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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN THE COUNTY OF LOS ANGELES

LINZI JULIANO,

Plaintiff,

vs.

Defendants MOUNT ST. MARY'S
UNIVERSITY, a California Corporation dba
GEENA DAVIS INSTITUTE ON GENDER
IN MEDIA dba SEE JANE; CAROLINE
HELDMAN, an individual; ELIZABETH
KILPATRICK an individual, and DOES 1
through 10 inclusive,

Defendants.

CASE NO.: **21STCV41842**

COMPLAINT FOR:

- 1. MISCLASSIFICATION**
- 2. RETALIATION**
- 3. FAILURE TO MAKE TIMELY
PAYMENT ON REGULAR
PAYDAYS**
- 4. FAILURE TO PROVIDE WAGE
STATEMENTS AND MAINTAIN
RECORDS**
- 5. FAILURE TO PROVIDE
REIMBURSEMENTS**
- 6. PAGA**
- 7. UNFAIR COMPETITION**

(JURY TRIAL DEMANDED)

1 Plaintiff LINZI JULIANO complains against Defendants and each of them, demands a trial by
2 jury of all issues and for all causes of action for which she is entitled, and hereby alleges as follows:

3 **INTRODUCTION**

4 1. This is an action for violations of California's laws prohibiting retaliation; violations of
5 California's Labor Code; and violations of California laws prohibiting unfair and unethical business
6 practices.

7 2. Defendants MOUNT ST. MARY'S UNIVERSITY dba GEENA DAVIS INSTITUTE
8 ON GENDER IN MEDIA dba SEE JANE and DOES 1 through 10, inclusive: (1) misclassified
9 Plaintiff and other employee researchers as independent contractors and, (2) retaliated against Plaintiff
10 for questioning her own misclassification as an independent contractor and that of her co-researchers.

11 3. Defendants MOUNT ST. MARY'S UNIVERSITY dba GEENA DAVIS INSTITUTE
12 ON GENDER IN MEDIA dba SEE JANE and DOES 1 through 10, inclusive: committed numerous
13 violations of the Labor Code, including: (a) misclassification of an employee as an independent
14 contractor (Lab. Code § 226.8); (b) retaliation against an employee for exercising any right under the
15 Labor Code (Lab. Code §§ 98.6, 1102.5); (c) failure to make timely payments on regular paydays,
16 designated in advance to Plaintiff (Lab. Code §§ 204, 207); (d) failure to provide Plaintiff with Labor
17 Code compliant paystubs; (e) failure to maintain employer records showing all hours worked by and
18 wages paid to all employees and to provide those records upon request (Lab. Code §§ 226(a), 1174,
19 1174.5, 1198. 5, 558.1); (f) failure to reimburse Plaintiff for all necessary expenditures (Labor Code
20 §§ 558.1, 1198, 2802; Wage Order 5-2001).

21 4. Defendants MOUNT ST. MARY'S UNIVERSITY dba GEENA DAVIS INSTITUTE
22 ON GENDER IN MEDIA dba SEE JANE and DOES 1 through 10, are liable for civil penalties for
23 violations of Labor Code sections 2753, 1199, 1174.5, 226.8, 226.3, 226(c), 210, 203, 2698, 2699,
24 558, 558.1 (Lab. Code § 2698, *et seq.*).

25 5. Defendants MOUNT ST. MARY'S UNIVERSITY dba GEENA DAVIS INSTITUTE
26 ON GENDER IN MEDIA dba SEE JANE and DOES 1 through 10, inclusive undertook unfair
27

1 business practices by violating numerous sections of the Labor Code, all while profiting from such
2 illegal activities (Bus. & Prof. Code § 17200, *et seq.*).

3 6. Through this action, Plaintiff seeks compensatory and punitive damages, statutory and
4 civil penalties, pre- and post-judgment interest, declaratory and injunctive relief, and costs and
5 attorneys' fees, as described below.

6 **PARTIES**

7 7. Plaintiff LINZI JULIANO (hereafter "Plaintiff" or "JULIANO") was at all times
8 relevant hereto a California resident working in the City and County of Los Angeles and employed as
9 a researcher by MOUNT ST. MARY'S UNIVERSITY dba GEENA DAVIS INSTITUTE ON
10 GENDER IN MEDIA dba SEE JANE and DOES 1 through 10.

11 8. Defendant MOUNT ST. MARY'S UNIVERSITY dba GEENA DAVIS INSTITUTE
12 ON GENDER IN MEDIA dba SEE JANE ("SEE JANE") is a California Corporation that sells its
13 research and analysis on gender in media throughout the entertainment industry. SEE JANE regularly
14 employs five (5) or more persons and is an employer within the meaning of Government Code
15 §12926.

16 9. Defendant CAROLINE HELDMAN ("HELDMAN") is the Vice President of SEE
17 JANE, a supervisor, and an employer within the meaning of Labor Code § 558.1. HELDMAN
18 engaged in the conduct described herein in the city and county of Los Angeles, California.

19 10. Defendant ELIZABETH KILPATRICK ("KILPATRICK") is the Vice President of
20 SEE JANE, a supervisor, and an employer within the meaning of Labor Code § 558.1 KILPATRICK
21 engaged in the conduct described herein in the city and county of Los Angeles, California.

22 11. Plaintiff is unaware of the identity of those defendants sued as DOES 1 through 10,
23 inclusive, and they are therefore sued under those fictitious names. Plaintiff is informed and believes,
24 and thereon alleges, that she is entitled to the relief requested in this complaint from these Doe
25 defendants and will seek leave of this Court to amend this complaint to reflect these defendants' true
26 names and identities when ascertained.
27
28

12. Plaintiff is informed and believes and thereon alleges that each of the defendants named herein (collectively, “Defendants”) was the agent, employee or representative of each of the remaining defendants and in doing the things mentioned herein, was acting in the course and scope of such agency and employment. Plaintiff further alleges that in doing the acts or omissions complained of herein, Defendants, and each of them, acted or omitted to act in concert as agents of or on behalf of the other Defendants named herein.

JURISDICTION & VENUE

13. This Court has personal jurisdiction over Defendants, and each of them, pursuant to Article 6, § 10 of the California Constitution. The amount in controversy in this action exceeds the minimal jurisdictional dollar amount for this Court of unlimited jurisdiction.

14. Jurisdiction is proper before the Superior Court of California because Plaintiff and all Defendants are citizens, reside and/or maintain corporate headquarters in California, and the principal injuries caused by Defendants' conduct were all in California.

15. Venue is proper in this Court pursuant to Code Civ. Proc. § 395 because Defendants' conduct and conducted substantial business, employed Plaintiff, and committed the acts and omissions alleged herein in the City and County of Los Angeles.

INCORPORATION OF ALLEGATIONS

16. All of the allegations in this complaint are hereby incorporated into each cause of action to the extent necessary or useful to clarify and complete each stated cause of action, to avoid repetition and redundancy.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. As to his representative claims under the Private Attorneys General Act (“PAGA”), Plaintiff has exhausted her administrative remedies by notifying, through online submission, the Labor and Workforce Development Agency (“LWDA”) of Defendants’ violations of the Labor Code and mailing a copy of the notification by certified mail to Defendants. The LWDA did not elect to investigate the claims, thereby allowing Plaintiff to pursue the claims in this Court under the PAGA on

1 behalf of herself and other current and former employees.

2 **TOLLING OF STATUTE OF LIMITATIONS**

3 18. The parties also have entered into an agreement tolling the applicable statutes of
4 limitations to Plaintiff's claims as of June 7, 2021.

5 **FACTS COMMON TO MORE THAN ONE CAUSE OF ACTION**

6 19. SEE JANE is a research-based organization working collaboratively within the
7 entertainment industry to provide data on representation within film, television, video games, and
8 other content.

9 20. SEE JANE hired JULIANO in 2016 as part of its effort to market itself to the
10 entertainment industry and tech partners as "one of the largest repositories of research around the
11 intersection of gender and media for the past 25 years."

12 21. SEE JANE promotes the credentials of its researchers, including the Ph.D. held by
13 JULIANO, as much as possible to attract clients, investments, and grants.

14 22. JULIANO's 2016 employment agreement states her duties as simply, "Research."

15 23. Two years later in 2018, JULIANO's employment agreement significantly expanded
16 her duties and listed them as, "Research Consulting: 1. Perform hand coding of media content (e.g.,
17 films, television episodes, ads, etc.). 2. Perform dataset functions, including data cleaning, post-
18 coding, variable creation, and data analysis. 3. Perform editing tasks for research reports. Research
19 team members may be asked to perform additional work related to the research process, including
20 research design, report writing, and presentation of findings."

21 24. The 2018 Agreement also reduced the amount of notice SEE JANE was required to
22 give JULIANO in advance of her termination from 30 days to 10 days.

23 25. When JULIANO was ultimately terminated, she was not provided any notice.

24 26. SEE JANE set JULIANO's pay at \$40 per hour.

25 27. JULIANO was, at all relevant times, under the control and direction of SEE JANE.

26 28. JULIANO performed work that was within the usual course of SEE JANE's business.
27 JULIANO provided research and analysis in the area of gender roles and representation in the media
28 for an organization that sells its research and analysis on gender roles and representation in the media.

1 29. JULIANO was not engaged in an independently established trade, occupation, or
2 business.

3 30. At all relevant times, JULIANO and her fellow employee researchers were
4 misclassified as independent contractors.

5 31. Prior to her termination, JULIANO asked HELDMAN whether the researchers should
6 be classified as employees instead of independent contractors pursuant to California Assembly Bill 5
7 (“AB 5”), which became effective January 1, 2020 and provided a bright-line test for determining
8 when an individual should be classified as an employee.

9 32. Although JULIANO was an employee of SEE JANE even prior to the passing of AB 5,
10 the clear standards the bill set forth prompted her to lodge her concerns with HELDMAN regarding
11 her belief that she and other researchers had been misclassified.

12 33. HELDMAN authoritatively dismissed JULIANO’s concerns regarding her
13 misclassification and gave false information about the law and its application to JULIANO and her co-
14 workers.

15 34. HELDMAN wrote to JULIANO “AB-5 doesn’t change anything for the research team
16 because contractors don’t meet the third requirement for being employees— not having independent
17 enterprise in the research trade. Some folks on the team have formalized this (e.g., your invoices
18 reflect your consulting firm), while others are less formal but still engaging in research other than the
19 team. Also, the work of the contractors on the research team fits the professions that have received
20 exemptions— highly trained professionals making more than twice the minimum wage. I’m sure the
21 requirements will be further refined as cases make their way through the courts, but as of now, it
22 doesn’t apply to us.”

23 35. After receiving HELDMAN’s response, JULIANO notified SEE JANE via email that
24 she believed HELDMAN’s analysis was incorrect. JULIANO explained that, “I think what
25 [HELDMAN’s] interpreting as things to require of employees is the reverse - we are employees unless
26 they can show we are not.”

27 36. JULIANO’s communication was ignored by Defendants.
28

1 37. At the time JULIANO was hired, SEE JANE executed a “work for hire” agreement
2 with JULIANO in order to vest in itself any intellectual property JULIANO created. Consequently,
3 JULIANO was also a statutory employee of SEE JANE under Labor Code § 3351.5(c).

4 38. SEE JANE’s misclassification of JULIANO and her fellow researchers was willful.

5 39. Throughout JULIANO’s employment, SEE JANE failed to comply with employer
6 obligations pursuant to federal and California law, including: the payment of federal and California
7 income, payroll, and training taxes; remitting social security, Medicare, and disability insurance
8 contributions; obtaining and maintaining workers’ compensation insurance; providing healthcare
9 insurance; and complying with its obligations regarding payment of wages under the California Labor
10 Code and Industrial Wage Orders.

11 40. SEE JANE Vice Presidents HELDMAN and KILPATRIC presented themselves as
12 authority on the law surrounding employee classification to JULIANO and her co-workers and
13 affirmatively – and repeatedly – gave them demonstrably false information regarding same.

14 **SEE JANE RETALIATED AGAINST JULIANO FOR RAISING CONCERNS**
15 **ABOUT HER MISCLASSIFICATION**

16 41. Throughout her employment, JULIANO’s performance was exemplary.

17 42. Nineteen days before she was summarily fired by HELDMAN, the response to her
18 latest project completion stated, “Thank you, Linzi. Prompt as always, and it’s much appreciated.”

19 43. Even after the research group was disbanded in September 2017, JULIANO continued
20 to be assigned projects by SEE JANE because of her superior performance.

21 44. Months before JULIANO’s termination, Co-Founder Rebecca Cooper responded with
22 delight to the completion of a large project by exclaiming to JULIANO, “Thank you for all of your
23 hard work! This is awesome.”

24 45. JULIANO’s superiors regularly gave her accolades in writing such as: “I just wanted to
25 say thank you for taking on so much work. We so appreciate it!!!” and referred to her as a “huge
26 asset.”

1 46. During her employment, JULIANO completed projects faster than SEE JANE could
2 generate work for her – a fact acknowledged by its Co-Founder in writing to her.

3 47. Despite JULIANO’s history of stellar performance, on July 17, 2020 – two days before
4 JULIANO was terminated – HELDMAN suddenly began to badger JULIANO for failing to complete
5 a project that was not yet due.

6 48. JULIANO’s supervisor informed HELDMAN that JULIANO had, in fact, completed
7 her assigned portion one day before the deadline and that any perceived delay was caused not by
8 JULIANO but by the supervisor.

9 49. HELDMAN responded by removing JULIANO from future projects and relegating her
10 to coding work, which is usually assigned to unpaid researchers that SEE JANE deems “interns.”

11 50. JULIANO accepted the assignment without complaint and told HELDMAN that she
12 was happy to perform the assigned the work.

13 51. Four hours later, HELDMAN summarily fired JULIANO via email, purportedly for
14 turning in a late assignment despite the fact that JULIANO had in fact submitted her work one day
15 before the deadline.

16 52. The pretextual reasons provided by Defendants for JULIANO’s termination are in stark
17 contrast to the accolades she received during her employment, including exemplary reviews from
18 HELDMAN herself.

19 53. After JULIANO was terminated, her supervisor again explained to HELDMAN that
20 JULIANO was not responsible for any delay in submitting the project and that the supervisor, herself,
21 took “full responsibility.” Nonetheless, JULIANO’s termination stood.

22 54. Before being terminated, JULIANO was never subject to any formal or informal
23 discipline.

24 55. On July 24, 2020 – five days after JULIANO’s termination – SEE JANE’s Vice
25 President KILPATRIC, without prompting, emailed JULIANO to notify her that her employment
26 status had been discussed among leadership.

27 56. KILPATRIC stated, by way of apparent reminder, that JULIANO was “under contract
28 as an independent contractor, not an employee.”

1 57. Twenty-three days after Ms. JULIANO's termination, SEE JANE continued to
2 misrepresent JULIANO's status to her. Via email dated August 11, 2020, KILPATRICK again
3 admonished JULIANO, "As we've mentioned previously you were never an employee so do not have
4 a personnel file and are not covered under state labor laws. You signed an independent contractor
5 agreement, which is different from an employee/employer relationship."

6
7 **FIRST CAUSE OF ACTION**
8 **MISCLASSIFICATION**

9 (Labor Code §§ 226.8, 558.1, 2753)
10 (Plaintiff Individually against all Defendants and DOES 1-10)

11 58. From April 9, 2016 to July 19, 2020, Plaintiff was an employee of Defendants, as
12 defined by California Labor Code §§ 350(b), 2750.3, and 3351.5(c).

13 59. From April 9, 2016 to July 19, 2020, Defendants purposefully misclassified Plaintiff as
14 an independent contractor because, by doing so, Defendants were able to shift the cost of doing
15 business to her by means of, but not limited to, the following: Defendants did not provide or pay for
16 State Disability Insurance for Plaintiff, Defendants did not provide or pay for Workers Compensation
17 Insurance for Plaintiff, Defendants did not report or pay the proper employer's share of federal or state
18 payroll taxes arising from Plaintiff's employment with Defendants, and Defendants did not provide or
19 pay for benefits that other employees received.

20 60. Pursuant to Labor Code § 558.1, HELDMAN and KILPATRIC as directors, officers or
21 managing agents of Defendants, and Does 1-10, are jointly and severally liable with Defendants and
22 Does 1-10 for the misclassification of workers that resulted in the violations described above and pled
23 in this first cause of action.

24 61. Pursuant to Labor Code § 2753, HELDMAN and KILPATRIC are jointly and severally
25 liable for knowingly advising an employer to treat an individual as an independent contractor to avoid
26 employee status for that individual.

27 62. As a direct and proximate result of the aforementioned violations of California law
28 committed by Defendants, Plaintiff has suffered and continues to suffer substantial losses related to the
loss of the employer's share of payroll taxes, the use and enjoyment of such employee benefits, and
expenses and attorneys' fees in seeking to compel Defendants to fully perform their obligation under

1 state law, and to her damage in amounts according to proof at time of trial, but in amounts in excess of
2 the minimum jurisdiction of this Court.

3 63. Defendants' failure to properly classify Plaintiff as a non-exempt employee, in
4 violation of California law, was knowing and intentional. Defendants refused to classify Plaintiff as a
5 non-exempt employee for false and fraudulent reasons. The decision to misclassify Plaintiff as an
6 independent contractor was made, maintained, ratified and/or enforced by Defendants' owners,
7 officers, directors, managing agents and was done willfully, maliciously, oppressively, and
8 fraudulently, with the wrongful and deliberate intention of injuring Plaintiff, and with a conscious
9 disregard of Plaintiff's rights and Defendants' obligations under California law, all of which has
10 deprived Plaintiff of the compensation for which she is entitled. Therefore, in addition to other types
11 of relief requested herein, Plaintiff is entitled to recover punitive damages and exemplary damages in
12 the amount of treble damages based on monies owed to Plaintiff for unpaid wages, penalties,
13 reimbursements, and other monies, in amounts according to proof at time of trial, but in amounts in
14 excess of the minimum jurisdiction of this Court.

15 WHEREFORE, Plaintiff prays for relief as set forth herein.

16 **SECOND CAUSE OF ACTION**
17 **RETALIATION**

18 (Lab. Code §§ 1102.5(b), 98.6))

19 (Plaintiff Individually against Defendants SEE JANE and DOES 1-10)

20 64. Pursuant to Labor Code section 1102.5, it is unlawful for an employer to retaliate
21 against an employee for disclosing a violation of a statute, rule, or regulation to a person with authority
22 over the employee or to another employee who has the authority to investigate, discover, or correct the
23 violation.

24 65. Pursuant to Labor Code section 98.6, it is unlawful for an employer to retaliate against
25 an employee because of the exercise by that employee of rights afforded her under the Labor Code.

26 66. JULIANO was engaged in the protected activity of questioning, complaining, and/or
27 raising concerns about her and her coworkers' misclassification as independent contractors.

28 67. SEE JANE subjected JULIANO to adverse employment action by humiliating her and
terminating her.

1 their obligations under state law, all to her damage in amounts according to proof at time of trial.

2 76. Plaintiff is thus entitled to recover the balance of unpaid wages and/or penalties owed,
3 interest, attorneys' fees, and costs of suit in amounts according to proof at time of trial.

4 WHEREFORE, Plaintiff prays for relief as set forth herein.

5
6 **FOURTH CAUSE OF ACTION**
FAILURE TO PROVIDE WAGE STATEMENTS AND MAINTAIN RECORDS

7 (Lab. Code §§ 226, 1174, 1198.5, 558.1; Wage Order 5-2001)

8 (Plaintiff Individually against all Defendants)

9 137. Pursuant to Labor Code § 226, an employer must furnish each employee with an
10 accurate itemized statement in writing showing: (1) gross wages earned, (2) total hours worked for all
11 non-exempt employees, (3) the number of piece-rate units earned and any applicable piece rates, (4)
12 all deductions made from the employee's paycheck, (5) net wages earned, (6) the inclusive dates of the
13 period for which the employee is paid, (7) the name of the employee and the last four digits of his or
14 her social security number, (8) the name and address of the legal entity of the employer, and (9) all
15 applicable hourly rates in effect during the pay period and the corresponding number of hours worked
at each hourly rate by the employee.

16 138. Throughout Plaintiff's employment, Plaintiff did not receive any wage statements at all
17 and as such did not receive wage statements that accurately reflected the total hours she worked, the
18 gross wages she earned, the deductions from her wages, or the net wages she earned as required by
19 Labor Code § 226(a)(1), (a)(2), (a)(4), and (a)(5), respectively.

20 139. Pursuant to Labor Code § 1174 employers must maintain employee records and
21 produce them to employees upon request and because of such failure was not able to provide such
22 records to Plaintiff upon her request.

23 140. Throughout Plaintiff's employment, SEE JANE did not maintain employee records as
24 required by Labor Code § 1174.

25 141. Pursuant to Labor Code § 558.1, HELDMAN and KILPATRIC as directors, officers or
26 managing agents of Defendants and Does 1-10, are jointly and severally liable with Defendants and
27 Does 1-10 for the wage statement and record maintenance violations pled in fourth cause of action.

28 142. Plaintiff is informed and believes and based thereon alleges that Defendants willfully

1 failed to provide Plaintiff with accurate itemized wage statements and maintain employee records each
2 and every pay period over the entire course of her employment.

3 143. Plaintiff is thus entitled to recover the greater of actual damages or statutory penalties
4 under Labor Code § 226(e), attorneys' fees, and costs of suit in amounts according to proof at time of
5 trial.

6 WHEREFORE, Plaintiff prays for relief as set forth herein

7 **FIFTH CAUSE OF ACTION**
8 **FAILURE TO PROVIDE REIMBURSEMENTS**
9 (Lab. Code §§ 558.1, 1198, 2802; Wage Order 5-2001)
(Plaintiff Individually against all Defendants)

10 156. Labor Code § 2802 requires employers to reimburse employees for all necessary
11 expenditures incurred by the employee in direct consequence of her duties or of her obedience to the
12 employer's directions.

13 157. JULIANO's work required her to analyze movies, television shows, video games, and
14 other content in order to collect data produce findings. Doing so required JULIANO to use her own
15 computers, tablets, and television sets for use in analyzing content.

16 158. SEE JANE required Plaintiff to obtain internet plans from which she could view stream
17 and analyze content.

18 159. SEE JANE required Plaintiff to work from her own office and she could not elect to
19 work at SEE JANE's offices.

20 160. SEE JANE required Plaintiff to obtain her own cellular phone and service plan for use
21 in her work obligations with SEE JANE.

22 161. SEE JANE required Plaintiff to obtain the content she was required to analyze without
23 contribution from SEE JANE thus requiring her to obtain subscription services in her own name and to
24 purchase and obtain access to content essential to her duties without reimbursement.

25 162. SEE JANE did not reimburse JULIANO for the costs of the devices, internet and
26 cellular phone plans, electricity, subscriptions, content purchases, or any other elements necessary to
27 perform her duties from her home office.

28 163. Pursuant to Labor Code § 558.1, HELDMAN and KILPATRIC as directors, officers or

managing agents of Defendants and Does 1-10, are jointly and severally liable with Defendants and Does for the failures to reimburse pled in this fifth cause of action.

164. Plaintiff is informed and believes and based thereon alleges that Defendants willfully failed to reimburse her for necessary expenditures.

165. Plaintiff is thus entitled to recover unreimbursed amounts, interest, the greater of actual damages or statutory penalties, attorneys' fees, and costs of suit in amounts according to proof at time of trial.

WHEREFORE, Plaintiff prays for relief as set forth herein.

SIXTH CAUSE OF ACTION
PRIVATE ATTORNEYS GENERAL ACT

(Lab. Code § 2698, *et seq.*)

(Plaintiff in her Representative Capacity against all Defendants)

156. Pursuant to Labor Code § 2699, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the LWDA may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Labor Code § 2699.3.

157. Plaintiff is aggrieved because she was employed by Defendants, and each of the alleged violations stated herein has been committed against her.

158. Plaintiff has exhausted her administrative remedies under Labor Code § 2699.3.

159. Plaintiff seeks to recover, on behalf of all current and former employees, all civil penalties pursuant to Labor Code § 2699(f) for which Defendants are liable as a result of Defendants' violations of Labor Code § 203, which requires employers to pay all wages earned by and unpaid to an employee immediately upon the employee's termination.

160. Plaintiff seeks to recover, on behalf of all current and former employees, all civil penalties pursuant to Labor Code § 210 for which Defendants are liable as a result of Defendants' violations of Labor Code § 204, which requires employers to pay all wages earned and unpaid on designated pay dates at least twice per month.

161. Plaintiff seeks to recover, on behalf of all current and former employees, all civil penalties pursuant to Labor Code § 226.3 for which Defendants are liable as a result of Defendants'

violations of Labor Code § 226, which requires employers to provide an accurate accounting of all hours worked, gross wages earned, and net wages earned.

162. Plaintiff seeks to recover, on behalf of all current and former employees, all civil penalties pursuant to Labor Code § 226.8(c) for which Defendants are liable as a result of Defendants' violations of Labor Code § 226.8(a), which prohibits employers from misclassifying employees as independent contractors.

163. Plaintiff seeks to recover, on behalf of all current and former employees, all civil penalties pursuant to Labor Code § 558 for which Defendants HELDMAN and KILPATRICK are liable as a result of Defendants' violations of Labor Code § 203, 204, 226, 226.8.

164. Plaintiff seeks to recover, on behalf of all current and former employees, all civil penalties pursuant to Labor Code § 1174.5 for which Defendants are liable as a result of Defendants' violations of Labor Code § 1174, which requires employers to maintain accurate and complete records.

165. Plaintiff seeks to recover, on behalf of all current and former employees, all civil penalties pursuant to Labor Code § 2699(f) for which Defendants are liable as a result of Defendants' violations of Labor Code § 2802, which requires employers to reimburse employees for all expenditures or losses incurred in direct consequence of the discharge of the employee's duties.

166. Plaintiff seeks civil penalties in amounts to be demonstrated at the time of trial.

167. For bringing this action against Defendants on behalf of all current and former similarly aggrieved employees, Plaintiff is entitled to attorneys' fees and costs of suit in amounts to be determined by the Court.

WHEREFORE, Plaintiff prays for relief as set forth herein.

SEVENTH CAUSE OF ACTION

UNFAIR COMPETITION

(Bus. & Prof. Code § 17200)

(Plaintiff Individually against all Defendants)

168. Pursuant to California's Unfair Competition Law (Bus. & Prof. Code § 17000, *et seq.*), it is unlawful for an entity to engage in unlawful, unfair, or fraudulent business activities.

169. Business and Professions Code § 17200 prohibits employers from engaging any unlawful, unfair or fraudulent business act or practice.

170. Defendants' policy and practice of retaliating against employees violates Labor Code 98.6 and 1102.5 and therefore constitutes an unlawful business act or practice within the meaning of Business and Professions Code § 17200.

171. Defendants' policy and practice of misclassifying employees, failing to make timely payments on regular paydays, failing to provide complete and accurate statements or maintain records, failure to reimburse expenses, and retaliation against employees violates Labor Code sections 98.6, 201(a), 204, 207, 226(a), 226.8(a), 1102.5, 1174, 1198.5, and 2802 and therefore constitutes an unlawful business act or practice within the meaning of Business and Professions Code § 17200.

172. The unlawful conduct described herein is continuing and will continue until Defendants are ordered to cease such activity.

173. Plaintiff is entitled to equitable and injunctive relief, including full restitution and/or disgorgement of all moneys which have been unlawfully unpaid, withheld, or converted from Plaintiff as a result of the acts and practices described herein and enjoining Defendants from engaging in the unlawful conduct described herein in the future.

WHEREFORE, Plaintiff prays for relief as set forth herein.

PRAYER

WHEREFORE, Plaintiff prays that judgment be entered against Defendants and each of them as follows:

1. For actual and liquidated damages in amounts according to proof or as otherwise required by statute;
2. For statutory fines, penalties, and interest as provided by law, including those pursuant to the Labor Code and Orders of the Industrial Welfare Commission;
3. For civil penalties pursuant to Labor Code section 2698, *et seq.*;

1 4. For reasonable attorneys' fees pursuant to Labor Code sections 218.5, 1194, 2699, and
2 Code of Civil Procedure section 1021.5;

3 5. For costs of suit incurred herein pursuant to Labor Code sections 1194 and 2699, and
4 Code of Civil Procedure section 1032;

5 6. For restitutionary relief as provided by the Labor Code and Business and Professions
6 Code section 17200, *et seq.*;

7 7. For an order requiring Defendants to comply with California laws requiring that
8 employees be compensated for all hours worked, that they be given, or otherwise compensated for,
9 mandated meal and rest periods, and that they be reimbursed for all expenses incurred in the
10 performance of their duties;

11 8. For injunctive relief enjoining Defendants from engaging in unfair business practices
12 including retaliating against employees, misclassifying employees, failing to pay wages in the manner
13 prescribed by the code, failing to keep records, and failing to reimburse employees for necessary
14 expenditures.

15 9. For such other and further relief as the Court deems fair and just.

16 Dated: November 12, 2021

SEIBERT • BAUTISTA • MONTOYA

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18 _____
Nina Montoya
Attorneys for Plaintiff

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20 **JURY TRIAL DEMANDED**

21 Plaintiff hereby demands a jury trial as to all issues to which she is entitled.

22
23 Dated: November 12, 2021

SEIBERT • BAUTISTA • MONTOYA

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25 _____
Nina Montoya
Attorneys for Plaintiff