

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Christopher Lui

AARON N. COLBY (State Bar No. 247339)
aaron@colbylegal.com
COLBY LAW FIRM, PC
13263 Ventura Boulevard, Suite 203
Studio City, California 91604
Telephone: (818) 253-1599
Fax: (818) 475-1981

Attorneys for Plaintiff
MELANIE ROBLES

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MELANIE ROBLES, an individual,

Plaintiff,

vs.

WORLD TECH TOYS, INC., a corporation;
KEVORK KOUYOUMJIAN, an individual;
and DOES 1 through 10 inclusive,

Defendant.

Case No. 21STCV20500

PLAINTIFF'S COMPLAINT FOR:

1. HARASSMENT (GOV'T CODE § 12940(J))
2. WRONGFUL TERMINATION (TORT)
3. RETALIATION (GOV'T CODE § 12940(H))
4. FAILURE TO PREVENT HARASSMENT (GOV'T CODE § 12940(K))
5. RETALIATION (LABOR CODE § 1102.5)
6. RETALIATION (LABOR CODE § 6310)
7. MINIMUM WAGE (LABOR CODE §§ 1182.12(B), 1194, 1194.2, 1197, 1197.1)
8. OVERTIME (LABOR CODE §§ 510, 1194, 1198, 1199)
9. MEAL BREAKS (LABOR CODE §§ 226.7, 512)
10. REST BREAKS (LABOR CODE § 226.7)
11. INACCURATE WAGE STATEMENTS (LABOR CODE § 226(A))
12. TIMELY PAYMENT OF FINAL WAGES (LABOR CODE §§ 201-203)
13. FAILURE TO PROVIDE PERSONNEL FILE (LABOR CODE § 1198.5)
14. PRIVATE ATTORNEY GENERAL ACT *REPRESENTATIVE ACTION* (LABOR CODE § 2698, *ET SEQ.*)

Judicial Assignment: _____

Unlimited Civil Case (amount exceeds \$25,000)

JURY TRIAL DEMANDED

1 Plaintiff Melanie Robles (“Plaintiff”) alleges as follows on knowledge as to her own
2 acts/interactions, and on information and belief as to all other matters:

3 **PARTIES | JURISDICTION | VENUE**

4 1. **Plaintiff.** Plaintiff, a Hispanic woman, at all times relevant herein, was and is a
5 resident of the State of California. From on or about November 17 through November 30, 2020,
6 Plaintiff worked as an employee for Defendant at 28904 Avenue Paine, Valencia, California
7 91355 (the “worksite”).

8 2. **Defendant World Tech Toys.** World Tech Toys, Inc. (“Defendant World Tech
9 Toys”) is a corporation organized and existing under the laws of California, with its principal
10 place of business located at the worksite. Defendant World Tech Toys is in the business of
11 manufacturing remote control toys, selling through retailers like Amazon, Target, and Walmart.
12 Defendant operates a warehouse where it employs workers at the worksite.

13 3. **Defendant Kouyoumjian.** Defendant Kevork Kouyoumjian is the owner,
14 operator, and CEO of Defendant World Tech Toys, ultimately controlling all aspects (“Defendant
15 Kouyoumjian”). Defendant Kouyoumjian maintains a social media account at
16 <https://www.instagram.com/kevking23> where it states he is “CEO of World Tech Toys, Inc.”
17 Defendant Kouyoumjian is a resident of the State of California, County of Los Angeles. (Unless
18 referred to separately, Defendant World Tech Toys and Defendant Kouyoumjian are together
19 referred to as “Defendant” or “Defendant Employers”).

20 4. **Doe Defendants.** The true names and capacities of the defendants named herein
21 as Does 1 through 10, inclusive, whether individual, corporate, associate or otherwise, are
22 unknown to Plaintiff who therefore sues such defendants by fictitious names pursuant to
23 California Code of Civil Procedure § 474. Plaintiff believes that all of the Doe defendants are
24 California residents. Plaintiff will amend this Complaint to show such true names and capacities
25 when they have been determined.

26 5. Plaintiff believes that at all times relevant herein, each defendant designated,
27 including Does 1 through 10, was the agent, managing agent, principal, owner, partner, joint
28 venturer, representative, manager, servant, employee, and/or co-conspirator of each of the other

1 defendants, and was at all times mentioned herein acting within the course and scope of said
2 agency and employment, and that all acts or omissions alleged herein were duly committed with
3 the ratification, knowledge, permission, encouragement, authorization, and consent of each
4 defendant designated herein.

5 6. This Court has personal jurisdiction over Defendant because it conducts business
6 and/or resides in the State of California.

7 7. Under California Code of Civil Procedure § 395(a), the venue is proper in this
8 County because Defendant resides in Los Angeles County and/or injuries alleged herein occurred
9 in this county.

10 **ALTER EGO, AGENCY, JOINT EMPLOYER AND SUCCESSOR**

11 8. Plaintiff believes that Defendant World Tech Toys and Defendant Kouyoumjian
12 were both Plaintiff's joint employer and are liable under the joint employer and single enterprise
13 theories. *See Laird v. Capital Cities*, 68 Cal. App. 4th 727, 737-38 (1998) (four factors to prove
14 single enterprise are "interrelation of operations, common management, centralized control of
15 labor relations, and common ownership or financial control. ... Although courts consider the four
16 factors together, they often deem centralized control of labor relations the most important."); *see*
17 *also Vernon v. State of California*, 116 Cal. App. 4th 114, 128 (2004) (separate entities can also
18 be deemed a "joint employer" by having the right to control the employment relationship, as
19 evaluated by focusing on "an examination of defendant's role with respect to the right to hire, fire,
20 transfer, promote, discipline, set the terms, conditions and privileges of employment, train and
21 pay the plaintiff.").

22 9. Defendant, and each of them, acted in concert with one another to commit the
23 wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in
24 the wrongful acts alleged herein, and/or attempted to do so, including pursuant to
25 Government Code §12940(i). Defendant, and each of them, formed and executed a conspiracy
26 or common plan pursuant to which they would commit the unlawful acts alleged herein, with
27 all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause
28 and actually causing Plaintiff harm.

10. There exists such a unity of interest and ownership between Defendant Employers that the individuality and separateness of Defendant Employers have ceased to exist. At all times relevant hereto, Defendant Employers, and each of them, were the agents, employees, managing agents, supervisors, coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the other Defendant Employers, and each of them, and in doing the things alleged herein, were acting at least in part within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status, successor status and/or joint venture and with the permission and consent of each of the other Defendant Employers. 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.

11. Despite the formation of purported corporate existence, Defendant Employers are, in reality, one and the same, including, but not limited to because: (a) Defendant Employers are completely dominated and controlled by one another, who personally committed the frauds and violated the laws as set forth in this complaint, and who have hidden and currently hide behind Defendant Employers to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or inequitable purpose; (b) Defendant Employers 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; (c) Defendant Employers, while really one and the same, were segregated to appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or accomplishing some other wrongful or inequitable purpose; (d) Defendant Employers does not comply with all requisite corporate formalities to maintain a legal and separate corporate existence; (e) the business affairs of Defendant Employers are, and at all times relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in inextricable confusion. Defendant Employers are, and at all times relevant hereto were, used by one another as a mere shell and conduit for the conduct of certain of Defendant Employers' affairs, and are, and were, the alter ego of one another. The recognition of the separate existence of each of the Defendant Employers would not promote

1 justice, in that it would permit Defendant Employers to insulate themselves from liability to
2 Plaintiff for violations of the law. The corporate existence of Defendant Employers should each
3 be disregarded in equity and for the ends of justice because such disregard is necessary to avoid
4 fraud and injustice to Plaintiff herein. Accordingly, Defendant Employers constitute the alter ego
5 of one another, and the fiction of their separate corporate existence must be disregarded.

6 12. At all times relevant herein, Defendant Employers were Plaintiff's employers, joint
7 employers and/or special employers within the meaning of Government Code §§12926 (d),
8 12940, (a),(h),(1), (h)(3)(A), (i), and, 12950, and regularly employ five (5) or more persons and
9 are therefore subject to the jurisdiction of this Court. At all times relevant herein, Defendant
10 Employers were Plaintiff's employers, joint employers and/or special employers within the
11 meaning of the Labor Code and the applicable Industrial Welfare Commission Order, and are
12 each an "employer or other person acting on behalf of an employer" as such term is used in Labor
13 Code §§ 558 and/or 558.1, and liable to Plaintiff on that basis. Defendant Employers are
14 Plaintiff's joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of
15 Defendant Employers. Plaintiff performed services for each and every one of Defendant
16 Employers, and to the mutual benefit of all Defendant Employers, and all Defendant Employers
17 shared control of Plaintiff as an employee, either directly or indirectly, and the manner in
18 which Defendant Employers' business was and is conducted. *See Laird v. Capital Cities*, 68 Cal.
19 App. 4th 727, 737-38 (1998) (four factors to prove single enterprise are "interrelation of
20 operations, common management, centralized control of labor relations, and common ownership
21 or financial control. ... Although courts consider the four factors together, they often deem
22 centralized control of labor relations the most important."); *see also Vernon v. State of California*,
23 116 Cal. App. 4th 114, 128 (2004) (separate entities can also be deemed a "joint employer" by
24 having the right to control the employment relationship, as evaluated by focusing on "an
25 examination of defendant's role with respect to the right to hire, fire, transfer, promote, discipline,
26 set the terms, conditions and privileges of employment, train and pay the plaintiff.").

27 13. Labor Code § 558.1 provides that an employer or "other person acting on behalf of
28 an employer" who violates certain California wage and hour laws "may be held liable as the

1 employer for such violation.” Labor Code § 558.1 defines “other person acting on behalf of an
2 employer” as a “natural person who is an owner, director, officer, or managing agent” of the
3 employer. Labor Code § 558.1(b). *See* Labor Code § 558(a) (authorizing civil penalties against
4 “any employer or other person acting on behalf of an employer” who causes overtime pay
5 violations to occur.”); *see Atempa v. Pedrazzani*, 27 Cal.App.5th 809, 823-824 (2018); Labor
6 Code § 1197.1 (“Any employer or other person acting either individually or as an officer, agent,
7 or employee of another person” for failure to pay minimum wages.”); *see Reynolds v. Bement*, 36
8 Cal.4th 1075, 1089 (2005) (“aggrieved employees may ... maintain civil actions to recover such
9 penalties”); *see Reynolds v. Bement*, 36 Cal.4th 1075, 1089, fn. 10 (2005) (alter ego doctrine may
10 be used in wage claim actions to impose liability on controlling directors and shareholders); *see*
11 Government Code § 12925(d) (defining “Person” as one *or more* individuals, partnerships,
12 associations, corporations, limited liability companies, legal representatives, trustees, trustees in
13 bankruptcy, and receivers or other fiduciaries)

14 14. Alternatively, as and between Doe Defendants, Defendant Employers, or any of
15 them, (1) there is an express or implied agreement of assumption pursuant to which
16 Defendant Employers and/or Doe Defendants agreed to be liable for the debts of the other
17 Defendant Employers, (2) the transaction between Employer and/or Doe Defendants and/or the
18 other Defendant Employers amounts to a consolidation or merger of the two corporations, (3)
19 Defendant Employers and/or Doe Defendants are a mere continuation of the other Defendant
20 Employers, or (4) the transfer of assets to Defendant Employers and/or Doe Defendants is for
21 the fraudulent purpose of escaping liability for Defendant Employers’ debts. Accordingly,
22 Defendant Employers and/or Doe Defendants are the successors of one or more of the other
23 Defendant Employers, and are liable on that basis.

24 **EXHAUSTION OF ADMINISTRATIVE PROCEEDINGS**

25 15. **DFEH.** Plaintiff exhausted Plaintiff’s administrative remedies by timely filing a
26 complaint for the issues required to be raised herein against Defendant with the California
27 Department of Fair Employment & Housing (“DFEH”) and thereafter received a “Right to Sue”
28

1 letter from the DFEH, which allowed Plaintiff one year from February 21, 2021, to file this
2 action. Exhibit A (Case No. 202102-12672521).

3 16. **LWDA.** On or about February 19, 2021, counsel for Plaintiff prepared and
4 electronically submitted a letter to the California Labor & Workforce Development Agency
5 (“LWDA”) via the California Department of Industrial Relations’ “PAGA Filing” website.
6 Exhibit B (Case No. LWDA-CM-822283-21). A copy of the letter was mailed to Defendant, also
7 via USPS Certified Mail. The letter contained the specific provisions of the California Labor
8 Code violated by Defendant, as well as the facts and theories in support of Plaintiff’s claims.
9 Now that sixty-five (65) days have passed since Plaintiff notified Defendants of these violations,
10 the statutory time period for the LWDA to investigate and/or respond, and for the employer to
11 respond, has concluded. Plaintiff has exhausted the administrative requirements for bringing a
12 claim under the PAGA for these violations.

13 **PLAINTIFF’S FACTUAL ALLEGATIONS**

14 17. **Plaintiff’s Hire.** On or about November 17, 2020, Defendant hired Plaintiff
15 Melanie Robles as an employee in the job position of Associate to work at the worksite.
16 Throughout Plaintiff’s employment, Plaintiff was an exemplary employee, never receiving any
17 written counseling or discipline for performance, conduct, or any other reason, until her wrongful
18 termination on November 30, 2020.

19 18. **Job Duties.** Throughout Plaintiff’s employment, Plaintiff’s job duties included
20 packaging product, packing the product in boxes, affixing shipping labels to the packed boxes,
21 stacking the packed boxes for shipping, and lifting and carrying heavy items.

22 19. **Hourly Pay.** Throughout Plaintiff’s employment, Defendant classified Plaintiff as
23 a “non-exempt” employee and paid Plaintiff \$15 per hour.

24 20. **Work Schedule.** Throughout Plaintiff’s employment, Defendant required Plaintiff
25 to work six (6) days a week, and that Plaintiff’s workday started on or about 8:00 am and
26 Plaintiff’s workday ended when Defendant dismissed Plaintiff for the day, typically after Plaintiff
27 performed more than 12 hours of work in the day.
28

1 **PLAINTIFF'S WHISTLEBLOWING AND WRONGFUL TERMINATION**

2 21. **Worksite Safety COVID-19 Complaints.** Throughout Plaintiff's employment,
3 Plaintiff witnessed and complained to Defendant about safety violations at the worksite, including
4 relating to COVID-19. While employed, Plaintiff witnessed and complained to at least one of
5 Defendant supervisors about the lack of practices, policies, protocols, and trainings about, and
6 legal violations relating to: lack of social distancing at work, lack of sanitization of the worksite,
7 and lack of face coverings at work. While employed, Plaintiff witnessed and complained about
8 Defendant's owner and CEO, Defendant Kevork Kouyoumjian, not wearing a face covering while
9 at the worksite in the presence of employees.

10 22. **Wage-And-Hour Complaints.** Throughout Plaintiff's employment, Plaintiff
11 witnessed and complained to Defendant about violations of the California Labor Code at the
12 worksite. While employed, Plaintiff witnessed and complained to at least one of Defendant's
13 supervisors about the off-the-clock work alleged herein, the meal and rest break failures alleged
14 herein, and the failure to provide toilet rooms, changing rooms, and seating as alleged herein.
15 While employed, Plaintiff told one of Plaintiff's supervisors, Shira (last name unknown), that
16 Plaintiff was having trouble clocking in and out of work, including for meal breaks, and that
17 Plaintiff wanted to know why she did not get an opportunity to take a second meal break.

18 23. **Harassment Complaints.** Throughout Plaintiff's employment, Plaintiff witnessed
19 and complained to Defendant about hostile work environment harassment. While employed,
20 Plaintiff witnessed and complained to at least one of Defendant's supervisors about cursing at the
21 worksite in the presence of and towards Plaintiff and other employees, from Defendant's
22 supervisors, including Defendant's owner and CEO, Defendant Kouyoumjian. While employed,
23 Plaintiff witnessed and complained to Defendant's supervisors about music with explicit,
24 offensive, and racially and sexually charged lyrics played loudly at the worksite.

25 24. **Wrongful/Retaliatory Termination.** On or about November 30, 2020, one of
26 Plaintiff's supervisors, Shina (last name unknown), informed Plaintiff that Defendant had
27 terminated Plaintiff's employment because Defendant believed that Plaintiff "was not a good fit."
28 In truth, a substantial motivating reason for Defendant's decision to terminate Plaintiff's

1 employment was Plaintiff's protected complaints to Defendant as alleged herein. Plaintiff
2 believes that the true reason Plaintiff was terminated was due to Plaintiff's protected conduct.

3 **VIOLATIONS OF THE CALIFORNIA LABOR CODE AND WAGE ORDERS**

4 25. **Off-The-Clock Work.** Throughout Plaintiff's employment, Plaintiff worked no
5 less than approximately 30 minutes per day off-the-clock, without pay. This off-the-clock work
6 included, among other things according to proof: (a) working during unpaid meal breaks; (b) not
7 being paid during paid rest breaks; (c) illegally "rounding" employee time at the beginning or end
8 of the shift or meal breaks; (d) pre- and post-shift work completing tasks like clean-ups; (e) going
9 through pre- and post-shift checks; and (f) putting on and removing work equipment before and
10 after shifts (donning and doffing).

11 26. **Meal Break Violations.** Throughout Plaintiff's employment Defendant failed to
12 provide Plaintiff with first or second timely, uninterrupted 30-minute meal break as required by
13 law, according to proof. For instance, among other things according to proof:

- 14 • Plaintiff did not get meal breaks at all.
- 15 • Plaintiff was forced to work throughout Plaintiff's meal breaks.
- 16 • Plaintiff was forced to accept deliveries and answer work-related inquiries
17 throughout Plaintiff's meal breaks.
- 18 • Plaintiff was "on-call" during meal breaks.
- 19 • Defendant automatically deducted unpaid meal break time from Plaintiff's time
20 worked even though Plaintiff performed work during such time.
- 21 • Defendant rounded Plaintiff's clock in and out times for the start and end of meal
22 breaks.
- 23 • Plaintiff's meal breaks were not timely.
- 24 • Plaintiff's meal breaks were interrupted.
- 25 • Plaintiff's meal breaks were less than the full 30 minutes.
- 26 • Defendant required Plaintiff to remain on premises at the worksite during meal
27 breaks.
- 28

1 27. Defendant's company-wide understaffing arising from labor budget policies and
2 subsequent failure to provide adequate break coverage prevented Plaintiff from taking compliant
3 meal breaks. As a result of these practices and/or policies, Plaintiff was "on-call" and required to
4 continue to perform duties without being able to take a timely, compliant meal break. Thus,
5 Plaintiff had to work through part or all of Plaintiff's meal breaks, had meal breaks interrupted,
6 and/or wait extended breaks of time before taking meal breaks.

7 28. Defendant maintained a facially non-compliant meal break policy that did not
8 provide Plaintiff with first or second timely, uninterrupted 30-minute meal break as required by
9 law. Plaintiff worked more than six (6) hours without being relieved of Plaintiff's duties to take a
10 meal break. Defendant regularly required Plaintiff to continue working and failed to provide meal
11 break coverage for her, thereby preventing Plaintiff from taking timely, uninterrupted meal breaks
12 to which Plaintiff was entitled. Defendant did not provide Plaintiff with second 30-minute meal
13 breaks on days that she worked in excess of 10 hours.

14 29. Defendant required Plaintiff to always record meal breaks, even when meal breaks
15 were never taken, or were late, short, and/or interrupted. As a result, 30-minute meal breaks were
16 deducted from Plaintiff's time records for hours Plaintiff actually spent working. This is a form
17 of off-the-clock work that Plaintiff performed.

18 30. Defendant has engaged in a company-wide practice and/or policy to not pay meal
19 break premiums owed when compliant meal breaks are not provided. If and when Defendant did
20 attempt to pay meal break premiums owed when compliant meal breaks were not provided,
21 Defendant paid at less than the legally required rate of pay. Defendant, therefore, failed to
22 provide Plaintiff compliant meal breaks and failed to pay the full meal break premiums due.

23 31. **Rest Break Violations.** Throughout Plaintiff's employment, Defendant failed to
24 authorize and permit Plaintiff to take a 10-minute rest break per each four (4) hour period worked
25 or a major fraction thereof, according to proof. For instance, among other things according to
26 proof:

- 27 • Plaintiff did not get rest breaks at all.
- 28 • Plaintiff was forced to work throughout Plaintiff's rest breaks.

- Plaintiff was forced to accept deliveries and answer work-related inquiries throughout Plaintiff's rest breaks.
- Plaintiff was "on-call" during rest breaks.
- Defendant did not pay Plaintiff for what should have been paid rest breaks; instead, Plaintiff's rest breaks were unpaid.
- Plaintiff's rest breaks were not timely.
- Plaintiff's rest breaks were interrupted.
- Plaintiff's rest breaks were less than the full 10 minutes.
- Defendant required Plaintiff to remain on premises at the worksite during rest breaks.

32. Defendant's labor budget policies and resultant understaffing prevented Plaintiff from being relieved of all duties to take compliant rest breaks. Defendant had no policy of scheduling rest breaks for employees, which further impeded and prevented Plaintiff from taking rest breaks. As a result of Defendant's understaffing and failure to schedule rest breaks, Plaintiff worked shifts in excess of 3.5 hours, in excess of six (6) hours, and in excess of 10 hours without receiving all uninterrupted 10-minute rest breaks to which Plaintiff was entitled.

33. Defendant maintained a facially non-compliant rest break policy that did not permit and authorize employees to take a second rest break for shifts from six (6) to 10 hours in length. To the extent there is a policy, Defendant's written rest break policy only authorizes employees to take a 10-minute rest break for every four (4) hours worked. As such, Defendant's written rest break policy does not permit and authorize Plaintiff to take second and third rest breaks for shifts six (6) to 10 hours in length or shifts 10 to 14 hours in length, respectively. Defendant's non-compliant rest break policy impeded and prevented Plaintiff from taking rest breaks. Plaintiff regularly worked shifts in excess of six (6) hours and did not receive the two (2) uninterrupted rest breaks. Plaintiff's rest breaks were regularly interrupted by work demands due to the lack of break coverage.

34. Defendant has engaged in a company-wide practice and/or policy to not pay rest break premiums owed when compliant rest breaks are not provided. If and when Defendant did

1 attempt to pay rest break premiums owed when compliant rest breaks were not provided,
2 Defendant paid at less than the legally required rate of pay. Defendant, therefore, failed to
3 provide Plaintiff compliant rest breaks and failed to pay the full rest break premiums due.

4 **35. Toilets Not Provided.** Throughout Plaintiff's employment, Defendant failed to
5 provide Plaintiff with toilet rooms during work hours in an area separate from suitable resting
6 facilities. Throughout Plaintiff's employment, Defendant expressly prohibited Plaintiff and other
7 non-exempt warehouse employees from using legally compliant toilet rooms at the worksite.
8 Defendant posted signs about this prohibition at the worksite. Plaintiff witnessed a co-worker
9 who verbally attacked as a result of mistakenly entering a toilet room that was prohibited.

10 **36. Changing Rooms Not Provided.** Throughout Plaintiff's employment, Defendant
11 failed to provide Plaintiff with suitable lockers, closets, or equivalent for the safekeeping of
12 Plaintiff's outer clothing during working hours, and for Plaintiff's work clothing during non-
13 working hours. Plaintiff had her personal belongings stolen from her while working for
14 Defendant at the worksite.

15 **37. Seating Not Provided.** Throughout Plaintiff's employment, Defendant failed to
16 provide Plaintiff with a suitable seat when the nature of the work reasonably permitted the use of
17 a seat. Throughout Plaintiff's employment, Defendant failed to provide Plaintiff when not
18 engaged in the active duties of Plaintiff's employment and the nature of the work requires
19 standing, an adequate number of suitable seats in a reasonable proximity to the work area to
20 permit Plaintiff to use such seats when it did not interfere with the performance of Plaintiff's
21 duties.

22 **38. Final Pay.** Defendant failed to pay Plaintiff all wages owed to Plaintiff
23 immediately upon Plaintiff's termination of employment, including earned and unpaid wages,
24 such as: (a) minimum wages; (b) overtime wages; (c) meal and rest period premium wages; and
25 (d) all wages owed for the final day of work, as alleged herein.

26 **39. Wage Statements.** Throughout Plaintiff's employment, Defendant knowingly and
27 intentionally provided Plaintiff with uniform, incomplete, and inaccurate wage statements because
28 the wage statements provided to Plaintiff failed to list the: (a) accurate totals of the hours worked;

(b) number of hours worked at each hourly rate; (c) net wages earned; and (d) gross wages earned. Defendant knowingly and intentionally provided Plaintiff with a uniform, incomplete, and inaccurate *final* wage statement because the final wage statement failed to list anything at all for the: (a) number of hours worked at each hourly rate; (b) last four digits of Plaintiff's social security number or an employee identification number other than a social security number; and (c) address of the legal entity that is the employer.

FIRST CAUSE OF ACTION

**HARASSMENT AND HOSTILE WORK ENVIRONMENT
IN VIOLATION OF CALIFORNIA GOV'T CODE SECTION 12490(j)
(AGAINST ALL DEFENDANTS)**

40. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

41. At all times mentioned herein, California Government Code § 12940 *et seq.*, was in full force and effect and was binding on Defendant, as it regularly employs five (5) or more persons.

42. California Government Code § 12940(j)(1) makes it unlawful for "an employer . . . or any other person, because of race, religious creed, color, national origin, ancestry . . . to harass an employee."

43. California Government Code § 12940(j)(3) provides for individual liability on the part of the supervisor for such harassment: "An employee of an entity subject to this subdivision is personally liable for any harassment prohibited by this section that is perpetrated by the employee, regardless of whether the employer or covered entity knows or should have known of the conduct and fails to take immediate and appropriate corrective action."

44. California law also provides for strict liability on the part of the employer for such harassment by a supervisor. *See Myers v. Trendwest Resorts, Inc.*, 148 Cal. App. 4th 1403, 1419 (2007).

45. The operative regulations promulgated by California's Department of Fair Employment and Housing, specifically defines "harassment" to include "(A) Verbal harassment,

1 e.g., epithets, derogatory comments or slurs on a basis enumerated in the Act.” Cal. Code of
2 Regs., tit. 2, § 11019(b).

3 46. California Government Code § 12940(j)(3) provides for individual liability on the
4 part of the harassing employee for such harassment: “An employee of an entity subject to this
5 subdivision is personally liable for any harassment prohibited by this section that is perpetrated by
6 the employee, regardless of whether the employer or covered entity knows or should have known
7 of the conduct and fails to take immediate and appropriate corrective action.”

8 47. As alleged herein, Plaintiff was subject to harassment based on Plaintiff’s race and
9 gender and subject to a hostile work environment.

10 48. As a proximate result of the aforesaid acts, Plaintiff has lost, and will continue to
11 lose, substantial earnings, promotional opportunities, fringe benefits and has suffered and/or will
12 suffer other actual, consequential and incidental financial losses, in an amount to be proven at trial
13 in excess of the jurisdictional minimum of this court.

14 49. As a proximate result of the aforesaid acts, Plaintiff has become mentally upset,
15 distressed, embarrassed, humiliated, and aggravated in a sum in excess of the jurisdictional
16 minimum of this court.

17 50. The actions alleged herein were taken by managing agents and/or officers of
18 Defendants and/or ratified by managing agents and/or officers of Defendants, including but not
19 limited to Defendant Kouyoumjian and Shira (last name unknown). In so doing, said managing
20 agents and/or officers of Defendants acted with oppression, fraud and malice, as those terms are
21 used in California Civil Code § 3294. As such, Plaintiff is entitled to an award of punitive
22 damages.

23 51. As a proximate result of the wrongful acts of Defendants, Plaintiff has been forced
24 to hire attorneys to prosecute his claims herein, and has incurred and is expected to continue to
25 incur attorneys’ fees and costs in connection therewith. Plaintiff is entitled to recover attorneys’
26 fees and costs under California Government Code § 12965(b).

WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY
(AGAINST ALL DEFENDANTS)

53. The elements of a claim for wrongful discharge in violation of public policy are (1) employer-employee relationship, (2) the employer terminated the plaintiff's employment, (3) termination was substantially motivated by a violation of public policy, and (4) the discharge caused the plaintiff harm. *See Tameny v. Atlantic Richfield Co.*, 27 Cal.3d 167 (1980); *see Yau v. [redacted]*, 229 Cal.App.4th 144, 154 (2014).

55. The actions of Defendant as alleged herein constitute multiple and independent violations (or were reasonably believed by Plaintiff in good faith to constitute multiple and independent violations) of California statutes and public policy, including:

- California Government Code § 12940(h) (It is unlawful employment practice “[f]or an employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part”).
- California Government Code § 12940(j) (it is unlawful for “an employer . . . or any other person, because of race, religious creed, color, national origin, ancestry . . . to harass an employee.”).
- California Labor Code § 1102.5(b) (“An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, . . . to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance . . . if the employee has reasonable cause to believe that the

1 information discloses a violation of state or federal statute, or a violation of or
2 noncompliance with a local, state, or federal rule or regulation, regardless of
3 whether disclosing the information is part of the employee's job duties."").

- 4 • California Labor Code § 6310 ("No person shall discharge or in any manner
5 discriminate against any employee because the employee has done any of the
6 following: (1) Made any oral or written complaint to...his or her employer, or his
7 or her representative...Any employee who is discharged, threatened with
8 discharge, demoted, suspended, or in any other manner discriminated against in the
9 terms and conditions of employment by his or her employer because the employee
10 has made a bona fide oral or written complaint to...his or her employer, or his or
11 her representative, of unsafe working conditions, or work practices, in his or her
12 employment or place of employment...shall be entitled to...reimbursement for lost
13 wages and work benefits caused by the acts of the employer."); and/or
- 14 • California Wage Order 1-2001, Section 13 (Requiring an employer to provide its
15 employees with suitable lockers, closets, or equivalent for the safekeeping of
16 employees' outer clothing during working hours; provide change rooms or
17 equivalent space in order that employees may change their clothing in reasonable
18 privacy and comfort and separate from toilet rooms and kept clean and for their
19 work clothing during non-working hours; and, provide suitable resting facilities in
20 an area separate from the toilet rooms available to employees during working
21 hours).

22 56. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff was
23 harmed, and the termination of employment was a substantial factor in causing Plaintiff's harm.

24 57. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff has
25 lost, and will continue to lose, substantial earnings and fringe benefits and has suffered and/or will
26 suffer other actual, consequential and incidental financial losses, in an amount to be proven at trial
27 in excess of the jurisdictional minimum of this Court.
28

58. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff was and is mentally upset, severely distressed (physically and mentally), embarrassed, humiliated and aggravated. As a result of the acts of Defendant, Plaintiff suffered harm to their reputation and claims general damages for such mental and physical distress and aggravation in a sum in excess of the jurisdictional minimum of this Court.

59. The actions alleged herein were taken by managing agents and/or officers of Defendant and/or ratified by managing agents and/or officers of Defendant, including but not limited to Defendant Kouyoumjian and Shira (last name unknown). In so doing, said managing agents and/or officers of Defendant acted with oppression, fraud and malice, as those terms are used in California Civil Code § 3294. As such, Plaintiff is entitled to an award of punitive damages.

THIRD CAUSE OF ACTION

RETALIATION FOR HARASSMENT AND/OR DISCRIMINATION

COMPLAINTS IN VIOLATION OF GOV'T CODE § 12940(h)

(AGAINST ALL DEFENDANTS)

60. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

61. At all times mentioned herein, California Government Code § 12940 *et seq.*, was in full force and effect and was binding on Defendant, as it regularly employs five (5) or more persons.

62. California Government Code § 12940(h) makes it unlawful for an “employer ... to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.”

63. During Plaintiff's employment with Defendant, Plaintiff protected activities and conduct included protected conduct as alleged herein.

64. Defendant took adverse actions against Plaintiff alleged herein, at least in substantial part, in retaliation for Plaintiff's protected activities set forth herein.

65. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff has lost, and will continue to lose, substantial earnings and fringe benefits and has suffered and/or will suffer other actual, consequential and incidental financial losses, in an amount to be proven at trial in excess of the jurisdictional minimum of this Court.

66. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff was and is mentally upset, severely distressed (physically and mentally), embarrassed, humiliated and aggravated. As a result of the acts of Defendant, Plaintiff suffered harm to their reputation and claims general damages for such mental and physical distress and aggravation in a sum in excess of the jurisdictional minimum of this Court.

67. The actions alleged herein were taken by managing agents and/or officers of Defendant and/or ratified by managing agents and/or officers of Defendant, including but not limited to Defendant Kouyoumjian and Shira (last name unknown). In so doing, said managing agents and/or officers of Defendant acted with oppression, fraud and malice, as those terms are used in California Civil Code § 3294. As such, Plaintiff is entitled to an award of punitive damages.

68. As a proximate result of the wrongful acts of Defendant, Plaintiff has been forced to hire attorneys to prosecute their claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. Plaintiff is entitled to recover attorneys' fees and costs under California Government Code § 12965(b).

FOURTH CAUSE OF ACTION

**FAILURE TO PREVENT HARASSMENT AND/OR DISCRIMINATION IN
VIOLATION OF GOV'T CODE § 12940(k)
(AGAINST ALL DEFENDANTS)**

69. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

70. At all times mentioned herein, California Government Code § 12940 *et seq.*, was in full force and effect and was binding on Defendant, as it regularly employs five (5) or more persons.

1 71. California Government Code § 12940(k) makes it illegal “For an employer...to fail
2 to take all reasonable steps necessary to prevent discrimination and harassment from occurring.”

3 72. Defendant failed to take all reasonable steps necessary to prevent the
4 discrimination that Plaintiff suffered, including but not limited to, the imposition of an effective
5 policy against such discrimination and harassment, the imposition of non-discriminatory and non-
6 harassing practices and procedures, prompt and thorough good faith and reasonable
7 investigations, prompt and appropriate discipline against transgressors, and/ required sexual anti-
8 harassment training, and other conduct according to proof.

9 73. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff has
10 lost, and will continue to lose, substantial earnings and fringe benefits and has suffered and/or will
11 suffer other actual, consequential and incidental financial losses, in an amount to be proven at trial
12 in excess of the jurisdictional minimum of this Court.

13 74. As a direct and proximate result of the aforesaid acts of Defendant, Plaintiff was
14 and is mentally upset, severely distressed (physically and mentally), embarrassed, humiliated and
15 aggravated. As a result of the aforesaid acts of Defendant, Plaintiff suffered harm to their
16 reputation and claims general damages for such mental and physical distress and aggravation in a
17 sum in excess of the jurisdictional minimum of this Court.

18 75. The actions alleged herein were taken by managing agents and/or officers of
19 Defendant and/or ratified by managing agents and/or officers of Defendant, including but not
20 limited to Defendant Kouyoumjian and Shira (last name unknown). In so doing, said managing
21 agents and/or officers of Defendant acted with oppression, fraud and malice, as those terms are
22 used in California Civil Code § 3294. As such, Plaintiff is entitled to an award of punitive
23 damages.

24 76. As a proximate result of the wrongful acts of Defendant, Plaintiff has been forced
25 to hire attorneys to prosecute their claims herein, and has incurred and is expected to continue to
26 incur attorneys’ fees and costs in connection therewith. Plaintiff is entitled to recover attorneys’
27 fees and costs under California Government Code § 12965(b).
28

FIFTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF LABOR CODE § 1102.5

(AGAINST ALL DEFENDANTS)

77. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

78. California Labor Code § 1102.5(a) states that an “employer, or any person acting on behalf of the employer, shall not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, or from providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee’s job duties.”

79. California Labor Code § 1102.5(b) states that an “employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, to a government or law enforcement agency, or because the employer believes that the employee disclosed or may disclose information . . . to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance . . . if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee’s job duties.”

80. California Labor Code § 1102.5(c) states that an “employer, or any person acting on behalf of the employer, shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.”

81. California Labor Code § 1102.5(d) states that an “employer, or any person acting on behalf of the employer, shall not retaliate against an employee for having exercised his or her rights under subdivision (a), (b), or (c) in any former employment.”

1 82. Plaintiff believes that Plaintiff's protected conduct as alleged herein was a
2 contributing factor in Defendant's decision to terminate Plaintiff's employment, and Plaintiff
3 alleges that Defendant's conduct was a substantial factor in causing Plaintiff's harm as alleged
4 herein.

5 83. Plaintiff reasonably believed and continues to believe that each of Plaintiff's
6 complaints related to illegal actions taken against Plaintiff.

7 84. As a proximate result of the aforesaid acts, Plaintiff has lost, and will continue to
8 lose, substantial earnings, promotional opportunities, fringe benefits and has suffered and/or will
9 suffer other actual, consequential and incidental financial losses, in an amount to be proven at
10 trial.

11 85. As a proximate result of the aforesaid acts, Plaintiff has become mentally upset,
12 distressed, embarrassed, humiliated, and aggravated in a sum to be proven at the time of trial.

13 86. California Labor Code § 1102.5(f) states that in "addition to other penalties, an
14 employer that is a corporation or limited liability company is liable for a civil penalty not
15 exceeding ten thousand dollars (\$10,000) for each violation of this section."

16 87. California Labor Code § 1102.5(j) states that the "court is authorized to award
17 reasonable attorney's fees to a plaintiff who brings a successful action for a violation of these
18 provisions." Plaintiff will continue to incur attorneys' fees in the pursuit of this action. As such,
19 Plaintiff is entitled to an award of reasonable attorneys' fees.

20 88. The actions alleged herein were taken by managing agents and/or officers of
21 Defendant, including but not limited to Defendant Kouyoumjian and Shira (last name
22 unknown)and/or ratified by managing agents and/or officers of Defendant. In so doing,
23 Defendant acted with oppression, fraud and malice, as those terms are used in California Civil
24 Code § 3294. As such, Plaintiff is entitled to an award of punitive damages.

25 **SIXTH CAUSE OF ACTION**

26 **RETALIATION IN VIOLATION OF LABOR CODE § 6310**

27 **(AGAINST ALL DEFENDANTS)**

28 89. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

1 90. California Labor Code § 6310(b) states that “[a]ny employee who is discharged,
2 threatened with discharge, demoted, suspended, or in any other manner discriminated against in
3 the terms and conditions of employment by their employer because the employee has made a bona
4 fide oral or written complaint to the division, other governmental agencies having statutory
5 responsibility for or assisting the division with reference to employee safety or health, their
6 employer, or their representative, of unsafe working conditions, or work practices, in their
7 employment or place of employment, or has participated in an employer-employee occupational
8 health and safety committee, shall be entitled to reinstatement and reimbursement for lost wages
9 and work benefits caused by the acts of the employer. Any employer who willfully refuses to
10 rehire, promote, or otherwise restore an employee or former employee who has been determined
11 to be eligible for rehiring or promotion by a grievance procedure, arbitration, or hearing
12 authorized by law, is guilty of a misdemeanor.”

13 91. Plaintiff believes that a substantial motivating reason that Plaintiff was terminated
14 was due to Plaintiff’s complaints protected conduct as alleged herein, and Plaintiff alleges that
15 Defendant’s conduct was a substantial factor in causing Plaintiff’s harm as alleged herein.

16 92. As a proximate result of the aforesaid acts, Plaintiff has lost, and will continue to
17 lose, substantial earnings, promotional opportunities, fringe benefits and has suffered and/or will
18 suffer other actual, consequential and incidental financial losses, in an amount to be proven at
19 trial.

20 93. As a proximate result of the aforesaid acts, Plaintiff has become mentally upset,
21 distressed, embarrassed, humiliated, and aggravated in a sum to be proven at the time of trial.

22 94. The actions alleged herein were taken by managing agents and/or officers of
23 Defendant, including but not limited to Defendant Kouyoumjian and Shira (last name
24 unknown)and/or ratified by managing agents and/or officers of Defendant. In so doing,
25 Defendant acted with oppression, fraud and malice, as those terms are used in California Civil
26 Code § 3294. As such, Plaintiff is entitled to an award of punitive damages.
27
28

SEVENTH CAUSE OF ACTION

**FAILURE TO PAY MINIMUM WAGE IN VIOLATION OF CALIFORNIA
LABOR CODE §§ 204, 1194, 1197 AND WAGE ORDER
(AGAINST ALL DEFENDANTS)**

95. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

96. At all relevant times, Plaintiff was subject to the provisions of the California Industrial Welfare Commission's Wage Orders and California Labor Code.

97. California Labor Code § 204(a) states that wages "earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays."

98. California Labor Code § 1194(a) states (in relevant part): "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit."

99. California Labor Code § 1197 states (in relevant part): "The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful."

100. The applicable California Industrial Wage Order states: "Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise."

101. As alleged herein, Defendant violated the foregoing statutes and regulations.

102. Pursuant to California Labor Code § 218.5, 1194, 1194.2, 1197.1, 1197.2, Plaintiff is entitled to recover the full amount of their unpaid wages, liquidated damages, waiting time penalties, reasonable attorneys' fees, and costs of suit. Plaintiff is entitled to recover interest on

all due and unpaid wages and waiting time penalties under Labor Code § 218.6 and/or Civil Code § 3287(a).

EIGHTH CAUSE OF ACTION

**FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF LABOR CODE §§
510, 1194, 1198, 1199 AND WAGE ORDER
(AGAINST ALL DEFENDANTS)**

103. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

104. At all relevant times, Plaintiff was subject to the provisions of the California Industrial Welfare Commission's Wage Orders and California Labor Code.

105. The applicable Industrial Welfare Commission Wage Order provides that: "(A) Daily Overtime – General Provisions. (1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than: (a) One and one-half (1 ½) times the employee's regular rate of pay for all hours worked In excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.; and (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek. (c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

106. California Labor Code § 510 provides that: (a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40

1 hours in any one workweek and the first eight hours worked on the seventh day of work in any
2 one workweek shall be compensated at the rate of no less than one and one-half times the regular
3 rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at
4 the rate of no less than twice the regular rate of pay for an employee. In addition, any work in
5 excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no
6 less than twice the regular rate of pay of an employee.

7 107. California Labor Code § 1194 provides in relevant part: (a) Notwithstanding any
8 agreement to work for a lesser wage, any employee receiving less than the legal minimum wage
9 or the legal overtime compensation applicable to the employee is entitled to recover in a civil
10 action the unpaid balance of the full amount of this minimum wage or overtime compensation,
11 including interest thereon, reasonable attorney's, and costs of suit.

12 108. California Labor Code § 218.5 provides in relevant part: In any action brought for
13 the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the
14 court shall award reasonable attorney's fees and costs to the prevailing party if any party to the
15 action requests attorney's fees and costs upon the initiation of the action.

16 109. At all relevant times, throughout Plaintiff's employment, Plaintiff regularly and
17 with Defendant's knowledge worked more than eight (8) hours in working day.

18 110. Plaintiff alleges that Defendant did not pay 1 ½ times the legal minimum hourly
19 wage rate for all the hours worked over eight (8) hours in a work day and/or 40 hours in a work
20 week. Plaintiff alleges that Defendant did not pay two times the legal minimum hourly rate for all
21 the hours worked over twelve (12) hours in a work day.

22 111. During the relevant time period, Defendant intentionally and willfully failed to
23 pay for all hours Defendant suffered and/or permitted Plaintiff to work, including for overtime
24 hours.

25 112. Plaintiff alleges that wages are due to Plaintiff for all hours worked during which
26 Plaintiff was not paid proper overtime wages pursuant to California Labor Code §§ 510 and 1194
27 and all applicable laws, rules, orders, requirements and regulations.
28

113. Plaintiff demands all applicable reimbursements, interest and penalties for lost overtime wages.

114. Plaintiff further demands reasonable attorneys' fees and costs of suit pursuant to California Labor Code §§ 218.5, 1194, and any other applicable statute or regulation.

NINTH CAUSE OF ACTION

**FAILURE TO PROVIDE MEAL PERIODS IN VIOLATION OF LABOR CODE §§
226.7, 512 AND WAGE ORDER
(AGAINST ALL DEFENDANTS)**

115. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

116. At all relevant times, Plaintiff was subject to the provisions of the California Industrial Welfare Commission's Wage Orders and California Labor Code.

117. California Labor Code § 512(a) states (in relevant part): "An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee."

118. The applicable Industrial Welfare Commission Wage Order provides that: No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.

119. California Labor Code § 226.7(b) provides: If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

120. Defendant worked Plaintiff more than five hours per day without an off-duty, timely, and/or uninterrupted 30-minute meal period as required by California Labor Code § 512

1 and the applicable Industrial Welfare Commission Wage Order. Furthermore, Plaintiff worked
2 more than six (6) hours in a workday and did not waive their right to their meal period by mutual
3 consent. Defendant's policy and practice was not to compensate Plaintiff with the full amount of
4 pay due and owing as required by California Labor Code § 226.7, and the applicable Industrial
5 Welfare Commission order (i.e., one hour of pay per day per lunch period at the employee's
6 regular rate of compensation).

7 121. Plaintiff demands all applicable reimbursements, interest and penalties for their
8 lost wages.

9 122. Plaintiff demands reasonable attorneys' fees and costs of suit pursuant to
10 California Labor Code §§ 218.5, 1194, and any other applicable statute or regulation.

11 **TENTH CAUSE OF ACTION**

12 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS IN VIOLATION OF**
13 **LABOR CODE § 226.7 AND WAGE ORDER 4-2001**
14 **(AGAINST ALL DEFENDANTS)**

15 123. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

16 124. At all relevant times, Plaintiff was subject to the provisions of the California
17 Industrial Welfare Commission's Wage Orders and California Labor Code.

18 125. California Labor Code § 226.7 provides that no employer shall require an
19 employee to work during any rest period mandated by an applicable order of the California
20 Industrial Welfare Commission.

21 126. The applicable Industrial Welfare Commission Wage Order provides that "[e]very
22 employer shall authorize and permit all employees to take rest periods, which insofar as
23 practicable shall be in the middle of each work period" and that the "rest period time shall be
24 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
25 hours or major fraction thereof unless the total daily work time is less than three and one-half (3
26 ½) hours."

27 127. Defendant's conduct violates applicable Wage Orders and California Labor Code §
28 226.7. During the relevant time period, Defendant required Plaintiff to work four (4) or more

1 hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period
2 worked. During the relevant time period, Defendant willfully required Plaintiff to work during
3 rest periods and failed to pay Plaintiff the full rest period premium for work performed during rest
4 periods.

5 128. During the relevant time period, Defendant failed to pay Plaintiff the full rest
6 period premium due pursuant to California Labor Code § 226.7.

7 129. Pursuant to the applicable Industrial Welfare Commission Wage Order and
8 California Labor Code § 226.7(b), Plaintiff is entitled to recover from Defendant one additional
9 hour of pay at the employee's regular hourly rate of compensation for each work day that the rest
10 period was not provided.

11 **ELEVENTH CAUSE OF ACTION**

12 **FAILURE TO FURNISH COMPLIANT WAGE STATEMENTS IN VIOLATION**
13 **OF LABOR CODE § 226(a)**
14 **(AGAINST ALL DEFENDANTS)**

15 130. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

16 131. At all relevant times, Plaintiff was subject to the provisions of the California
17 Industrial Welfare Commission's Wage Orders and California Labor Code.

18 132. California Labor Code § 226(a) provides that every employer shall furnish each of
19 their employees an accurate itemized statement in writing showing (1) gross wages earned, (2)
20 total hours worked by the employee, (3) the number of piece-rate units earned and any applicable
21 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all
22 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
23 net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
24 name of the employee and their or their social security number, (8) the name and address of the
25 legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period
26 and the corresponding number of hours worked at each hourly rate by the employee.

27 133. California Labor Code § 226(e)(1) provides that "[a]n employee suffering injury as
28 a result of a knowing and intentional failure by an employer to comply with subdivision (a) is

1 entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period
2 in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
3 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and
4 is entitled to an award of costs and reasonable attorney's fees."

5 134. As alleged herein, Plaintiff has suffered injury and damage to their statutory-
6 protected rights.

7 135. Plaintiff is entitled to recover from Defendant the greater of their actual damages
8 caused by Defendant's failure to comply with California Labor Code § 226(a), or pursuant to
9 California Labor Code § 226(e), an aggregate penalty not exceeding four thousand dollars per
10 employee, and an award of costs and reasonable attorney's fees.

11 **TWELFTH CAUSE OF ACTION**

12 **FAILURE TO PAY ALL WAGES OWED UPON TERMINATION IN VIOLATION**
13 **OF LABOR CODE §§ 201-203**
14 **(AGAINST ALL DEFENDANTS)**

15 136. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

16 137. At all relevant times, Plaintiff was subject to the provisions of the California
17 Industrial Welfare Commission's Wage Orders and California Labor Code.

18 138. California Labor Code §§ 201 and 203 provide that if an employer discharges an
19 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

20 139. California Labor Code § 203 provides that if an employer willfully fails to pay
21 wages owed, in accordance with §§ 201 and 202, then the wages of the employee shall continue
22 as a penalty from the due date thereof at the same rate until paid or until an action is commenced;
23 but the wages shall not continue for more than thirty (30) days.

24 140. As alleged herein, Defendant intentionally and willfully failed to pay Plaintiff all
25 wages, earned and unpaid, immediately upon discharge. Defendant's failure in this regard
26 violates California Labor Code §§ 201 and 203.

27 141. On information and belief, Plaintiff alleges that Defendant's failure to pay Plaintiff
28 all wages earned upon their discharge in accordance with Labor Code § 201 was willful. At all

1 times relevant, Defendant had the ability to pay all earned and unpaid wages in accordance with
2 Labor Code § 201 but intentionally chose not to comply.

3 142. Pursuant to Labor Code §§ 203 and 218.5, Plaintiff is entitled to recover the full
4 amount of their unpaid wages, waiting time penalties, reasonable attorneys' fees, and costs of suit.
5 Plaintiff is entitled to recover interest on all due and unpaid wages and waiting time penalties
6 under Labor Code § 218.6 and/or Civil Code § 3287(a).

7 **THIRTEENTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE PERSONNEL FILE IN VIOLATION OF LABOR CODE**

9 **§ 1198.5**

10 **(AGAINST ALL DEFENDANTS)**

11 143. Plaintiff incorporates by reference all of the preceding and subsequent paragraphs.

12 144. At all relevant times, Plaintiff was subject to the provisions of the California Labor
13 Code.

14 145. California Labor Code § 1198.5(c) requires that an employer shall "maintain a
15 copy of each employee's personnel records for a period of not less than three years after
16 termination of employment." Labor Code § 1198.5(c)(3)(A) requires ("[t]he employer shall do all
17 of the following . . . [w]ith regard to former employees, make a former employee's personnel
18 records available for inspection, and, if requested by the employee or his or her representative,
19 provide a copy thereof . . ."). California Labor Code § 1198.5(b) requires that the employer must
20 provide the personnel record within 30 days of the employee making a written request.

21 146. California Labor Code § 1198.5(k) provides that: "If an employer fails to permit a
22 current or former employee, or his or her representative, to inspect or copy personnel records
23 within the times specified in this section, or times agreed to by mutual agreement as provided in
24 this section, the current or former employee or the Labor Commissioner may recover a penalty of
25 seven hundred fifty dollars (\$750) from the employer."

26 147. California Labor Code § 1198.5(l) provides that "[a] current or former employee
27 may also bring an action for injunctive relief to obtain compliance with this section, and may
28 recover costs and reasonable attorney's fees in such an action."

148. Plaintiff alleges that Defendant failed to provide Plaintiff's personnel file under the time allotted under California law. Plaintiff's authorized representative requested Plaintiff's personnel file and the formal written request was received by Defendant no later than February 29, 2021. Exhibit C.

149. Plaintiff seeks the penalty of \$750, costs of suit, and reasonable attorneys' fees.

FOURTEENTH CAUSE OF ACTION

PAGA REPRESENTATIVE ACTION FOR CIVIL PENALTIES

(AGAINST ALL DEFENDANTS)

150. Plaintiff incorporates by this reference all preceding and subsequent paragraphs.

151. Plaintiff seeks penalties pursuant to California Labor Code § 2698, *et seq.*, on behalf of Plaintiff, all other aggrieved employees, and the State of California, based on Defendant's following violations of the California Labor Code:

- Labor Code §§ 201, 201.5, 202, 203. Failure to pay all wages immediately upon termination or within 72 hours after notice of separation.
- Labor Code § 204. Failure to pay all earned wages within the time prescribed in Labor Code §§ 204(a) and 204(b).
- Labor Code § 206. Failure to pay all undisputedly owed wages.
- Labor Code § 210. Failure to pay wages as required by Labor Code §§ 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and/or 1197.5.
- Labor Code § 221. Failure to not collect and receive owed wages.
- Labor Code § 226. Failure to provide timely and accurate wage statements.
- Labor Code § 226.3. Failure to comply with Labor Code § 226(a).
- Labor Code § 226.7. Failure to provide proper rest periods and failure to provide an additional hour of pay at the regular rate of compensation in lieu of the mandated rest periods.
- Labor Code §§ 226.7 and 512. Failure to provide proper meal periods and failure to provide an additional hour of pay at the regular rate of compensation in lieu of the mandated meal periods.

- Labor Code §§ 510 and 1194. Failure to pay overtime and double time compensation.
- Labor Code §§ 510, 1194, 1194.2, and 1197. Failure to pay minimum wages, including overtime and double time compensation at the minimum wage rate.
- Labor Code § 558. Violation of a section of the chapter of the Labor Code starting with Labor Code § 500, *et seq.*, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission.
- Labor Code § 558.1. Violation any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, and violating Labor Code §§ 203, 226, 226.7, 1193.1, and/or 1194.
- Labor Code § 1174. Failure to maintain compliant employee and payroll records.
- Labor Code § 1197.1. Failure to pay minimum wage.
- Labor Code § 1199. Violation of the provisions of an order of the Industrial Welfare Commission.
- Labor Code § 1198. Violation of the following sections of orders of the Industrial Welfare Commission for conditions of labor prohibited by such:
 - Wage Order 1-2001 (or other applicable Wage Order), Section 3, requiring an employer to pay overtime and double time compensation.
 - Wage Order 1-2001 (or other applicable Wage Order), Section 4, requiring an employer to pay minimum wages, including overtime and double time compensation at the minimum wage rate.
 - Wage Order 1-2001 (or other applicable Wage Order), Section 7, requiring an employer to maintain accurate information with respect to each employee; provide employees with thorough and accurate itemized wage statements; and, provide clocks within a reasonable distance from employees' work areas.
 - Wage Order 1-2001 (or other applicable Wage Order), Section 11, requiring an employer to provide its employees with adequate meal periods

1 and an additional hour of pay at the regular rate of compensation in lieu of
2 the mandated rest periods.

- 3 ○ Wage Order 1-2001 (or other applicable Wage Order), Section 12,
4 requiring an employer to provide its employees with adequate rest periods
5 and an additional hour of pay at the regular rate of compensation in lieu of
6 the mandated rest periods.
- 7 ○ Wage Order 1-2001 (or other applicable Wage Order, Section 13, requiring
8 an employer to provide its employees with suitable lockers, closets, or
9 equivalent for the safekeeping of employees' outer clothing during working
10 hours; provide change rooms or equivalent space in order that employees
11 may change their clothing in reasonable privacy and comfort and separate
12 from toilet rooms and kept clean and for their work clothing during non-
13 working hours; and, provide suitable resting facilities in an area separate
14 from the toilet rooms available to employees during working hours.
- 15 ○ Wage Order 1-2001 (or other applicable Wage Order), Section 14,
16 requiring an employer to provide its employees with suitable seats.

17 152. The other aggrieved employees include any and all persons whom Defendant
18 employed in the State of California at any time from February 19, 2020 through the present.

19 153. Plaintiff seeks civil penalties due to Plaintiff, other aggrieved employees, and the
20 State of California according to proof, pursuant to the California Labor Code, including
21 California Labor Code §§ 2699(a) and 2699(f), which provides for \$100 for each initial violation
22 and \$200 for each subsequent violation per employee pay period.

23 154. Plaintiff was compelled to retain the services of counsel to file this action to
24 protect Plaintiff's interests and the interests of other similarly aggrieved employees and the State
25 of California, and to assess and collect the civil penalties owed by Defendant. Plaintiff has
26 thereby incurred attorneys' fees and costs, which Plaintiff is entitled to recover under California
27 Labor Code § 2699(g).
28

JURY TRIAL DEMANDED

155. Plaintiff demands a jury as to all causes of action.

PRAYER FOR RELIEF

156. WHEREFORE, Plaintiff prays judgment against Defendant as follows:

- a. For general economic damages according to proof, in excess of \$25,000;
- b. For general non-economic damages according to proof;
- c. For special damages according to proof;
- d. For punitive damages where allowed by law;
- e. For prejudgment interest pursuant to California Labor Code § 218.6, California Civil Code § 3287 and/or California Civil Code § 3288 and/or any other provision of law providing for prejudgment interest;
- f. For civil penalties and all other remedies available pursuant to California Labor Code § 2698, *et seq.* on behalf of Plaintiff, all other aggrieved employees, and the State of California;
- g. For attorneys' fees where allowed by law;
- h. For costs of suit incurred herein; and
- i. For such other and further relief as this Court deems just and proper.

DATED: June 1, 2021

COLBY LAW FIRM, PC
AARON N. COLBY



By: _____
AARON N. COLBY

Attorneys for Plaintiff
MELANIE ROBLES and aggrieved employees

EXHIBIT A



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

February 21, 2021

Aaron Colby
15233 Ventura Blvd., Suite 500
Sherman Oaks, CA 91403

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202102-12672521
Right to Sue: Robles / World Tech Toys, Inc. et al.

Dear Aaron Colby:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

February 21, 2021

RE: **Notice of Filing of Discrimination Complaint**
DFEH Matter Number: 202102-12672521
Right to Sue: Robles / World Tech Toys, Inc. et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be made within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

February 21, 2021

Melanie Robles

,

RE: Notice of Case Closure and Right to Sue
DFEH Matter Number: 202102-12672521
Right to Sue: Robles / World Tech Toys, Inc. et al.

Dear Melanie Robles:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective February 21, 2021 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be submitted to the DFEH within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758

(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711

<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

Department of Fair Employment and Housing

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Melanie Robles

DFEH No. 202102-12672521

Complainant,

vs.

World Tech Toys, Inc.

,

Kevork Kouyoumjian

,

Respondents

1. Respondent **World Tech Toys, Inc.** is an **employer World Tech Toys, Inc.** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Kevork Kouyoumjian** individual as Co-Respondent(s).

3. Complainant **Melanie Robles**, resides in the City of , State of .

4. Complainant alleges that on or about **November 30, 2020**, respondent took the following adverse actions:

Complainant was harassed because of complainant's race, color, sex/gender.

Complainant was discriminated against because of complainant's race, color, sex/gender and as a result of the discrimination was terminated.

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, participated as a witness in a discrimination or harassment complaint and as a result was terminated.

Additional Complaint Details:

1 VERIFICATION

2 I, **Aaron Colby**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On February 21, 2021, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

7 **Los Angeles, California**
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXHIBIT B



Aaron Colby, Esq.
aaron@colbylegal.com
818.253.1599 • colbylegal.com
15233 Ventura Blvd., Suite 500
Sherman Oaks, California 91403

February 19, 2021

SENT VIA ONLINE SUBMISSION

California Department of Industrial Relations
Labor and Workforce Development Agency
Attention: PAGA Administrator

SENT VIA CERTIFIED MAIL & EMAIL

World Tech Toys, Inc.
Attention: Kevork Kouyoumjian, CEO
Email: hello@worldtechtoys.com; kev@worldtechtoys.com
28904 Avenue Paine
Valencia, California 91355

RE: ***Melanie Robles v. World Tech Toys, Inc.; Kevork Kouyoumjian***
PAGA Notice to LWDA

California Labor & Workforce Development Agency:

Colby Law Firm, PC represents aggrieved former employee Melanie Robles ("Plaintiff") in connection with their claims pursuant to the California Labor Code against joint employers World Tech Toys, Inc. and Kevork Kouyoumjian (collectively "Defendant").

This letter is written notice to the California Labor & Workforce Development Agency ("LWDA") as required by the California Labor Code Private Attorneys General Act of 2004, California Labor Code §§ 2698 et seq. ("PAGA"), including, without limitation, California Labor Code §§ 2699(a), 2699(g)(1), and 2699.3(a) and (c), and/or any other applicable provision of statute, rule, or law ("Notice").

From November 17 to 20, 2020, Plaintiff worked for Defendant as a non-exempt associate. Because of the following allegations, Defendant has violated numerous provisions of the



California Labor Code.

This Notice is the representative (Colby Law Firm, PC) of the aggrieved employee (Plaintiff) giving written notice by online filing with the LWDA and by certified mail to the employer (Defendant) of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation, pursuant to California Labor Code §§ 2699.3(a)(1)(A) and/or (c)(1)(A).

This Notice is intended to exhaust the pre-litigation requirements set forth under PAGA. It is the intention of Colby Law Firm, PC to bring the appropriate claims under PAGA should the LWDA not address these matters within the proscribed time under California Labor Code §§ 2699.3(a)(2) and (c)(2).

This Notice is subject to and without waiver of the rights and remedies of Plaintiff and Aggrieved Employees, and is not an express statement of all facts and circumstances concerning this case.

A. Submission of Notice

This Notice is submitted online to the LWDA, with a copy sent by certified mail to Defendant. Accompanying this Notice is the \$75 filing fee to the LWDA, pursuant to California Labor Code §§ 2699.3(a)(1)(B) and/or (c)(1)(B). Please advise Colby Law Firm, PC immediately if the fee was not received so that it may be resent.

B. Notice To Company On Behalf Of Aggrieved Employees

This Notice is hereby given to and is made against World Tech Toys, Inc. and Kevork Kouyoumjian and any and all related and/or alter ego companies, corporations, partnerships, and/or business entities, as well as against any and all officers, owners, directors, managers, managing agents, or entities who are or may be liable under law for any of these alleged violations as to any locations or employees who worked at any time in the State of California ("Defendant").

This Notice is made on behalf of all persons who are, were, or will be employees of World Tech Toys, Inc. and/or Kevork Kouyoumjian or any related or alter ego company, corporation, partnership, and/or business entity at any time on or after a date four years prior to the date of this letter and at any location within the State of California ("Aggrieved Employees.")

C. Alleged Violations Of The California Labor Code With Facts And Theories In Support

The alleged violations of the California Labor Code and the facts and theories to support each are as follows.



1. Facts And Theories

Defendant World Tech Toys. Defendant World Tech Toys is in the business of manufacturing some of the hottest selling remote control toys, selling through the world's largest retailers like Amazon, Target, and Walmart. Defendant operates a warehouse where it employs workers at 28904 Avenue Paine, Valencia, California 91355 (the "worksite").

Defendant Kouyoumjian. Defendant Kouyoumjian is the owner, operator, and CEO of Defendant World Tech Toys, controlling all aspects. Defendant Kouyoumjian maintains a social media account at <https://www.instagram.com/kevking23> where it states he is "CEO of World Tech Toys, Inc."

Plaintiff's Hire. On or about November 17, 2020, Defendant hired Plaintiff Melanie Robles as an employee in the job position of Associate to work at the worksite. Throughout Plaintiff's employment, Plaintiff was an exemplary employee, never receiving any written counseling or discipline for performance, conduct, or any other reason, until her wrongful termination on November 30, 2020.

Job Duties. Throughout Plaintiff's employment, Plaintiff's job duties included packaging product, packing the product in boxes, affixing shipping labels to the packed boxes, stacking the packed boxes for shipping, and lifting and carrying heavy items.

Hourly Pay. Throughout Plaintiff's employment, Defendant classified Plaintiff as a "non-exempt" employee and paid Plaintiff \$15 per hour.

Work Schedule. Throughout Plaintiff's employment, Defendant required Plaintiff to work six (6) days a week, and that Plaintiff's workday started on or about 8:00am and Plaintiff's workday ended when Defendant dismissed Plaintiff for the day, typically after Plaintiff performed more than 12 hours of work in the day.

Off-The-Clock Work. Throughout Plaintiff's employment, Plaintiff worked no less than approximately 30 minutes per day off-the-clock, without pay. This off-the-clock work included, among other things according to proof: (a) working during unpaid meal breaks; (b) not being paid during paid rest breaks; (c) illegally "rounding" employee time at the beginning or end of the shift or meal breaks; (d) pre- and post-shift work completing tasks like clean-ups; (e) going through pre- and post-shift checks; and (f) putting on and removing work equipment before and after shifts (donning and doffing).

Meal Break Violations. Throughout Plaintiff's employment Defendant failed to provide Plaintiff with first or second timely, uninterrupted 30-minute meal break as required by law. Defendant's company-wide understaffing arising from labor budget policies and subsequent failure to provide adequate break coverage prevented Plaintiff from taking compliant meal breaks. As a result of these practices and/or policies, Plaintiff was frequently required to continue to perform duties without being able to take a timely, compliant meal break. Thus,



Plaintiff had to work through part or all of Plaintiff's meal breaks, had meal breaks interrupted, and/or wait extended breaks of time before taking meal breaks. Defendant maintained a facially non-compliant meal break policy that did not provide Plaintiff with first or second timely, uninterrupted 30-minute meal break as required by law. Plaintiff worked more than six (6) hours without being relieved of Plaintiff's duties to take a meal break. Defendant regularly required Plaintiff to continue working and failed to provide meal break coverage for her, thereby preventing Plaintiff from taking timely, uninterrupted meal breaks to which Plaintiff was entitled. Defendant did not provide Plaintiff with second 30-minute meal breaks on days that she worked in excess of 10 hours. Defendant required Plaintiff to always record meal breaks, even when meal breaks were never taken, or were late, short, and/or interrupted. As a result, 30-minute meal breaks were deducted from Plaintiff's time records for hours Plaintiff actually spent working. This is a form of off-the-clock work that Plaintiff performed. Defendant has engaged in a company-wide practice and/or policy to not pay meal break premiums owed when compliant meal breaks are not provided. Defendant, therefore, failed to provide Plaintiff compliant meal breaks and failed to pay the full meal break premiums due.

Rest Break Violations. Throughout Plaintiff's employment, Defendant failed to authorize and permit Plaintiff to take a 10-minute rest break per each four (4) hour period worked or a major fraction thereof. Defendant's labor budget policies and resultant understaffing prevented Plaintiff from being relieved of all duties to take compliant rest breaks. Defendant had no policy of scheduling rest breaks for employees, which further impeded and prevented Plaintiff from taking rest breaks. As a result of Defendant's understaffing and failure to schedule rest breaks, Plaintiff worked shifts in excess of 3.5 hours, in excess of six (6) hours, and in excess of 10 hours without receiving all uninterrupted 10-minute rest breaks to which Plaintiff was entitled. Defendant maintained a facially non-compliant rest break policy that did not permit and authorize employees to take a second rest break for shifts from six (6) to 10 hours in length. To the extent there is a policy, Defendant's written rest break policy only authorizes employees to take a 10-minute rest break for every four (4) hours worked. As such, Defendant's written rest break policy does not permit and authorize Plaintiff to take second and third rest breaks for shifts six (6) to 10 hours in length or shifts 10 to 14 hours in length, respectively. Defendant's non-compliant rest break policy impeded and prevented Plaintiff from taking rest breaks. Plaintiff regularly worked shifts in excess of six (6) hours and did not receive the two (2) uninterrupted rest breaks. Plaintiff's rest breaks were regularly interrupted by work demands due to the lack of break coverage. Defendant has engaged in a company-wide practice and/or policy to not pay rest break premiums owed when compliant rest breaks are not provided. Defendant, therefore, failed to provide Plaintiff compliant rest breaks and failed to pay the full rest break premiums due.

Toilets Not Provided. Throughout Plaintiff's employment, Defendant failed to provide Plaintiff with toilet rooms during work hours in an area separate from suitable resting facilities. Throughout Plaintiff's employment, Defendant expressly prohibited Plaintiff and other non-exempt warehouse employees from using legally compliant toilet rooms at the worksite. Defendant posted signs about this prohibition at the worksite. Plaintiff witnessed a co-worker who verbally attacked as a result of mistakenly entering a toilet room that was prohibited.



Changing Rooms Not Provided. Throughout Plaintiff's employment, Defendant failed to provide Plaintiff with suitable lockers, closets, or equivalent for the safekeeping of Plaintiff's outer clothing during working hours, and for Plaintiff's work clothing during non-working hours. Plaintiff had her personal belongings stolen from her while working for Defendant at the worksite.

Seating Not Provided. Throughout Plaintiff's employment, Defendant failed to provide Plaintiff with a suitable seat when the nature of the work reasonably permitted the use of a seat. Throughout Plaintiff's employment, Defendant failed to provide Plaintiff when not engaged in the active duties of Plaintiff's employment and the nature of the work requires standing, an adequate number of suitable seats in a reasonable proximity to the work area to permit Plaintiff to use such seats when it did not interfere with the performance of Plaintiff's duties.

Final Pay. Defendant failed to pay Plaintiff all wages owed to Plaintiff immediately upon Plaintiff's termination of employment, including earned and unpaid wages, such as: (a) minimum wages; (b) overtime wages; (c) meal and rest period premium wages; and (d) all wages owed for the final day of work, as alleged herein.

Wage Statements. Throughout Plaintiff's employment, Defendant knowingly and intentionally provided Plaintiff with uniform, incomplete, and inaccurate wage statements because the wage statements provided to Plaintiff failed to list the: (a) accurate totals of the hours worked; (b) number of hours worked at each hourly rate; (c) net wages earned; and (d) gross wages earned. Defendant knowingly and intentionally provided Plaintiff with a uniform, incomplete, and inaccurate *final* wage statement because the final wage statement failed to list anything at all for the: (a) number of hours worked at each hourly rate; (b) last four digits of Plaintiff's social security number or an employee identification number other than a social security number; and (c) address of the legal entity that is the employer.

2. Violations Of The California Labor Code

Plaintiff, through their representative, intends to pursue civil penalties under PAGA against Defendant, on behalf of themselves and all Aggrieved Employees, for violations of the below provisions of the California Labor Code, based on the facts and theories set forth above:

- **Labor Code §§ 201, 201.5, 202, 203.** Failure to pay all wages immediately upon termination or within 72 hours after notice of separation.
- **Labor Code § 204.** Failure to pay all earned wages within the time prescribed in Labor Code §§ 204(a) and 204(b).
- **Labor Code § 206.** Failure to pay all undisputedly owed wages.
- **Labor Code § 210.** Failure to pay wages as required by Labor Code §§ 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and/or 1197.5.
- **Labor Code § 221.** Failure to not collect and receive owed wages.
- **Labor Code § 226.** Failure to provide timely and accurate wage statements.



- **Labor Code § 226.3.** Failure to comply with Labor Code § 226(a).
- **Labor Code § 226.7.** Failure to provide proper rest periods and failure to provide an additional hour of pay at the regular rate of compensation in lieu of the mandated rest periods.
- **Labor Code §§ 226.7 and 512.** Failure to provide proper meal periods and failure to provide an additional hour of pay at the regular rate of compensation in lieu of the mandated meal periods.
- **Labor Code §§ 510 and 1194.** Failure to pay overtime and double time compensation.
- **Labor Code §§ 510, 1194, 1194.2, and 1197.** Failure to pay minimum wages, including overtime and double time compensation at the minimum wage rate.
- **Labor Code § 558.** Violation of a section of the chapter of the Labor Code starting with Labor Code § 500, *et seq.*, or any provision regulating hours and days of work in any order of the Industrial Welfare Commission.
- **Labor Code § 558.1.** Violation any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, and violating Labor Code §§ 203, 226, 226.7, 1193.1, and/or 1194.
- **Labor Code § 1174.** Failure to maintain compliant employee and payroll records.
- **Labor Code § 1197.1.** Failure to pay minimum wage.
- **Labor Code § 1199.** Violation of the provisions of an order of the Industrial Welfare Commission.
- **Labor Code § 1198.** Violation of the following sections of orders of the Industrial Welfare Commission for conditions of labor prohibited by such:
 - **Wage Order 1-2001 (or other applicable Wage Order), Section 3,** requiring an employer to pay overtime and double time compensation.
 - **Wage Order 1-2001 (or other applicable Wage Order), Section 4,** requiring an employer to pay minimum wages, including overtime and double time compensation at the minimum wage rate.
 - **Wage Order 1-2001 (or other applicable Wage Order), Section 7,** requiring an employer to maintain accurate information with respect to each employee; provide employees with thorough and accurate itemized wage statements; and, provide clocks within a reasonable distance from employees' work areas.
 - **Wage Order 1-2001 (or other applicable Wage Order), Section 11,** requiring an employer to provide its employees with adequate meal periods and an additional hour of pay at the regular rate of compensation in lieu of the mandated rest periods.
 - **Wage Order 1-2001 (or other applicable Wage Order), Section 12,** requiring an employer to provide its employees with adequate rest periods and an additional hour of pay at the regular rate of compensation in lieu of the mandated rest periods.
 - **Wage Order 1-2001 (or other applicable Wage Order), Section 13,** requiring an employer to provide its employees with suitable lockers, closets, or equivalent for the safekeeping of employees' outer clothing during working hours; provide change rooms or equivalent space in order that employees may change their clothing in



reasonable privacy and comfort and separate from toilet rooms and kept clean and for their work clothing during non-working hours; and, provide suitable resting facilities in an area separate from the toilet rooms available to employees during working hours.

- **Wage Order 1-2001 (or other applicable Wage Order), Section 14**, requiring an employer to provide its employees with suitable seats.

This Notice shall apply without limitation to any past, present, future, or continuing violation of the California Labor Code or regulations thereunder which might be discovered as a result of reasonable and diligent investigation made pursuant to this Notice.

D. Conclusion

Colby Law Firm, PC believes that this Notice provides sufficient facts and theories to support each of the alleged violations. However, if any additional facts or theories to support the allegations in this Notice are required per law, please do not hesitate to contact Colby Law Firm, PC.

Please advise if the LWDA will proceed with an investigation of the allegations raised in this Notice, or if Plaintiff, through their representative, may proceed with private litigation against Defendant on behalf of Aggrieved Employees for the alleged violations in this Notice.

All legal, contractual, and equitable rights are expressly reserved and not waived.

Very truly yours,



Aaron Colby, Esq.



EXHIBIT C



Aaron Colby, Esq.
aaron@colbylegal.com
818.253.1599 • colbylegal.com
15233 Ventura Blvd., Suite 500
Sherman Oaks, California 91403

February 19, 2021

SENT VIA EMAIL & U.S. MAIL

World Tech Toys, Inc.
Attention: Kevork Kouyoumjian, CEO
Email: hello@worldtechtoys.com; kev@worldtechtoys.com
28904 Avenue Paine
Valencia, California 91355

RE: **Melanie Robles v. World Tech Toys, Inc.; Kevork Kouyoumjian**
Evidence Preservation Obligations | Demand For Records & Information

Mr. Kouyoumjian:

This firm represents Melanie Robles ("Plaintiff") regarding her employment and legal claims against World Tech Toys, Inc. and you (collectively "Defendant").

If counsel represents Defendant in this case, please forward this letter immediately and have counsel communicate with me. Direct all further communication regarding this case to Plaintiff's attention; make no contact directly with Plaintiff about this case.

Notice of Evidence Preservation Obligations

This letter constitutes notice and a demand to preserve evidence. *Cedars-Sinai Medical Center v. Superior Court* (1998) 18 Cal.4th 1, 12.¹ **The Company must preserve any and all evidence relating to Plaintiff's work at the Company**, including any and all documents in the categories mentioned in this letter, and emails, texts, and communications sent via any messaging service that may relate to his work and claims against the Company.

¹ Parties owe an "uncompromising duty to preserve" what they know or reasonably should know may be relevant evidence in a pending lawsuit. *Kronisch v. United States* (2nd Cir. 1998) 150 F.3d 112, 130, *Mathias v. Jacobs* (Fed. Cir. 1996) 197 E.R.D 29, 37. The duty to preserve exists when a party "is on notice that documents and information in its possession are relevant to litigation, or potential litigation, or are reasonably calculated to lead to the discovery of admissible evidence." *Wm. T. Thompson Co. v. General Nutrition Corp., Inc.* (C.D. Cal. 1984) 593 F. Supp. 1443, 1455. This duty extends to documents that are "relevant in the action, [are] reasonably calculated to lead to the discovery of admissible evidence, [and/or] [are] reasonably likely to be requested during discovery." *Id.*



In particular, the Company must preserve emails, text messages, photographic and video surveillance footage that includes any non-exempt employee from November 30, 2017, through the present and/or the changing rooms, resting facilities, and toilet rooms, and all policies and practices related to the allegations contained in the demand letter dated of the same date as this letter, and the decision to terminate Plaintiff's employment. The Company must maintain all video and audio recordings of Plaintiff, and all information in their files and in any computer system, including but not limited to hard files, computer files, email folders, archives, e-mail, and draft documents stored in electronic form related to Plaintiff.

Demand For Records & Information

A. Statutory Employment Records

Demand is made, pursuant to the legal authority cited below, for the Company to provide me with the following records related to Plaintiff's work with the Company, no later than 30 days from the date you receive this letter:

Personnel Records. Personnel records, pursuant to California Labor Code §§ 1198.5, and 2810.5 and Title 29 Code of Federal Regulations Parts 516.5 and 516.6, including, without limitation:

- Application for employment.
- Payroll authorization form.
- Notices of commendation, warning, discipline, and/or termination.
- Notices of layoff, leave of absence, and vacation.
- Notices of wage attachment or garnishment.
- Education and training notices and records.
- Performance appraisals/reviews.
- Attendance records.
- Change in payroll rate, date of seniority and other changes such as name change, date of birth and correction of Social Security number.
- Wage Theft Protection Act Notices per California Labor Code 2180.5(a).
- Notices of or changes in job duties, transfers, reassignments, demotions, or promotions.
- Notices of union requirements and membership dues check-off.
- Test results (tests associated with the job, such as typing).
- Production, quality and other individual records.
- Records of grievances.
- Records related to separation or retirement related agreements, if applicable.
- Records of subsequent employment reference requests.

Signed Documents. Records bearing Plaintiff's signature related to the obtaining or holding of employment, pursuant to California Labor Code § 432, including, without limitation:

- Applications of employment.



- Offer letters.
- Background check authorizations.
- Arbitration and dispute resolution agreements.
- Class action waiver agreements.
- Employment agreements.
- Employee handbook and policy acknowledgements.
- Meal break waiver agreements.
- Separation documents.
- Severance agreements.
- Release agreements.
- All policies or rules referenced on any document containing Plaintiff's signature.

Wage Statements. Wage statements (e.g., pay check stubs or direct deposit advice slips), pursuant to California Labor Code § 226, that are an accurate itemized statement in writing showing:

- Gross wages earned.
- Total hours worked by the employee.
- Number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis.
- All deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item.
- Net wages earned.
- Inclusive dates of the period for which the employee is paid.
- Name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.
- Name and address of the legal entity that is the employer.
- All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, if the employer is a temporary services employer as defined in California Labor Code § 201.3, the rate of pay and the total hours worked for each temporary services assignment.

Time & Pay Records. Time cards or time sheets and schedules, pursuant to California Labor Code §§ 226(b), 1174, 1175, California Code of Regulations, Title 8, § 11010 et seq. and, Code of Federal Regulations, Title 29, § 516.1, including, without limitation:

- Payroll records showing the hours worked daily.
- Time records showing when Plaintiff's work begins and ends each work period.
- Meal periods, split shift intervals and total daily hours worked for Plaintiff.
- Total hours worked in each payroll period and applicable rates of pay for Plaintiff.

Compensation Documents. Piece rate plans, incentive plans, commission plans, or bonus plans, pursuant to California Code of Regulations, Title 8, § 11010, et seq., that applied to Plaintiff, with the rates and explanation of the plan formula.



Policies. Policies and related records relating to Plaintiff's work, including, without limitation:

- Employee handbooks, including policies on vacation, sick pay, breaks, scheduling, anti-harassment, and leaves of absence.
- Collective bargaining agreements.
- Standards of conduct and work rules.
- Complaining, reporting, internal grievances and investigations.
- Employee benefit information.
- Sign out sheets, timecards, schedules.
- Personnel policies and procedures.

Video & Audio. All video surveillance records, still photographs, and/or audio records of Plaintiff.

Correspondence, Emails, Text & Data Messages. Any and all correspondence, including emails (archived, sent, and deleted), text messages, and data messages (in any format transmitted across any medium) sent to Plaintiff, sent by Plaintiff, related to Plaintiff, or mentioning Plaintiff.

Investigatory Records. All investigatory records involving complaints related to or by Plaintiff.

Financial Records. All financial records related to the terms and conditions and needed to determine eligibility and calculation of all compensation plans, including incentive, commission, and bonus plans.

There is a \$750 penalty for an employer's failure to allow timely inspection or copying of personnel records or wage statements. We may file a lawsuit seeking an injunction to comply, including recovery of attorneys' fees and costs to do so.²

B. Insurance Information

Demand is made for the Company to provide me with:

Coverage. All declarations page(s) to the Company's insurance policy(ies) that may apply to the claims threatened in this letter, including, without limitation, Employment Practices Liability ("EPL"), Employment Benefits Liability, Directors and Officers Liability ("D&O"), and Professional Liability or Errors and Omissions ("E&O") insurance policies.

This includes information about the kind of insurance coverage, the name of the insurance carrier and the insured, the limits of coverage for each type of coverage, the amount of any deductible or self-insured retention, and whether defenses costs reduce the policy limits.

² Labor Code §§ 226(f), (h) and 1198.5(k), (l).



This information cannot be kept secret; it must be disclosed eventually by law.³ This is a standard request that CLIENT would be entitled to at the start of civil discovery.⁴

CONCLUSION

For the statutory employment records, please contact me to coordinate the delivery of the requested records in a secure manner to protect the privacy of Plaintiff.

For the insurance information, please send me the insurance policy(s) declaration page(s), along with the work records requested above.

All legal, contractual, and equitable rights are expressly reserved and not waived.

Very truly yours,



Aaron Colby, Esq.



³ California Code of Civil Procedure Section 2017.210 ("A party may obtain discovery of the existence and contents of any agreement under which any insurance carrier may be liable to satisfy in whole or in part a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. This discovery may include the identity of the carrier and the nature and limits of the coverage"); *see also* California Code Section 47(b)(3) ("This subdivision does not make privileged any communication made in a judicial proceeding knowingly concealing the existence of an insurance policy or policies."); *Laddon v. Superior Ct.* 167 Cal.App.2d 391, 395-396 (1959) ("plaintiff's 'discoverable interest' in defendant's liability insurance arises with the 'very pendency' of the action against the assured. The conclusion is inescapable that ... the insurance policy is relevant to the subject-matter...."); *accord Irvington-Moore, Inc. v. Superior Ct.*, 14 Cal.App.4th 733, 739-40 (1993); *Pettie v. Superior Ct.*, 178 Cal.App.2d 680, 688-689 (1960).

⁴ Judicial Council Form Interrogatory, General, numbers 4.1 and 4.2 and Form Interrogatory, Employment, numbers 214.1 and 214.2.

