1030. Plaintiff is also able to collect an additional penalty to be distributed to the other
19 aggrieved employees in an amount according to proof;

20 c) As applicable, civil penalties under Labor Code §1197.1 (in addition to and entirely
21 independent and apart from any other penalty provided in the Labor Code) for violations of
22 Labor Code §§1194 and 1197, in the amount of \$100 for each underpaid aggrieved employee
23 for each pay period the aggrieved employee was intentionally underpaid in addition to an
24 amount sufficient to recover underpaid wages, and \$250 for each subsequent violation for each
25 underpaid aggrieved employees regardless of whether the initial violation was intentionally
26 committed in addition to an amount sufficient to recover underpaid wages, with all wages
27 recovered pursuant to Labor Code §1197.1. Plaintiff may also recover penalties under § 1197.1
28 on behalf of herself and for the other aggrieved employees;

- 1 d) As applicable, civil penalties under Labor Code §225.5 (in addition to and entirely independent
2 and apart from any other penalty provided in the Labor Code) for violations of Labor Code §
3 221 and 223, in the amount of \$100 for each underpaid aggrieved employee for each pay period
4 the aggrieved employee was underpaid, and \$200 for each subsequent violation or any willful
5 or intentional violation, for each underpaid aggrieved employees regardless of whether the
6 initial violation was intentionally committed, in addition to 25 percent of the amount
7 unlawfully withheld;
- 8 e) As applicable, civil penalties under Labor Code §210 (in addition to and entirely independent
9 and apart from any other penalty provided in the Labor Code), for each employee who is/was
10 not paid wages in accordance with Labor Code §§201.3, 204, 204b, 204.1, 204.2, 205, 205.5
11 and 1197.5, in the amount of a civil penalty of \$100 for each aggrieved employee per pay
12 period for each initial violation, and \$200 for each aggrieved employee per pay period for each
13 subsequent violation, plus 25 percent of the amount unlawfully withheld;
- 14 f) As applicable, civil penalties under Labor Code §226.3 (in addition to and entirely independent
15 and apart from any other civil penalty provided in the Labor Code), for each violation of Labor
16 Code §226(a), in the amount of \$250 for each aggrieved employee per pay period for each
17 violation and \$1,000 for each aggrieved employee per pay period for each subsequent
18 violation;
- 19 g) As applicable, civil penalties under Labor Code §§203 and/or 256 (in addition to and entirely
20 independent and apart from any other penalty provided in the Labor Code), for any aggrieved
21 employee who was discharged or quit, and was not paid all earned wages at termination in
22 accordance with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil
23 penalty of one day of pay, at the same rate, for each day that he or she was paid late, until
24 payment was/is made, up to a maximum of thirty (30) days; and
- 25 h) As applicable, any and all additional applicable civil penalties and sums as provided by the
26 Labor Code and/or other relevant statutes.

27 214. In addition, Plaintiff seeks and is entitled to seventy-five percent (75%) of all penalties
28 obtained under Labor Code §2699 to be allocated to the LWDA, for education of employers and

1 employees about their rights and responsibilities under the Labor Code, and twenty-five percent (25%)
2 to the aggrieved employees.

3 215. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
4 recovery of pre-judgment interest on all amounts recovered herein.

5 216. As a direct and proximate result of Defendants' California Labor Code violations as set
6 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
7 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each
8 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
9 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
10 provide for a penalty, §§203, 210, 225.5, 226.3, 226.7, 510, 512, 558, and 1030.

11 217. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
12 recovery of pre-judgment interest on all amounts recovered herein.

13 218. Further, Plaintiff is entitled; to recover reasonable attorneys' fees and costs pursuant to
14 Labor Code §§2699(g)(1) and any other applicable statute.

15
16 **EIGHTEENTH CAUSE OF ACTION**

17 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**

18 **LABOR CODE §§ 226, 1198.5**

19 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

20 219. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as
21 though set forth in full herein.

22 220. Labor Code § 1198.5 requires an employer, within thirty (30) days of a written request
23 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
24 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

25 221. Labor Code § 226 requires an employer, within twenty-one (21) days of a written request
26 thereof, to allow inspection or to provide a copy of an employee's personnel and payroll records. An
27 employer's failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

1 222. On December 4, 2020, Plaintiff made a written request to inspect or receive a copy of
2 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

3 223. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and
4 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within
5 the time required by Labor Code § 1198.5, or ever.

6 224. As a result of Defendants' failure and refusal to comply with Labor Code § 1198.5,
7 Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00.

8 225. As a result of Defendants' failure and refusal to comply with Labor Code § 226(f), Plaintiff
9 is entitled to recover from Defendants a civil penalty of \$750.00.

10 226. Pursuant to Labor Code §§ 1198.5(l) and 226(h), Plaintiff requests a reasonable award of
11 attorneys' fees and costs.

12
13 **NINETEENTH CAUSE OF ACTION**
14 **FOR UNFAIR COMPETITION**
15 **BUSINESS & PROFESSIONS CODE §§ 17200, ET SEQ.**
16 **AGAINST EMPLOYERS AND DOES 1-20**

17 227. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 47, inclusive, as
18 though set forth in full herein.

19 228. The court has jurisdiction over this action pursuant to Business and Professions Code
20 section 17200 et seq., specifically Business and Professions Code section 17203, which provides that any
21 person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any
22 court of competent jurisdiction; and the court may make such orders or judgments, including the
23 appointment of a receiver, as may be necessary to prevent the use or employment by any person of any
24 practice which constitutes unfair competition, or as may be necessary to restore to any person in interest
25 any money or property, real or personal, which may have been acquired by means of such unfair
26 competition; and Business and Professions Code Section 17204, which provides for actions for any relief
27 pursuant to the Unfair Competition Law to be prosecuted exclusively in a court of competent jurisdiction
28 by any board, officer, person, corporation or association or by any person acting for the interests of itself,

1 or its members and that has suffered an injury in fact and lost money or property as a result of Defendants'
2 conduct.

3 229. Defendants' violations of 8 Code of Regulations § 11040, Industrial Welfare Commission
4 Order No. 4-2001, Labor Code §§ 98.6, 201.3, 202, 203, 204, 221, 223, 226, 226.7, 227.3, 246, 510, 551,
5 552, 1102.5, 1102.6, 1194, 1194.2, 1198.5, 2699, and other applicable provisions, as alleged herein,
6 including Defendants' failure and refusal to pay minimum wages, overtime wages, Defendants' failure
7 to provide rest breaks, Defendants' failure to provide timely and accurate wage and hour statements,
8 Defendants' failure to pay compensation due in a timely manner upon termination or resignation, and
9 Defendants' failure to maintain complete and accurate payroll records for the Plaintiff, constitute unfair
10 business practices in violation of Business & Professions Code §§ 17200, et seq.

11 230. Defendants have engaged in, and continue to engage in the following unlawful, unfair
12 and/or fraudulent business practices in violation of Section 17200 of the California Business and
13 Professions Code: discrimination, harassment, retaliation and failure to prevent the same under the
14 FEHA, related FEHA causes of action, retaliation under the Labor Code, failure to pay wages, failure to
15 provide minimum wages, failure to provide overtime wages, failure to provide and pay premium wages
16 for missed meal and rest breaks, among other unfair conduct as alleged herein above.

17 231. As a direct, proximate, and foreseeable result of Defendants' wrongful conduct as alleged
18 above, Defendants' business acts or practices have caused injury to the Plaintiff and the public. Plaintiff
19 is entitled to relief, including full restitution and/or disgorgement of all revenues, earnings, profits,
20 compensation and benefits that may have been obtained by Defendants as a result of such business acts
21 or practices.

22 232. Plaintiff is informed and believes and based thereon alleges that Defendants' illegal acts
23 as described above are a serious and continuing threat to Plaintiff and the public. If Defendants are
24 allowed to continue their unfair and unlawful acts, Plaintiff and the public will suffer further immediate
25 and irreparable injury, loss and damage. Plaintiff is further informed and believes, and based thereon
26 alleges, that, in the absence of a temporary restraining order and preliminary and permanent injunctions
27 as prayed for below, Defendants will continue to unfairly and unlawfully compete.
28

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

234. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendants and each of them, in an amount according to proof as follows:

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

2. For civil penalties pursuant to Labor Code § 98.6 in the amount of no less than \$10,000.00;

3. For civil penalties pursuant to Labor Code § 1102.5 in the amount of no less than \$10,000.00;

4. For payment of unpaid minimum wage compensation pursuant to Labor Code §§ 1182.12, 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 4-2001, in the amount of no less than 214.50;

5. For liquidated damages pursuant to Labor Code § 1194.2 in the amount of \$214.50, plus interest;

6. For payment of unpaid overtime compensation pursuant to Labor Code §§ 201, 510, 1194, Industrial Welfare Commission Order No. 4-2001, and 8 Code of Regulations § 11040, in the amount of no less than \$556.15;

7. For payment of rest period compensation pursuant to Labor Code § 226.7, 512, in the amount of no less than \$1,524.74;

1 8. For statutory penalties or damages pursuant to Labor Code § 558 in the amount of no less
2 than an according to proof;

3 9. For damages pursuant to Labor Code §221 in the amount according to proof;

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

5 11. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
6 than \$3,874.50;

7 12. For civil penalties pursuant to Labor Code §2699(f), in addition to and entirely
8 independent and apart from other penalties in the Labor Code and for Labor Code violations without a
9 specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each
10 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

11 13. For civil penalties under Labor Code §210, in addition to and entirely independent and
12 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
13 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
14 each subsequent violation, plus 25 percent of the amount unlawfully withheld;

15 14. For civil penalties under Labor Code §§ 210 and 225.5, in addition to and entirely
16 independent and apart from any other penalty provided in the Labor Code, for each violation of Labor
17 Code §§204, 221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
18 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation or for each
19 willful or intentional violation, in addition to 25 percent of the amount unlawfully withheld;

20 15. For civil penalties under Labor Code §226.3, in addition to and entirely independent and
21 apart from any other penalty provided in the Labor Code, in the amount of \$250 for each aggrieved
22 employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for
23 each subsequent violation;

24 16. For civil penalties under Labor Code §§203 and/or 256, in addition to and entirely
25 independent and apart from any other penalty provided in the Labor Code, in the amount of one day of
26 pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination,
27 until payment was/is made, up to a maximum of thirty (30) days;

1 17. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
2 Labor Code §1194(a), and/or Civil Code §3287;

3 18. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
4 any other applicable statute; and

5 19. For prejudgment interest on each of the foregoing at the legal rate from the date the
6 obligation became due through the date of judgment in this matter.

7 20. As a result of Defendants' failure and refusal to comply with Labor Code § 1198.5,
8 Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00;

9 21. As a result of Defendants' failure and refusal to comply with Labor Code § 226(f), Plaintiff
10 is entitled to recover from Defendants a civil penalty of \$750.00;

11 22. For prejudgment interest on each of the foregoing at the legal rate from the date the
12 obligation became due through the date of judgment in this matter.

13 **WHEREFORE**, Plaintiff further seeks judgment against Defendants, and each of them, in an
14 amount according to proof, as follows:

15 23. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
16 condemning Defendants' discriminatory practices;

17 24. For injunctive relief barring Defendants' discriminatory employment policies and
18 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

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

21 26. For injunctive relief compelling Defendants to report to federal and state authorities wages
22 earned by Plaintiff, and other employees, and pay all state and federal taxes owing, employer matching
23 funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all
24 this in an amount according to the proof;

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

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

29. For post-judgment interest; and
30. For any other relief that is just and proper.

DATED: August 10, 2021

GUERRA & CASILLAS LLP

By: 

Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
MARTIN GONZALEZ

JURY TRIAL DEMANDED

Plaintiff demands trial of all issues by jury.

DATED: August 10, 2021

GUERRA & CASILLAS LLP

By: 

Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
MARTIN GONZALEZ