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

SALVADOR PEREZ SANCHEZ,

Plaintiff,

v.

BI CITY RENTAL GROUP, INC.;
PARAGON PARTNERS INVESTMENT,
INC. and DOES 1 through 50, inclusive,

Defendants.

Case No.: **21STCV25192**

COMPLAINT FOR DAMAGES

1. Disability Discrimination in Violation of FEHA (Govt. Code § 12940 et seq.);
2. Failure to Engage in the Interactive Process in Violation of FEHA;
3. Failure to Make Reasonable Accommodation in Violation of FEHA;
4. Retaliation in Violation of FEHA;
5. Failure to Prevent Retaliation & Discrimination in Violation of FEHA;
6. Wrongful Termination in Violation of Public Policy;
7. Intentional Infliction of Emotional Distress;
8. Violation of Labor Code §§ 226.7, 512 (Meal Period Violations);
9. Violation of Labor Code §§ 226.7, Wage Order 16 (Rest Period Violations)
10. Violation of Labor Code §§ 510, 1194 (Recovery of Unpaid Minimum Wage and Overtime);
11. Violation of Labor Code §§ 201, 202, 203 (Failure to Pay Wages Due at Separation of Employment);
12. Violation of Bus. & Prof. Code §§ 17200 et seq. (Unfair Business Practices); and
13. Violation of the Private Attorney Generals Act.

DEMAND FOR JURY TRIAL

1 Plaintiff SALVADOR PEREZ SANCHEZ ("Plaintiff" or "Mr. Perez Sanchez"), hereby
2 respectfully alleges, avers, and complains as follows:

3 **INTRODUCTION**

4 1. Plaintiff SALVADOR PEREZ SANCHEZ brings these causes of action against
5 his former employer, Defendant BI CITY RENTAL GROUP, INC., and PARAGON
6 PARTNERS INVESTMENT, INC.; (collectively, "Defendants" or "Employers") and DOES 1
7 through 50, inclusive, for damages arising out of employers' violations of Fair Employment and
8 Housing Act ("FEHA"), the Labor Code, Government Code, and applicable Industrial Welfare
9 Commission ("IWC") Wage Orders. Specifically, Plaintiff sues for (1) Disability Discrimination
10 in Violation of FEHA (Gov. Code, § 12940 et seq.), (2) Failure to Engage in the Interactive
11 Process in Violation of FEHA; (3) Failure to Accommodate in Violation of FEHA; (4) Retaliation
12 in Violation of FEHA; (5) Failure to Prevent Discrimination in Violation of FEHA; (6) Wrongful
13 Termination in Violation of Public Policy; (7) Intentional Infliction of Emotional Distress; (8)
14 Violation of Labor Code sections 226.7 and 512 (Meal Period Violations); (9) Violation of Labor
15 Code sections 226.7, Wage Order 16 (Rest Period Violations); (10) Violation of Labor Code
16 sections 510 and 1194 (Recovery of Unpaid Minimum Wage and Overtime); (11) Violation of
17 Labor Code sections 201, 202, and 203 (Failure to Pay Wages Due at Separation of Employment);
18 and (12) Unfair Business Practices in Violation of Business and Professions Code sections 17200,
19 et seq. ("UCL").

20 **PARTIES**

21 **Plaintiff**

22 2. Plaintiff is, and at all times herein mentioned was, a resident of Los Angeles,
23 County, California. Plaintiff was employed by Defendants in a non-exempt hourly position, from
24 approximately October 2018 through June 5, 2020 ("Relevant Employment Period").

25 **Defendants**

26 3. Plaintiff is informed and believes, and based thereon alleges, that Defendant BI
27 CITY RENTAL GROUP, INC., ("BI CITY") is a corporation, and is and was one of Plaintiff's
28 employers during the relevant employment period. Defendant BI CITY is a business in the

1 restaurant industry. Defendant BI CITY is and was authorized and qualified to do business in the
2 County of Los Angeles. Defendant BI CITY's place of business, was and is in the County of Los
3 Angeles located at 402 Prospectors Rd., #1 Diamond Bar, CA 91746. On information and belief,
4 and based thereon, Plaintiff alleges Defendants are conducting business in good standing in
5 California.

6 4. Plaintiff is informed and believes, and based thereon alleges, that Defendant
7 PARAGON PARTNERS INVESTMENT, INC., ("PPI") is a corporation, and is and was one of
8 Plaintiff's employers during the relevant employment period. Defendant PPI is and was
9 authorized and qualified to do business in the County of Los Angeles. Defendant PPI's place of
10 business, was and is at 21671 Gateway Center Dr. #108, Diamond Bar, CA 91765. On information
11 and belief, and based thereon, Plaintiff alleges Defendant PPI is and was conducting business in
12 good standing in the State of California.

13 5. Plaintiff is not aware of the true names and/or capacities of those entities or
14 individuals sued herein as DOES 1 through 50, inclusive, and therefore sues these Defendants by
15 their fictitious names. Plaintiff is informed and believes, and based thereon alleges, that the
16 fictitiously named Defendants were the agents, servants, and employees of each of the named
17 Defendants and, in doing the acts and things alleged, were at all times acting within the course
18 and scope of that agency, servitude, and employment and with the permission, consent, and
19 approval, or subsequent ratification, of each of the named Defendants. Reference to "Defendants"
20 includes the named Defendants and the DOE Defendants. Plaintiff will seek leave of this court to
21 amend this complaint to insert their true names and/or capacities when the same are ascertained.

22 6. Plaintiff is informed and believes, and based thereon alleges, that at all material
23 times, each of the Defendants were the agents and/or employees of each of the remaining
24 Defendants, and each of them were at all material times acting within the purpose and scope of
25 such agency and employment.

26 7. Plaintiff is informed and believes, and based thereon alleges, that at all material
27 times, one or more of each named and/or unnamed Defendants were in some fashion, by contract
28 or otherwise, the predecessors, affiliates, alter egos, assigns, joint venturers, co-venturers or

1 partners of one or more of the remaining named and/or unnamed Defendants, and as hereinafter
2 alleged, was acting within that capacity.

3 8. Plaintiff is informed and believes, and based thereon alleges, that one or more of
4 the remaining named and/or unnamed Defendants are the successors of one or more of the
5 remaining named and/or unnamed Defendants. Such successors are liable for the occurrences,
6 damages and injuries alleged herein to the same extent its predecessors are liable for the alleged
7 occurrences, damages and injuries.

8 9. Plaintiff is informed and believes, and based thereon alleges, Defendants acted as
9 the employers and/or joint employers of Plaintiff, and that they shared control of Plaintiff as an
10 employee, either directly or indirectly. This control included, but was not limited to, the authority
11 to hire and fire, assign work tasks, engage in day-to-day supervision of employees, and control
12 over employee records.

13 10. Plaintiff is informed and believes, and based thereon alleges, Defendants were the
14 alter-egos of one or more of the remaining named and/or unnamed Defendants, and as hereinafter
15 alleged, was acting for their benefit and/or the benefit of one or more of the remaining named
16 and/or unnamed Defendants. Plaintiff alleges that Defendants were acting on behalf of each other
17 in the establishment of, ratification of, and/or execution of the illegal practices and policies as set
18 forth in this pleading. Plaintiff is informed and believes, and based thereon alleges, that all times
19 relevant hereto Defendants had a decision-making responsibility for, and the establishment and
20 execution of, illegal practices and policies for each other and are, therefore, liable on the causes
21 of action herein.

22 **JURISDICTION AND VENUE**

23 11. Jurisdiction is proper in this Court by virtue of the California statutes, decisional
24 law, and regulations, and the local rules under the Los Angeles County Superior Court Rules,
25 including, but not limited to, the rules governing the proper court in which to file an action for an
26 unlimited civil action.

27 12. Venue in this Court is proper in that the causes of action herein alleged took place
28 at Defendants' work cite located in the County of Los Angeles, State of California.

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14. Plaintiff has exhausted his administrative remedies by timely filing a complaint of discrimination in his employment with the California Department of Fair Employment and Housing (“DFEH”). The DFEH issued its Right-To-Sue Notice on July 8, 2021, authorizing this lawsuit and Plaintiff timely filed this action within the prescribed period subsequent to the issuance of the Right-To-Sue Notice letter. Plaintiff has, therefore, exhausted his administrative remedies and timely filed this action within the prescribed period subject to issuance of the Right-To-Sue Notice letter. **Exhibit A**, is a true and correct copy of DFEH’s July 8, 2021, letter which is incorporated by reference herein.

16. On February 10, 2021, prior to the filing of this complaint, Plaintiff gave written notice of the specified provisions alleged to have been violated, including the facts and theories to support the alleged violations, as required by Labor Code section 2699.3. On May 3, 2021 Plaintiff amended his written notice. This written notice was given via certified mail to Defendant(s), and to the LWDA by electronically filing the notice via the LWDA website. Plaintiff was given a LWDA case number of LWDA-CM-822063-21. A true and correct copy of Plaintiff's notice to the LWDA and Defendant(s), dated May 3, 2021, is attached hereto as **Exhibit B.**

COMPLAINT FOR DAMAGES

1 17. Under Labor Code section 2699.3, subdivision (a)(2)(C), "Notwithstanding any
2 other provision of law, a plaintiff may as a matter of right amend an existing complaint to add a
3 cause of action arising under this part at any time within 60 days of the time periods specified in
4 this part."

5 **FACTS COMMON TO ALL CAUSES OF ACTION**

6 18. In or around October 2018, Employers hired Mr. Perez Sanchez as a non-exempt
7 employee earning \$140.00 per day. Mr. Perez Sanchez generally worked five days per week and
8 nine (9) hours per day. Throughout Mr. Perez Sanchez's employment, Employers refused and/or
9 failed to pay Mr. Perez Sanchez for all hours worked. Despite the fact Mr. Perez Sanchez worked
10 upwards of forty-five (45) hours per week, Employers only paid Mr. Perez Sanchez one hundred
11 forty dollars (\$140.00) per day regardless if he worked more than eight (8) hours in a single day.
12 Employers never provided Mr. Perez Sanchez with paystubs and only paid him with a personal
13 check. Employers also failed to provide Mr. Perez Sanchez with adequate meal and rest breaks in
14 violation of the California Labor Code. In addition, Mr. Perez Sanchez was advised by Employer
15 BI CITY RENTAL GROUP, INC.'s owner, that Employers do not pay overtime wages despite
16 requiring employees to work over eight (8) hours in a day or forty (40) hours in a week.

17 19. Prior to Mr. Perez Sanchez's termination, Mr. Perez Sanchez was never
18 reimbursed for business-related expenses during the course of his employment. Specifically, Mr.
19 Perez Sanchez was required to travel to Home Depot in his personal car prior to the scheduled
20 start time for his shift to pick up equipment and tools for work. Mr. Perez Sanchez was not
21 reimbursed for the use of his personal vehicle nor was he paid for the time he spent traveling to
22 and from Home Depot for Employer's benefit.

23 20. In or around late May 2020, Mr. Perez Sanchez suffered a work-related injury. Mr.
24 Perez Sanchez reported his injury that same day and requested a week off due to the pain. Mr.
25 Perez Sanchez asked to use sick time during his time off, however the request was denied. Later,
26 Mr. Perez Sanchez saw a doctor, who was his supervisor's husband, who told Mr. Perez Sanchez
27 that there was no injury and he should return to work.

28 ///

1 21. Mr. Perez Sanchez returned to work and injured himself further. At this point Mr.
2 Perez Sanchez sought out counsel for a worker's compensation claim. After Employer found out
3 about the claim the Employer requested that Mr. Perez Sanchez drop the claim. Mr. Perez Sanchez
4 refused. After this, Mr. Perez Sanchez was told he would be called to return to work at some later
5 date once there was work for him. Mr. Perez Sanchez never received a call. On or around June 5,
6 2020, Mr. Perez Sanchez called Employer regarding his check and was told he had to come to the
7 office to pick it up. Mr. Perez Sanchez arrived to pick up his check and was told he had to sign
8 some document to receive the check. Mr. Perez Sanchez refused to sign this document but did
9 take his check. Mr. Perez Sanchez has not heard from Employer since and presumes that he is
10 now terminated in retaliation for his work-related injury and request for accommodations.

11 **FIRST CAUSE OF ACTION**

12 **DISABILITY DISCRIMINATION UNDER THE FEHA**

13 **(Gov. Code, §§ 12940 et seq.)**

14 **(Plaintiff against BI CITY, PPI, and DOES 1-50, Inclusive)**

15 22. Plaintiff realleges and incorporates herein those matters contained in the above
16 paragraphs.

17 23. At all times herein mentioned, Government Code sections 12940 et seq. were in
18 full force and effect and binding on Defendants. These statutes, known as the California Fair
19 Employment and Housing Act ("FEHA"), make it unlawful for an employer in the State of
20 California to discriminate against an employee based on his or his membership in a protected
21 class.

22 24. Specifically, it states: "*It shall be an unlawful employment practice, unless based*
23 *upon a bona fide occupational qualification, or, except where based upon applicable security*
24 *regulations established by the United States or the State of California: (a) For an employer,*
25 *because of ... physical disability, mental disability, medical condition, ... sex, age or sexual*
26 *orientation of any person to refuse to hire or employ the person or to refuse to select the person*
27 *for a training program leading to employment or to bar or discharge the person from employment,*
28 *or to discriminate against the person in compensation or in terms, conditions or privileges of*

1 *employment.*” (Emphasis added).

2 25. At all times herein mentioned, Defendants were an employer covered under FEHA
3 because they employed at least five (5) employees during Plaintiff’s employment.

4 26. Plaintiff is informed and believes, and based thereon alleges, Defendants
5 knowingly and/or intentionally discriminated against Plaintiff due to his disability or known
6 medical condition, which arose from his job with Defendants.

7 27. At all times herein mentioned, Defendants by and through its agents and
8 employees, subjected Plaintiff to disability discrimination by reason of the facts alleged herein.

9 28. In or around late May 2020 Mr. Perez Sanchez suffered a work-related injury. Mr.
10 Perez Sanchez reported his injury that same day and requested a week off due to the pain. Mr.
11 Perez Sanchez asked to use sick time during his time off, however the request was denied. Later,
12 Mr. Perez Sanchez saw a doctor, who was his supervisor’s husband, who told Mr. Perez Sanchez
13 that there was no injury and he should return to work.

14 29. Mr. Perez Sanchez returned to work and injured himself further. At this point Mr.
15 Perez Sanchez sought out counsel for a worker’s compensation claim. After Employer found out
16 about the claim the Employer requested that Mr. Perez Sanchez drop the claim. Mr. Perez Sanchez
17 refused. After this Mr. Perez Sanchez was told he would be called to return to work at some later
18 date once there was work for him. Mr. Perez Sanchez never received a call. On or around June 5,
19 2020 Mr. Perez Sanchez called Employer regarding his check and was told he had to come to the
20 office to pick it up. Mr. Perez Sanchez arrived to pick up his check and was told he had to sign
21 some document to receive the check. Mr. Perez Sanchez refused to sign this document but did
22 take his check. Mr. Perez Sanchez has not heard from Employer since and presumes that he is
23 now terminated in retaliation for his work-related injury and request for accommodations.

24 30. As a direct result of this disability discrimination under the FEHA, Plaintiff has
25 sustained, and will continue to sustain for a period of time, compensatory damages, including, but
26 not limited to, a loss of income and lost future earning capacity, all to his damage in an amount
27 according to proof.

28 31. As a further direct result of this discrimination under the FEHA, Plaintiff has

1 sustained and will continue to sustain for a period of time, severe physical, emotional and mental
2 distress, and pain and suffering, all to his damage in an amount according to proof.

3 32. Defendants' decision to terminate Plaintiff based on his disability and/or request
4 for accommodation was a substantial factor in causing Plaintiff's compensatory damages,
5 including, but not limited to, a loss of income and lost future earning capacity, severe physical,
6 emotional and mental distress, and pain and suffering, all to his damage in an amount according
7 to proof.

8 33. In committing the foregoing acts, Defendants have been guilty of oppression,
9 fraud, and/or malice as defined under Civil Code section 3294, thereby entitling Plaintiff to
10 punitive damages in a sum appropriate to punish and make an example out of the foregoing
11 defendants, and demonstrate that such conduct will not be tolerated.

12 34. The act of oppression, fraud, and/or malice were engaged in by managerial
13 employees of Defendants. Defendants had advance knowledge of the unfitness of each employee
14 who acted with oppression, fraud, and/or malice, and/or authorized or ratified the wrongful
15 conduct for which an award of punitive damages is sought; and/or was personally guilty of
16 oppression, fraud, and/or malice. The advance knowledge and conscious disregard, authorization,
17 ratification, or act of oppression, fraud, and/or malice was committed by or on part of an officer,
18 director, or managing agent of Defendants, thereby entitling Plaintiff to punitive and exemplary
19 damages against Defendants in accordance with Civil Code section 3294 in a sum appropriate to
20 punish and make an example of Defendants.

21 35. Plaintiff seeks attorneys' fees pursuant to Government Code section 12965,
22 subdivision (b).

23 **SECOND CAUSE OF ACTION**

24 **FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS**

25 **(Plaintiff against BI CITY, PPI, and DOES 1-50, Inclusive)**

26 36. Plaintiff realleges and incorporates herein those matters contained in above
27 paragraphs.

28 37. FEHA requires an employer to engage in a timely, good faith, interactive process

1 with the employee to determine effective reasonable accommodations, if any, in response to a
2 request for a reasonable accommodation by an employee with a known physical disability or
3 medical condition. (Gov. Code, §12940, subd. (n).) The interactive process “centers on the
4 employee-employer relationship so that capable employees can remain employed and so that their
5 medical problems can be accommodated.” (*Prillman v. United Air Lines, Inc.* (1997) 53 Cal. App.
6 4th 935, 950.)

7 38. From May 2020 until present, Mr. Perez Sanchez suffered from a disability for
8 which he sought and continues to seek medical treatment. Defendant knew and/or was aware of
9 Mr. Perez Sanchez’s disability.

10 39. Mr. Perez Sanchez suffered a work-related injury which resulted in Mr. Perez
11 Sanchez requiring time off of work. Mr. Perez Sanchez notified his employer of his request for
12 time off as a reasonable accommodation. Following this request Mr. Perez Sanchez was told to
13 go home and await a call back to work at some unknown date. Mr. Perez Sanchez never received
14 a call back to work.

15 40. On or around June 5, 2020 Mr. Perez Sanchez called Employer regarding his check
16 and was told he had to come to the office to pick it up. Mr. Perez Sanchez arrived to pick up his
17 check and was told he had to sign some document to receive the check. Mr. Perez Sanchez refused
18 to sign this document but did take his check. Mr. Perez Sanchez has not heard from Employer
19 since and presumes that he is now terminated in retaliation for his work related injury and request
20 for accommodations.

21 41. As a direct result of this failure to engage in the interactive process, Mr. Perez
22 Sanchez has sustained and will continue to sustain for a period of time, compensatory damages,
23 including, but not limited to, a loss of income and lost future earning capacity, all to his damage
24 in an amount according to proof.

25 42. As a further direct result of this failure to engage in the interactive process, Mr.
26 Perez Sanchez has sustained and will continue to sustain for a period of time, severe physical,
27 emotional and mental distress, and pain and suffering, all to his damage in an amount according
28 to proof.

1 43. Plaintiff is entitled to his reasonable attorneys' fees and expenses under the FEHA.

2 **THIRD CAUSE OF ACTION**

3 **FAILURE TO ACCOMMODATE**

4 **(Plaintiff against BI CITY, PPI, and DOES 1-50, Inclusive)**

5 44. Plaintiff realleges and incorporates herein those matters contained in the above
6 paragraphs.

7 45. Under the FEHA, it is unlawful for an employer to "fail to make a reasonable
8 accommodation for the known or perceived physical disability." (Gov. Code, §12940, subd. (m).)
9 Even if the employee's medical condition does not constitute a qualified disability, an employer
10 must reasonably accommodate an employee whom it regarded as disabled. (*Gelfo v. Lockheed*
11 *Martin Corp.* (2006) 140 Cal. App. 4th 34, 60-62.)

12 46. In or around May 2020, Defendant knew Mr. Perez Sanchez suffered an injury.
13 Defendant was further made aware of the status of Mr. Perez Sanchez's disability until the time
14 he was wrongfully terminated. Furthermore, Mr. Perez Sanchez requested an accommodation of
15 additional time off to Defendant.

16 47. Defendant did not take all the necessary steps to prevent unlawful discrimination.
17 Defendant by and through its agents and/or management discriminated against Mr. Perez Sanchez
18 due to his disability. Rather than accommodating Mr. Perez Sanchez with the said injury,
19 Defendant wrongfully terminated Mr. Perez Sanchez.

20 48. As a direct and proximate result of this failure to accommodate under the FEHA
21 described herein, Plaintiff has sustained and will continue to sustain for a period of time,
22 compensatory damages, including, but not limited to, a loss of income and lost future earning
23 capacity, all to his damage in amount according to proof.

24 49. As a further direct result of this failure to accommodate under the FEHA, Plaintiff
25 has sustained and will continue to sustain for a period of time, severe physical, emotional and
26 mental distress, and pain and suffering, all to his damage in an amount according to proof.

27 50. In committing the foregoing acts, Defendants have been guilty of oppression,
28 fraud, and/or malice as defined under Civil Code section 3294, thereby entitling Plaintiff to

1 punitive damages in a sum appropriate to punish and make an example out of the foregoing
2 defendants, and demonstrate that such conduct will not be tolerated.

3 51. The act of oppression, fraud, and/or malice were engaged in by managerial
4 employees of Defendants. Defendants had advance knowledge of the unfitness of each employee
5 who acted with oppression, fraud, and/or malice, and/or authorized or ratified the wrongful
6 conduct for which an award of punitive damages is sought; and/or was personally guilty of
7 oppression, fraud, and/or malice. The advance knowledge and conscious disregard, authorization,
8 ratification, or act of oppression, fraud, and/or malice was committed by or on part of an officer,
9 director, or managing agent of Defendants, thereby entitling Plaintiff to punitive and exemplary
10 damages against Defendants in accordance with Civil Code section 3294, in a sum appropriate to
11 punish and make an example of Defendants.

12 **FOURTH CAUSE OF ACTION**

13 **RETALIATION IN VIOLATION FEHA**

14 **(Gov. Code, § 12940, subd. (a))**

15 **(Plaintiff against BI CITY, PPI, and DOES 1-50, inclusive)**

16 52. As a separate and distinct cause of action, Plaintiff complains and realleges all of
17 the allegations contained in this complaint, and incorporates them by reference into this cause of
18 action as though fully set forth herein.

19 53. At all times herein mentioned, Government Code section 12940, subdivision (h),
20 was in full force and effect. This statute made it unlawful for an employer doing business in the
21 State of California to retaliate against an employee who has a physical disability and medical
22 condition.

23 54. Plaintiff engaged in protected activity by informing Defendants of his disability
24 and requesting accommodation. Defendants unlawfully retaliated against Plaintiff by terminating
25 his employment on June 5, 2020.

26 55. As a direct result of this unlawful retaliation, Plaintiff has sustained and will
27 continue to sustain for a period of time, compensatory damages, including, but not limited to, loss
28 of income and loss of future earning capacity, all to his damage in an amount according to proof.

1 56. As a further direct result of this unlawful retaliation, Plaintiff has sustained and
2 will continue to sustain for a period of time, severe physical, emotional and mental pain, and
3 suffering and distress, all to his general damage in an amount according to proof.

4 57. In committing the foregoing acts, Defendants have been guilty of oppression,
5 fraud, and/or malice as defined under Civil Code section 3294, thereby entitling Plaintiff to
6 punitive damages in a sum appropriate to punish and make an example out of the foregoing
7 defendants, and demonstrate that such conduct will not be tolerated.

8 58. The act of oppression, fraud, and/or malice were engaged in by managerial
9 employees of Defendants. Defendants had advance knowledge of the unfitness of each employee
10 who acted with oppression, fraud, and/or malice, and/or authorized or ratified the wrongful
11 conduct for which an award of punitive damages is sought; and/or was personally guilty of
12 oppression, fraud, and/or malice. The advance knowledge and conscious disregard, authorization,
13 ratification, or act of oppression, fraud, and/or malice was committed by or on part of an officer,
14 director, or managing agent of Defendants, thereby entitling Plaintiff to punitive and exemplary
15 damages against Defendants in accordance with Civil Code section 3294, in a sum appropriate to
16 punish and make an example of Defendants.

17 59. Plaintiff seeks attorneys' fees pursuant to Government Code section 12965,
18 subdivision (b).

19 **FIFTH CAUSE OF ACTION**

20 **FAILURE TO PREVENT DISCRIMINATION & RETALIATION**

21 **(Gov. Code, § 12940, subd. (k))**

22 **(Plaintiff against BI CITY, PPI, and DOES 1-50, Inclusive)**

23 60. As a separate and distinct cause of action, Plaintiff complains and realleges all of
24 the allegations contained in this complaint, and incorporates them by reference into this cause of
25 action as though fully set forth herein.

26 61. At all times herein mentioned, Government Code section 12940, subdivision (k),
27 was in full force and effect. This statute, in pertinent part, made it an unlawful employment
28 practice in the State of California for an employer to fail to take all reasonable steps necessary to

1 prevent discrimination and harassment from occurring in the workplace.

2 62. "In accordance with.... the fundamental public policy of eliminating
3 discrimination in the workplace under FEHA, we conclude that retaliation is a form of
4 discrimination actionable under [Gov. Code] section 12940, subdivision (k)." (*Taylor v. City of*
5 *Los Angeles Dept. of Water and Power* (2006) 144 Cal. App. 4th 1216, 1240.)

6 63. At all times herein mentioned, Plaintiff alleges that Defendants failed to take all
7 reasonable steps to prevent retaliation based on Plaintiff's protected status of suffering from a
8 physical disability. Defendants had policies and procedures in place regarding discrimination,
9 harassment, and retaliation based on an employee's membership in a protected class. These
10 policies and procedures, in pertinent part, prohibit harassment, discrimination, and retaliation
11 based on disability.

12 64. Defendants failed to prevent harassment and discrimination when they were
13 advised that Plaintiff suffered from a disability as a result of a work-related injury. Defendants
14 did not take Plaintiff's disability seriously and failed to prevent harassment, discrimination, and
15 retaliation based on his disability by terminating Plaintiff's employment.

16 65. Plaintiff is informed and believes, and based thereon alleges, that the aforesaid
17 conduct violated Defendants' duty under the law as well as Defendants' own business policies to
18 prevent harassment, discrimination, and retaliation in the workplace.

19 66. Defendants' failure to prevent disability discrimination and maintain an
20 environment free from discrimination was a substantial factor in causing damage, and injury to
21 Plaintiff as alleged herein.

22 67. As a direct and proximate result of this failure to prevent discrimination,
23 harassment, and retaliation in the workplace under the FEHA described herein, Plaintiff has
24 sustained and will continue to sustain for a period of time, compensatory damages, including, but
25 not limited to, a loss of income and lost future earning capacity, all to his damage in amount
26 according to proof.

27 68. As a further direct result of this failure to prevent discrimination, harassment, and
28 retaliation in the workplace under the FEHA, Plaintiff has sustained and will continue to sustain

1 for a period of time, severe physical, emotional and mental distress, and pain and suffering, all to
2 his damage in an amount according to proof.

3 69. In committing the foregoing acts, Defendants have been guilty of oppression,
4 fraud, and/or malice as defined under Civil Code section 3294, thereby entitling Plaintiff to
5 punitive damages in a sum appropriate to punish and make an example out of the foregoing
6 defendants, and demonstrate that such conduct will not be tolerated.

7 70. The act of oppression, fraud, and/or malice were engaged in by managerial
8 employees of Defendants. Defendants had advance knowledge of the unfitness of each employee
9 who acted with oppression, fraud, and/or malice, and/or authorized or ratified the wrongful
10 conduct for which an award of punitive damages is sought; and/or was personally guilty of
11 oppression, fraud, and/or malice. The advance knowledge and conscious disregard, authorization,
12 ratification, or act of oppression, fraud, and/or malice was committed by or on part of an officer,
13 director, or managing agent of Defendants, thereby entitling Plaintiff to punitive and exemplary
14 damages against Defendants in accordance with Civil Code section 3294, in a sum appropriate to
15 punish and make an example of Defendants.

16 71. Plaintiff is further entitled to attorneys' fees pursuant to Government Code section
17 12965, subdivision (b).

18 **SIXTH CAUSE OF ACTION**

19 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

20 **(Plaintiff against BI CITY, PPI, and DOES 1-50, Inclusive)**

21 72. Plaintiff realleges and incorporates herein those matters contained in above
22 paragraphs.

23 73. At all times mentioned, the public policy of the State of California, as codified in
24 Government Code section 12940 prohibits employers from discriminating and retaliating against
25 any individual on the basis of disability. Government Code section 12940 declares "as the public
26 policy of this state that it is necessary to protect and safeguard the right and opportunity of all
27 person to seek, obtain, and hold employment without discrimination or abridgment on account...
28 physical disability, mental disability, medical conditions."

1 74. The public policy of the State of California is design to protect all employees and
2 to promote the well-being of the community at large.

3 75. In or around May 2020, Mr. Perez Sanchez suffered a work related injury. Mr.
4 Perez Sanchez requested time off to recover from the injury and the request was denied. Mr. Perez
5 Sanchez ultimately began a workers compensation claim and was thereafter terminated.

6 76. As a direct result of this wrongful termination in violation of public policy under
7 FEHA, Mr. Perez Sanchez has sustained and will continue to sustain for a period of time,
8 compensatory damages, including, but not limited to, a loss of income and lost future earning
9 capacity, all to his damage in an amount according to proof.

10 77. As a further direct result of this wrongful termination in violation of public policy
11 under the FEHA, Plaintiff has sustained and continues to sustain, non-economic damages and
12 emotional distress and special damages within the jurisdictional limits of this Court.

13 78. In committing the foregoing acts, Defendants have been guilty of oppression,
14 fraud, and/or malice as defined under Civil Code section 3294, thereby entitling Plaintiff to
15 punitive damages in a sum appropriate to punish and make an example out of the foregoing
16 defendants, and demonstrate that such conduct will not be tolerated.

17 79. The act of oppression, fraud, and/or malice were engaged in by managerial
18 employees of Defendants. Defendants had advance knowledge of the unfitness of each employee
19 who acted with oppression, fraud, and/or malice, and/or authorized or ratified the wrongful
20 conduct for which an award of punitive damages is sought; and/or was personally guilty of
21 oppression, fraud, and/or malice. The advance knowledge and conscious disregard, authorization,
22 ratification, or act of oppression, fraud, and/or malice was committed by or on part of an officer,
23 director, or managing agent of Defendants, thereby entitling Plaintiff to punitive and exemplary
24 damages against Defendants in accordance with Civil Code section 3294, in a sum appropriate to
25 punish and make an example of Defendants.

26 ///

27 ///

28 ///

1 **SEVENTH CAUSE OF ACTION**

2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

3 **(Plaintiff against All Defendants and DOES 1-50, Inclusive)**

4 80. Plaintiff realleges and incorporates herein those matters contained in above
5 paragraphs.

6 81. "A cause of action for intentional infliction of emotional distress exists where there
7 is '(1) extreme and outrageous conduct by defendant with the intention of causing, or reckless
8 disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or
9 extreme emotional distress; and (3) actual and proximate causation of the emotional distress by
10 the defendant's outrageous conduct.'" (*Hughes v. Pair* (2009) 46 Cal.4th 1035, 1050, quoting
11 *Potter v. Firestone Tire & Rubber Co.* (1993) 6 Cal.4th 965, 1001.) Conduct is "outrageous"
12 where it is so "extreme as to exceed all bounds of that usually tolerated in a civilized community."
13 (*Potter*, 6 Cal.4th at p. 1001.)

14 82. Specifically, the actions of denying Mr. Perez Sanchez accommodation of
15 additional time off and retaliating by requiring him to work and exacerbate his injury.

16 83. As a result of Defendants' extreme and outrageous conduct described herein,
17 Plaintiff sustained severe emotional distress, humiliation, embarrassment, sadness, and insomnia.
18 As a further direct and proximate result of Defendants' disability discrimination, Plaintiff has
19 sustained and will continue to sustain for a period of time, severe physical, emotional and mental
20 distress, and pain and suffering, all to his general damage in an amount according to proof.

21 84. As a direct result of this intentional infliction of severe emotional and mental
22 distress, Plaintiff has sustained and will continue to sustain for a period of time, compensatory
23 damages in an amount according to proof.

24 85. Defendants ratified and approved the actions of its agents and employees in,
25 among other things, terminating Plaintiff's employment for making complaints about not being
26 provided with meal and rest periods, not being fully compensated for all hours worked, and for
27 informing Defendants of his disability and requesting reasonable accommodations. These acts
28 and conduct, which were extreme, outrageous, intentional, malicious, and oppressive, were

1 designed to and did, injure Plaintiff in his health, strength, and activity.

2 86. In committing the foregoing acts, Defendants have been guilty of oppression,
3 fraud, and/or malice as defined under Civil Code section 3294, thereby entitling Plaintiff to
4 punitive damages in a sum appropriate to punish and make an example out of the foregoing
5 defendants, and demonstrate that such conduct will not be tolerated.

6 87. The act of oppression, fraud, and/or malice were engaged in by managerial
7 employees of Defendants. Defendants had advance knowledge of the unfitness of each employee
8 who acted with oppression, fraud, and/or malice, and/or authorized or ratified the wrongful
9 conduct for which an award of punitive damages is sought; and/or was personally guilty of
10 oppression, fraud, and/or malice. The advance knowledge and conscious disregard, authorization,
11 ratification, or act of oppression, fraud, and/or malice was committed by or on part of an officer,
12 director, or managing agent of Defendants, thereby entitling Plaintiff to punitive and exemplary
13 damages against Defendants in accordance with Civil Code section 3294 in a sum appropriate to
14 punish and make an example of Defendants.

15 88. Additionally, Plaintiff seeks attorney's fees and expenses pursuant to Government
16 Code section 12965, subdivision (b), as well as punitive damages as a result of Defendants'
17 knowing and/or intentional conduct.

18 **EIGHTH CAUSE OF ACTION**

19 **FAILURE TO PROVIDE MEAL PERIODS OR COMPENSATION IN LIEU THEREOF**
20 **(Plaintiff Against BI CITY, PPI, and DOES 1-50, Inclusive)**

21 89. As a separate and distinct cause of action, Plaintiff complains and realleges all of
22 the allegations contained in this complaint, and incorporates them by reference into this cause of
23 action as though fully set forth herein.

24 90. Labor Code sections 226.7 and 512 provide that no employer shall employ any
25 person for a work period of more than six (6) hours without providing a meal period of not less
26 than thirty (30) minutes within the fifth (5) hour of work, or employ any person for a work period
27 of more than ten (10) hours without a second meal period of not less than thirty (30) minutes.

28 91. Labor Code section 226.7 provides that if an employer fails to provide an

1 employee a meal period in accordance with this section, the employer shall pay the employee one
2 (1) hour of pay at the employee's regular rate of compensation for each workday that the meal
3 period is not provided in accordance with this section.

4 92. Defendants failed to provide Plaintiff with duty-free, uninterrupted meal periods
5 within the first five (5) hours of his work shifts. Defendants maintained a practice of instructing
6 Plaintiff to clock out for meal breaks but then to continue working through the meal break. When
7 Plaintiff was able to take a meal break, he was constantly interrupted with work-related issues
8 preventing him from having a full meal break. As a result, Plaintiff was not provided with lawfully
9 compliant meal periods, worked during his meal periods/and or took his meal periods after the
10 fifth hour of his shift. In so doing, Defendants have intentionally and improperly denied meal
11 periods to Plaintiff in violation of Labor Code sections 226.7 and 512 and other regulations and
12 statutes.

13 93. Defendants further failed to implement a policy to pay Plaintiff an additional hour
14 of pay at his regular rate of pay for meal periods not provided.

15 94. At all times relevant hereto, Plaintiff worked more than six (6) hours in a workday.

16 95. Plaintiff seeks recovery of meal period compensation pursuant to Labor Code
17 section 226.7, for the four (4) years prior to filing this complaint, as well as the assessment of any
18 statutory penalties against Defendants, and each of them, in a sum as provided by the Labor Code
19 and/or other statutes, reasonable attorneys' fees and costs.

20 **NINTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE REST PERIODS OR COMPENSATION IN LIEU THEREOF**

22 **(Plaintiff Against BI CITY, PPI, and DOES 1-50, Inclusive)**

23 96. As a separate and distinct cause of action, Plaintiff complains and realleges all of
24 the allegations contained in this complaint, and incorporates them by reference into this cause of
25 action as though fully set forth herein.

26 97. The IWC Wage Orders and Labor Code section 226.7, provide that employers
27 must authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest
28 time per four (4) work hours.

1 98. Labor Code section 226.7, subdivision (b), provides that if an employer fails to
2 provide an employee rest periods in accordance with this section, the employer shall pay the
3 employee one (1) hour of pay at the employees' regular rate of compensation for each workday
4 that the rest period is not provided.

5 99. Defendants failed to maintain a practice to authorize or permit rest periods for
6 Plaintiff. Due to the amount of work, Plaintiff was not even provided adequate time to take off-
7 duty rest breaks. Defendants intentionally and improperly denied rest periods to Plaintiff in
8 violation of Labor Code sections 226.7, and 512.

9 100. Defendants further failed to implement a policy to pay Plaintiff an additional hour
10 of pay at his regular rate of pay for rest periods not authorized or permitted.

11 101. At all times relevant hereto, Plaintiff has worked more than three and one-half
12 hours in a workday.

13 102. Plaintiff seeks recovery of rest period compensation pursuant to Labor Code
14 section 226.7 for the four (4) years prior to filing this complaint, as well as the assessment of any
15 statutory penalties against Defendants in a sum as provided by the Labor Code and/or any other
16 statute, reasonable attorney's fees and costs.

17 **TENTH CAUSE OF ACTION**

18 **FAILURE TO PAY ALL WAGES**

19 **(Plaintiff against BI CITY, PPI, and DOES 1-50, Inclusive)**

20 103. As a separate and distinct cause of action, Plaintiff complains and realleges all of
21 the allegations contained in this complaint, and incorporates them by reference into this cause of
22 action as though fully set forth herein.

23 104. Defendants have violated provisions of the Labor Code by failing to pay Plaintiff
24 minimum wage as required by Labor Code sections 1182.12, 1197, and Wage Order 4-2001.

25 105. Labor Code section 1182.12, subdivision (B)(1)(b), provides beginning January 1,
26 2018, the minimum wage rate in California for employers with 26 employees or more is eleven
27 dollars (\$11.00) per hour. Plaintiff is informed and believes Defendants employ more than 26
28 employees.

1 106. In addition, pursuant to Labor Code section 1198, it is unlawful to employ persons
2 for longer than the hours set by the IWC, or under conditions prohibited by the applicable IWC
3 Wage Orders.

4 107. At all times relevant herein, sections 510, 558, 1194, and 1198 of the Labor Code
5 and the applicable regulations provide for payment of overtime wages equal to one and one-half
6 times the employee's regular rate of pay for all hours worked over eight (8) in a workday, and/or
7 forty (40) in a workweek, and for payment of overtime wages equal to double the employee's
8 regular rate of pay for all hours worked in excess of twelve (12) hours in any workday, and for
9 all hours worked in excess of eight (8) hours on the seventh day of work in any one (1) workweek.

10 108. Pursuant to IWC Wage Order 4, section, subdivision 2(k), "hours worked"
11 includes the time during which an employee is subject to the control of the employer, and includes
12 all time the employee is suffered or permitted to work, whether or not required to do so.

13 109. Labor Code section 1194 provides that, notwithstanding any agreement to work
14 for a lesser wage, an employee receiving less than the legal minimum wage or an employee who
15 has not been paid overtime compensation as required by Labor Code section 1198 and Title 8 of
16 the California Code of Regulations, section 11040, may recover, in a civil action, the unpaid
17 balance of the full amount of such minimum wage and overtime compensation, including interest
18 thereon, together with reasonable attorneys' fees and costs of suit.

19 110. During Plaintiff's employment with Defendants, Plaintiff was regularly required
20 to work in excess of eight (8) hours per workday and/or in excess of forty (40) hours per
21 workweek, without payment of overtime wages and/or minimum wage for such excess hours.

22 111. Defendants either did not provide Plaintiff with meal periods or, would interrupt
23 him to continue working until Plaintiff had finished what he was working on. Defendants' conduct
24 of failing to pay Plaintiff minimum wages and overtime wages for these hours, as described
25 herein, is a violation of California law.

26 112. The duty to pay overtime compensation imposed by California law expresses a
27 fundamental state policy affecting the health and welfare of its citizens. Defendants' failure to
28 compensate Plaintiff at the applicable overtime rates and/or minimum wage rate for all hours

1 worked was a breach of the duties Defendants owed to Plaintiff in violation of fundamental public
2 policy.

3 113. As a result of the unlawful acts of Defendants, Plaintiff has been deprived of
4 minimum wages and/or overtime wages in amounts to be determined at trial, and is entitled to
5 recovery of such amounts, liquidated damages, plus interest and statutory penalties thereon, and
6 attorneys' fees and costs under Labor Code section 1194.

7 **ELEVENTH CAUSE OF ACTION**

8 **FAILURE TO PAY WAGES UPON TERMINATION OF EMPLOYMENT**

9 **(Plaintiff Against BI CITY, PPI, and DOES 1-50, Inclusive)**

10 114. As a separate and distinct cause of action, Plaintiff complains and realleges all of
11 the allegations contained in this complaint, and incorporates them by reference into this cause of
12 action as though fully set forth herein.

13 115. Under Labor Code sections 201, 202, and 203, Plaintiff is entitled to prompt
14 payment of all wages due to him upon his separation from employment with Defendants.

15 116. On June 22, 2020, Plaintiff was terminated from his employment with Defendants.
16 Defendants, however, failed to pay Plaintiff all wages which were due to his immediately upon
17 termination as required by Labor Code section 202, subdivision(a). Defendants failed to pay
18 Plaintiff all minimum wages and/or overtime wages due which were earned throughout his
19 employment. Defendants failed to pay Plaintiff all wages which he was due throughout his
20 employment for time spent working during meal and rest periods. Such non-payment was a direct
21 and proximate refusal to do so by Defendants.

22 117. As a result of Defendants failure to comply with Labor Code sections 201, 202,
23 and 203, Plaintiff is entitled to waiting time penalties for not having been paid all wages due to
24 him upon his separation from employment with Defendants. As such, Plaintiff seeks payment of
25 penalties pursuant to Labor Code section 203, according to proof.

26 118. Additionally, Plaintiff is entitled to attorneys' fees and costs, pursuant to Labor
27 Code section 203 and prejudgment interest pursuant to Labor Code section 218.6 and Civil Code
28 section 3287.

1 **TWELFTH CAUSE OF ACTION**

2 **UNFAIR BUSINESS PRACTICE IN VIOLATION OF BUSINESS AND PROFESSIONS**

3 **CODE SECTION 17200**

4 **(Plaintiff Against BI CITY, PPI, and DOES 1-50, Inclusive)**

5 119. As a separate and distinct cause of action, Plaintiff complains and realleges all of
6 the allegations contained in this complaint, and incorporates them by reference into this cause of
7 action as though fully set forth herein.

8 120. Business and Professions Code section 17200 et seq., (“Unfair Business Practices
9 Act” or “Unfair Competition Law”) prohibits unfair competition in the form of any unlawful,
10 unfair or fraudulent business act or practice.

11 121. Business and Professions Code section 17204 allows “any person who has suffered
12 injury in fact and has lost money or property as a result of such unfair competition” to prosecute
13 a civil action for violation of the Unfair Competition Law.

14 122. Labor Code section 90.5, subdivision (a), states it is the public policy of California
15 to vigorously enforce minimum labor standards in order to ensure employees are not required to
16 work under substandard and unlawful conditions, and to protect employers who comply with the
17 law from those who attempt to gain competitive advantage at the expense of their workers by
18 failing to comply with minimum labor standards.

19 123. During Plaintiff’s employment with Defendants, Defendants were subject to
20 California’s Unfair Competition Law (“UCL”), which expressly prohibits any fraudulent, unfair,
21 or unlawful business act or practice. (Bus. & Prof. Code, § 17200 et seq.)

22 124. Defendants violated the UCL by committing numerous predicate violations of the
23 Labor Code. Specifically, Defendants wrongfully terminated Plaintiff in violation of public
24 policy. Defendants unlawfully retaliated against Plaintiff for complaining about Defendants’
25 failure or refusal to offer, authorize, and permit taking uninterrupted meal and rest periods breaks
26 and rest periods, and for requesting reasonable accommodations for Plaintiff’s disability or known
27 medical conditions. Defendants failed to engage in the interactive process and failed to furnish
28 accurate itemized wage statements.

1 125. The violations of these laws and regulations, as well as of the fundamental
2 California public policies protecting workers, serve as unlawful predicate acts and practices for
3 purposes of Business and Professions Code section 17200, et seq.

4 126. The acts and practices described above constitute unfair, unlawful, and fraudulent
5 Business Practices, and unfair competition, within the meaning of Business and Professions Code,
6 section 17200 et seq. Among other things, the acts and practices have forced Plaintiff to labor for
7 many hours without receiving the meal and rest periods and/or compensation, to which he is
8 entitled by law.

9 127. As a direct and proximate result of Defendants' violations, Plaintiff's rights under
10 the law were violated because Plaintiff suffered monetary losses, costs and attorney's fees.
11 Plaintiff seeks restitution in the form of unpaid wages and premium wages due for meal and rest
12 periods, with accrued interest at the maximum legal rate, as well as special and general damages,
13 together with injunctive relief to prohibit Defendants from violating the regulations alleged in this
14 complaint, as well as any and all other available remedies.

15 128. Business and Professions Code section 17203, provides that a court may make
16 such orders or judgments as may be necessary to prevent the use or employment by any person
17 of any practice which constitutes unfair competition. Injunctive relief is necessary and
18 appropriate to prevent Defendants from repeating their unlawful, unfair, and fraudulent business
19 acts and business practices alleged above.

20 129. Business and Professions Code section 17203, provides that the Court may restore
21 to any person in interest any money or property that may have been acquired by means of such
22 unfair competition. Plaintiff is entitled to restitution pursuant to Business and Professions Code
23 section 17203 for wages and payments unlawfully withheld, including premiums for missed meal
24 and rest periods.

25 130. Business and Professions Code section 17202, provides: "Notwithstanding Section
26 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
27 forfeiture, or penal law in a case of unfair competition." Plaintiff is entitled to enforce all
28 applicable penalty provisions of the Labor Code pursuant to Business and Professions Code

1 section 17202.

2 131. Plaintiff seeks and is entitled to restitution, civil penalties, declaratory and
3 injunctive relief, and all other equitable remedies owed to him.

4 132. Plaintiff has incurred costs and attorney's fees in bringing this action and seeks to
5 recover those costs under sections 226, subdivision (e), 218.5, 1194 of the Labor Code, and
6 section 12965, subdivision (b), of the Government Code.

7 **THIRTEENTH CAUSE OF ACTION**

8 **PRIVATE ATTORNEY GENERAL ACT**

9 **CAL. LABOR CODE §§ 2698-2699.5**

10 **(Plaintiff Against BI CITY, PPI, and DOES 1-50, Inclusive)**

11 133. Plaintiff, on behalf of himself and all Aggrieved Employees, realleges and
12 incorporates by reference each and every allegation set forth in the preceding paragraphs.

13 134. Based on the above allegations incorporated by reference, Defendants have
14 violated Labor Code by failing to pay Plaintiff and Aggrieved Employees for all hours worked,
15 including overtime, failing to provide meal and rest breaks, and failing to reimburse for necessary
16 business expenditures.

17 135. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code
18 section 2699, et. seq.

19 136. Plaintiff seeks to recover the PAGA civil penalties through a representative action
20 as permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009), 46
21 Cal.4th 969. Therefore, class certification hereby of the PAGA claims is not required, but Plaintiff
22 may choose to seek certification of the PAGA claims.

23 137. Under Labor Code sections 2699 subdivisions(f)(2) and 2699.5, for each such
24 violation, Plaintiff and all other Aggrieved Employees are entitled to penalties in an amount to be
25 shown at the time of trial subject to the following formula:

26 \$100.00 for the initial violation per employee per pay period; and

27 \$200.00 for each subsequent violation per employee per pay period.

28 138. These penalties, if and when recovered, shall be allocated seventy-five percent

(75%) to the Labor and Workforce Development Agency (LWDA) and twenty-five percent (25%) to the affected employees. See Labor Code section 2699 subdivision (i) and (j).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

1. For compensatory damages in an amount according to proof;
2. For general damages in an amount according to proof;
3. For attorneys' fees and expenses under the FEHA;
4. For punitive damages in an amount according to proof;
5. A civil penalty against Defendant, in the amount of \$100.00 for the initial violation and \$200.00 for each subsequent violation as specified in section 2699(f)(2) of the California Labor Code for Plaintiff and the Aggrieved Employees during all of the pay periods from February 2, 2020 through date of trial;
6. An award of reasonable attorney's fees against Defendant as specified in Labor Code section 2699 subdivisions (g)(1), for all the work performed by the undersigned counsel in connection with the PAGA claims;
7. An award of all costs incurred by the undersigned counsel for Plaintiff in connection with Plaintiff's and the aggrieved employees' PAGA claim against Defendant, as provided for in Labor Code section 2699 subdivisions (g)(1); and
8. For costs of the suit herein incurred;

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1 9. Injunctive relief, enjoining Defendant from engaging in the unlawful and
2 unfair business practice complained herein;

3 10. For declarative relief, enjoining Defendants' practice as unlawful and
4 unfair business practice within the meaning of Business and Professions Code section 17200 et
5 seq.; and

6 11. For such other and further relief as this Court may deem proper and just.
7

8 Dated: July 8, 2021

MAHONEY LAW GROUP, APC

9
10 By: 

11 Michael A. Swift, Esq.
12 Attorney for Plaintiff SALVADOR PEREZ
13 SANCHEZ
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DEMAND FOR JURY TRIAL

Plaintiff SALVADOR PEREZ SANCHEZ hereby demands a jury trial on all issues so triable.

Dated: July 8, 2021

MAHONEY LAW GROUP, APC

By:



Michael A. Swift, Esq.
Attorney for Plaintiff SALVADOR PEREZ
SANCHEZ

EXHIBIT A



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

KEVIN KISH, DIRECTOR

July 8, 2021

Kevin Mahoney
249 E. Ocean Blvd., Suite 814
Long Beach, California 90802

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202107-14110408
Right to Sue: Perez Sanchez / Bi City Rental Group, Inc. et al.

Dear Kevin Mahoney:

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

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

July 8, 2021

RE: Notice of Filing of Discrimination Complaint

DFEH Matter Number: 202107-14110408

Right to Sue: Perez Sanchez / Bi City Rental Group, 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

KEVIN KISH, DIRECTOR

July 8, 2021

Salvador Perez Sanchez
249 E. Ocean Blvd. Suite 814
Long Beach, California 90802

RE: Notice of Case Closure and Right to Sue
DFEH Matter Number: 202107-14110408
Right to Sue: Perez Sanchez / Bi City Rental Group, Inc. et al.

Dear Salvador Perez Sanchez:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective July 8, 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,



STATE OF CALIFORNIA | Business, Consumer Services and Housing Agency

GAVIN NEWSOM, GOVERNOR

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

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Department of Fair Employment and Housing

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

5 **In the Matter of the Complaint of**

6 Salvador Perez Sanchez

DFEH No. 202107-14110408

7 Complainant,

8 vs.

9 Bi City Rental Group, Inc.
402 Prospectors Rd. #A
Diamond Bar, California 91746

10 Paragon Partners Investment, Inc.
21671 Gateway Center Dr. #108
11 Diamond Bar, California 91765

12 Respondents

13 _____
14 1. Respondent **Bi City Rental Group, Inc.** is an employer **Bi City Rental Group, Inc.** subject
15 to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et
16 seq.).

17 2. Complainant is naming **Paragon Partners Investment, Inc.** business as Co-Respondent(s).

18 3. Complainant **Salvador Perez Sanchez**, resides in the City of **Long Beach**, State of
19 **California**.

20 4. Complainant alleges that on or about **June 5, 2020**, respondent took the following
adverse actions:

21 **Complainant was discriminated against** because of complainant's disability (physical or
22 mental) and as a result of the discrimination was terminated, reprimanded, denied
reasonable accommodation for a disability, denied family care or medical leave (cfra).

23 **Complainant experienced retaliation** because complainant requested or used a disability-
24 related accommodation and as a result was terminated, reprimanded, denied family care or
25 medical leave (cfra).

1 **Additional Complaint Details:** Salvador Perez Sanchez (" Mr. Perez Sanchez") was
2 employed by Bi City Rental Group, Inc and Paragon Partners Investments, Inc. ("Employer")
3 as a general laborer performing general construction duties including demolition work,
4 painting, remodeling etc. Mr. Perez Sanchez worked for Employer from approximately
5 October 2018 until June 5, 2020.

6 In or around late May 2020 Mr. Perez Sanchez suffered a work related injury. Mr. Perez
7 Sanchez reported his injury that same day and required a week off due to the pain. Mr.
8 Perez Sanchez asked to use sick time during his time off but was denied. Later, Mr. Perez
9 Sanchez saw a doctor, who was his supervisor's husband, who told Mr. Perez Sanchez that
10 there was no injury and he should return to work. Mr. Perez Sanchez returned to work and
11 injured himself further. At this point Mr. Perez Sanchez sought out counsel for a worker's
12 compensation claim. After Employer found out about the claim the Employer requested that
13 Mr. Perez Sanchez drop the claim. Mr. Perez Sanchez refused. After this Mr. Perez
14 Sanchez was told he would be called to return to work at some later date once there was
15 work for him. Mr. Perez Sanchez never received a call. Mr. Perez Sanchez called Employer
16 regarding his check and was told he had to come to the office to pick it up. Mr. Perez
17 Sanchez arrived to pick up his check and was told he had to sign some document to receive
18 the check. Mr. Perez Sanchez refused to sign this document but did take his check. Mr.
19 Perez Sanchez has not heard from Employer since and presumes that he is now terminated
20 in retaliation for his work related injury and request for accommodations.
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1 VERIFICATION

2 I, **Michael Swift**, 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 July 8, 2021, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

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Los Angeles, CA

EXHIBIT B



Michael Swift
(562) 590-5550 phone
(562) 590-8400 facsimile
mswift@mahoney-law.net

May 3, 2021

VIA ELECTRONIC FILLING

LABOR AND WORKFORCE DEVELOPMENT AGENCY

Attn: PAGA Administrator

VIA CERTIFIED MAIL # 7019 2970 0000 2983 7381

Return Receipt Requested

BI City Rental Group, Inc.
402 Prospectors Rd #1
Diamond Bar, CA 91746

VIA CERTIFIED MAIL # 7019 2970 0000 2983 7398

Return Receipt Requested

BI City Rental Group, Inc.
Attn: Usli Thomas
222 NB. Sunset Ave #C
West Covina, CA 91790

VIA CERTIFIED MAIL # 7019 2970 0000 2983 7404

Return Receipt Requested

Paragon Partners Investment, Inc.
Attn: Shazad Zahid Omar
21671 Gateway Center Dr. #108
Diamond Bar, CA 91765

Re: *Salvador Perez Sanchez v. BI City Rental Group, Inc.*

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 et. seq.**

To: California Labor and Workforce Development Agency, BI City Rental Group, Inc. and
Paragon Partners Investment, Inc.

From: Salvador Perez Sanchez, on behalf of himself and aggrieved employees who were subject
to the employer's wage and hour policies as set forth below.

I. FACTUAL STATEMENT

Please note that the firm, Mahoney Law Group, APC, represents the interests of Salvador Perez Sanchez ("Employee"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA"), on behalf of himself and all other aggrieved employees.

II. THEORIES OF LABOR CODE VIOLATIONS AND REMEDIES

BI City Rental Group, Inc. and Paragon Partners Investment, Inc. (Collectively "Employer") operates a property management corporation operating in the state of California. Employee alleges Employer violated various sections of the Labor Code, including, but not limited, to sections 201, 202, 203, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1174, 1194, 1197 and 2802 by failing to provide Employee and all other aggrieved employees all wages for all hours worked, failure to pay overtime wages, failure to authorize and permit rest periods or premium wages in lieu thereof, failure to provide meal periods or premium wages in lieu thereof, failure to provide accurate itemized wage statements, and failure to indemnify employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

Employer failed to pay Employee and other aggrieved employees for all hours worked at the legally mandated wage rates. Employer failed to pay Employee and other aggrieved employees all legally mandated wages, including regular and overtime wages, for all work performed, in violation of California law. Specifically, Employer required Employee to drive to Home Depot to purchase materials before the start of his shift. During the course of Employee's employment with Employer, Employee and other aggrieved employees regularly worked in excess of eight (8) hours per day, but were routinely not paid for all hours worked. As such, Employee and other aggrieved employees were not compensated for the time worked during these periods. Employer's conduct is in violation of Labor Code sections 510, 1182.12, 1194 and 1197, and is actionable under PAGA.

Employer also failed to provide Employee and other aggrieved employees with timely uninterrupted meal and rest periods. Employer would frequently interrupt Employee's meal periods. Employees were also not permitted to take 10-minute uninterrupted rest periods. Thus, Employee and his co-workers did not receive timely uninterrupted meal and rest periods and were not compensated with premium wages for non-compliant meal and/or rest periods. Employer's conduct is in violation of Labor Code sections 226.7 and 512, and is also actionable under PAGA.

Employer failed to provide Employees with a payroll check, instead paying Employee with a personal check always in the same amount, regardless of the time worked that day. Furthermore, as a result of Employer's failure to pay all wages owed as described herein, Employer further failed to keep accurate payroll records and failed to provide Employee and other aggrieved employees with complete and accurate wage statements showing the actual hours worked correct premium wages earned per pay period as well as the total hours worked for the pay period. In addition, Employer failed to include Employee's and other aggrieved employees correct hourly rate on their pay statements. Employer's conduct is in violation of Labor Code sections 226 and 1174, and is actionable under PAGA.

Employer also failed to indemnify Employee and aggrieved employees all necessary expenditures incurred in direct discharge of their duties. During the course of employment, Employee and his co-workers were required to incur various business expenses at their own cost, including, but not limited to, traveling to and from various work locations and/or Home Depot to purchase materials prior to the start of their shift and using their personal cell phones to clock in and out. Employer failed to provide any reimbursement to Employee and other aggrieved employees for the cost of using their personal cellphone and vehicle in violation of Labor Code section 2802.

As a further result of Employer's failure to pay all wages owed as described herein, Employer also violated Labor Code sections 201, 202, and 203, due to its practice and procedure of failing to pay all wages earned to former employees.

Employee will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Employer. Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response. Please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael A. Swift', with a stylized flourish at the end.

Michael A. Swift, Esq.

MAHONEY LAW GROUP, APC