

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Jon Takasugi

Ruben Guerra, Esq. (SBN 291446)
ruben@guerracasillas.com
Tizoc Perez-Casillas, Esq. (SBN 309981)
tizoc@guerracasillas.com
GUERRA & CASILLAS LLP
617 South Olive Street, Suite 422
Los Angeles, California 90014
Telephone: (213) 437-9495
Facsimile: (213) 342-5503

Attorney for Plaintiff,
JOSEPH ENRIQUE FERRUFINO

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

JOSEPH ENRIQUE FERRUFINO, an
individual,

Plaintiff,

v.

JC CASNER CONSTRUCTION, INC., a
California corporation; JEREMY CASNER, an
individual; and DOES 1 through 20, inclusive,

Defendants.

Case No. **22STCV11378**

COMPLAINT FOR DAMAGES FOR:

- 1. DISCRIMINATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 2. HARASSMENT IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 3. RETALIATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 4. FAILURE TO PREVENT
DISCRIMINATION, HARASSMENT AND
RETALIATION IN VIOLATION OF
GOV'T CODE §12940(k);**
- 5. RETALIATION (LAB. CODE §§ 98.6,
1102.5, 1102.6);**
- 6. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**
- 7. FOR DECLARATORY JUDGMENT**
- 8. MISCLASSIFICATION OF EMPLOYEE
AS "INDEPENDENT CONTRACTOR."**
- 9. FAILURE TO PAY WAGES (CAL. LABOR
CODE §§201, 1194);**
- 10. FAILURE TO PAY MINIMUM WAGES
(CAL. LABOR CODE §§1182.12, 1194,
1194.2, 1197);**

- 1 11. FAILURE TO PAY OVERTIME
2 COMPENSATION (CAL. LABOR CODE
3 §§510, 1194);
4 12. FAILURE TO INDEMNIFY FOR
5 NECESSARY BUSINESS EXPENSES (CAL.
6 LABOR CODE §2802)
7 13. FAILURE TO PROVIDE MEAL AND
8 REST PERIODS (CAL. LABOR CODE
9 §§226.7, 512);
10 14. FAILURE TO PROVIDE ITEMIZED
11 WAGE AND HOUR STATEMENTS (CAL.
12 LABOR CODE §§226, ET SEQ.);
13 15. WAITING TIME PENALTIES (CAL.
14 LABOR CODE §§201-203);
15 16. PRIVATE ATTORNEY GENERAL ACT
16 (CAL. LABOR CODE §2699, ET SEQ.);
17 17. FAILURE TO PERMIT INSPECTION OF
18 PERSONNEL AND PAYROLL RECORDS
19 (CAL. LABOR CODE §1198.5); AND
20 18. UNFAIR COMPETITION (BUS. & PROF.
21 CODE §17200 ET SEQ.).

22 DEMAND OVER \$25,000

23 [DEMAND FOR JURY TRIAL]

24 COMES NOW PLAINTIFF, JOSEPH ENRIQUE FERRUFINO, and for causes of action
25 against the Defendants and each of them, alleges as follows:
26

27 **JURISDICTION**

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

THE PARTIES

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

1 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
2 hereto, Defendant JC CONSTRUCTION, INC., (hereinafter referred to as “JCC” and/or “Employer”)
3 was and is a California corporation doing business at 1201 6th Street, Manhattan Beach, California 90266,
4 in the County of Los Angeles, State of California.

5 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
6 hereto, Employers owned and operated a private construction company.

7 5. At all times relevant herein, Employers and DOES 1-20 were Plaintiff’s employers, joint
8 employers and/or special employers within the meaning of Government Code §§12926, subdivision (d),
9 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more
10 persons and are therefore subject to the jurisdiction of this Court.

11 6. At all times relevant herein, Employers and DOES 1-20 were Plaintiff’s employers, joint
12 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
13 Commission Order No. 16-2001, and are each an “employer or other person acting on behalf of an
14 employer” as such term is used in Labor Code section 558, 558.1, and 1197.1, and liable to Plaintiff on
15 that basis.

16 7. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
17 hereto, Defendant JEREMY CASNER, was and is an individual resident of the County of Los Angeles,
18 State of California, and are hereinafter individually referred to by last name and as the “INDIVIDUAL
19 DEFENDANT.” The INDIVIDUAL DEFENDANT was Employers’ manager, corporate agent,
20 supervisor, and/or employee.

21 8. The true names and capacities, whether individual, corporate, associate, or otherwise, of
22 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
23 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
24 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
25 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
26 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
27 alleged hereinafter.
28

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

7 10. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
8 of them, including those defendants named as DOES 1-20 and the INDIVIDUAL DEFENDANT, acted
9 in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited,
10 compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so,
11 including pursuant to Government Code §12940(i). Plaintiff is further informed and believes, and based
12 thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20
13 and the INDIVIDUAL DEFENDANT, and each of them, formed and executed a conspiracy or common
14 plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged
15 herein done as part of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff
16 harm.

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

20 12. Plaintiff has filed complaints of discrimination, harassment, retaliation, failure to prevent
21 discrimination or retaliation, failure to accommodate, failure to engage in the interactive process, and
22 wrongful termination under Government Code §§12940, et seq., the California Fair Employment and
23 Housing Act (“FEHA”) with the California Department of Fair Employment and Housing (“DFEH”),
24 and has satisfied Plaintiff’s administrative prerequisites with respect to these and all related filings.
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27
28

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

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

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

8 a. Employers are completely dominated and controlled by one another and DOES 1-
9 20, who personally committed the frauds and violated the laws as set forth in this complaint, and who
10 have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or
11 accomplish some other wrongful or inequitable purpose.

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

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

18 d. Employers do not comply with all requisite corporate formalities to maintain a
19 legal and separate corporate existence.

20 e. The business affairs of Employers and DOES 1-20 are, and at all times relevant
21 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
22 inextricable confusion. Employers are, and at all times relevant hereto were, used by one another and
23 DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and
24 were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of
25 Defendants would not promote justice, in that it would permit Defendants to insulate themselves from
26 liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate
27 existence of Employers and DOES 1-20 should be disregarded in equity and for the ends of justice
28 because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

15. Accordingly, Employers constitute the alter ego of one another and DOES 1-20, and the fiction of their separate corporate existence must be disregarded.

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

17. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and between DOES 1-20, Employers, or any of them, (1) there is an express or implied agreement of assumption pursuant to which Employers and/or DOES 1-20 agreed to be liable for the debts of the other Defendants, (2) the transaction between Employers and/or DOES 1-20 and the other Defendants amounts to a consolidation or merger of the two corporations, (3) Employers and/or DOES 1-20 are a mere continuation of the other Defendants, or (4) the transfer of assets to Employers and/or DOES 1-20 is for the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employers and/or DOES 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

FACTUAL ALLEGATIONS

18. On or about May 2020, Employers hired Plaintiff to work as a laborer. Plaintiff was a full-time, non-exempt employee, and performed all of Plaintiff's job duties satisfactorily before Plaintiff was wrongfully terminated on or about March 4, 2021. The time period of Plaintiff's employment from on or about May 2020 through March 4, 2021 shall be identified as the "Claim Period."

19. Throughout Plaintiff's employment, Defendants led a campaign to harass Plaintiff and other Hispanic and/or Latino employees, thereby fostering and creating a hostile work environment.

20. CASNER, a white, Caucasian male, referred to his Hispanic and/or Latino employees as “pinches imigrantes”, which translates to English as “fucking immigrants.”

21. On information and belief, CASNER sought to hire undocumented workers because he believed they would not stand up or know their civil rights.

1 22. CASNER also made comments to insinuate his Hispanic and/or Latino employees were
2 stupid and lazy.

3 23. When Defendants terminated Plaintiff, CASNER called him a “fucking stupid Mexican”
4 and a “fucking lazy ass.”

5 24. On information and belief, CASNER engaged in harassing conduct against Plaintiff based
6 on personal gratification, intentional meanness, bigotry, and/or other personal motives

7
8 **Misclassification as Independent Contractor**

9 25. During the period of Plaintiff’s employment with Employers, Plaintiff was a non-exempt
10 employee of Employers, and each of them based upon their alter ego relationship, as defined by California
11 Labor Code §350(b). Throughout the course of Plaintiff’s employment, through and including the date
12 of Plaintiff’s wrongful termination, Employers completely controlled Plaintiff’s performance, including
13 the manner in which Plaintiff was to perform Plaintiff’s required duties, as follows:

14 a. Defendants provided Plaintiff with all of the equipment, tools and supplies Plaintiff
15 required to do Plaintiff’s job;

16 b. Plaintiff was told what days and hours Plaintiff was required to work, where to go
17 and what to do, and worked a regular schedule;

18 c. Plaintiff was paid an hourly rate for Plaintiff’s labor;

19 d. Plaintiff had no ability to turn down jobs assigned to Plaintiff by Employers; and

20 e. Employers had the right to discipline Plaintiff and to fire Plaintiff at will;

21 26. Additional factors confirming Plaintiff’s status as an employee include:

22 a. Plaintiff was not engaged in a distinct occupation or business;

23 b. Plaintiff was not required to make any major investments in equipment or materials
24 to provide the services;

25 c. Plaintiff’s occupation and work is usually done under the direction of the principal
26 or a supervisor;

27 d. No particular skill is required for Plaintiff’s occupation;

28 e. Plaintiff was not paid by “the job,” but was paid an hourly wage rate;

1 f. Plaintiff's work was part of the regular business of Employers; and
2 g. Plaintiff believed, by going to work for Employers, Plaintiff was creating an
3 employer-employee relationship;

4 h. Plaintiff was told what days and hours Plaintiff was required to work, where to go
5 and what to do;

6 i. Employers failed to comply with the Independent Contractor Reporting
7 requirements that required Employers report to the Employment Development Department ("EDD"),
8 within 20 days if Employers hired an independent contractor who is an individual or sole proprietorship,
9 who Employers have either paid, or contracted to pay, more than \$600.

10 27. Despite the aforementioned facts, Employers illegally classified Plaintiff as an
11 "independent contractors" instead of as an employee, and wrongfully issued Plaintiff IRS Form W-1099
12 forms.

13 28. Because Employers misclassified Plaintiff as an independent contractor, at no time during
14 Plaintiff's employment was Plaintiff paid for all hours worked or overtime premiums, nor was Plaintiff
15 provided with uninterrupted 10-minute rest periods as required by law, with uninterrupted meal periods
16 as required by law, or with itemized wage statements as required by law, in violation of Labor Code §§
17 204, 226, *et seq.*, 226.7, 510, 512, among other violations.

18 29. At all relevant times, Defendants promised to pay Plaintiff an hourly wage rate of \$18.00.
19 During this time period, Plaintiff's fixed schedule was five days per week, Monday through Friday, for
20 approximately 7 to 14 hours per day.

21 30. Plaintiff worked at least 12 overtime hours, but only received Plaintiff's regular hourly
22 wage rate for these hours, with no overtime premium.

23 31. Although Plaintiff was entitled to and did accrue sick time for which he was never paid,
24 Defendants violated Labor Code §§ 233, 245, and 246 because Defendants failed to provide Plaintiff with
25 paid sick leave.

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

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

3 33. Throughout Plaintiff's employment, Defendants violated Labor Code §221 by collecting
4 and/or receiving from Plaintiff, part of his wages paid by Defendants.

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

7 35. Throughout Plaintiff's employment, Plaintiff was only paid via check without itemized
8 deductions and not in compliance with Labor Code §226.

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

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

16 38. On or about March 1, 2021, Plaintiff notified Defendants that he was owed minimum
17 wages for hours worked on a Saturday, 12 overtime hours, and reimbursement for the use of his truck on
18 numerous occasions.

19 39. Shortly after Plaintiff's complaint of unpaid wages, Defendants, in a retaliatory effort,
20 terminated Plaintiff without legitimate cause, and instead fired him for his complaints and/or his protected
21 status.

22 40. Defendants discriminated and retaliated against Plaintiff by terminating his employment
23 and because Plaintiff exercised his right to request reimbursement and his unpaid wages.

24 41. Defendants also subjected the Plaintiff to harassment by making intimidating and hurtful
25 racial comments that were severe, beyond the scope of employment, and done in a consistent and
26 pervasive manner.

1 42. Plaintiff's termination was substantially motivated by Plaintiff's race, ancestry, color,
2 national origin, and/or engagement in protected activities. Defendants' discriminatory animus is
3 evidenced by the previously mentioned facts.

4 43. Defendants' conduct described herein was undertaken, authorized, and/or ratified
5 Defendants' officers, directors and/or managing agents, including, but not limited to CASNER and those
6 identified herein as DOES 1 through 20, who were authorized and empowered to make decisions that
7 reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents and
8 individuals was therefore undertaken on behalf of Defendants who further had advanced knowledge of
9 the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and
10 approved by managing agents whose precise identities are unknown to Plaintiff at this time and are
11 therefore identified and designated herein as DOES 1 through 20, inclusive.

12 44. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer general
13 and special damages, including severe and profound pain and emotional distress, anxiety, depression,
14 headaches, tension, and other physical ailments, as well as medical expenses, expenses for psychological
15 counseling and treatment, and past and future lost wages and benefits.

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

18 46. Plaintiff claims general damages for emotional and mental distress and aggravation in a
19 sum in excess of the jurisdictional minimum of this Court.

20 47. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
21 managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard
22 of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages
23 be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this
24 Court.

FIRST CAUSE OF ACTION
FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST JCC AND DOES 1-20, INCLUSIVE

48. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as though set forth in full herein.

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

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

51. FEHA requires Defendants to refrain from discriminating against an employee on the basis of race, ancestry, color, national origin, and to prevent discrimination and harassment on the basis of race, ancestry, color, national origin, and engagement in protected activities from occurring.

52. Plaintiff was a member of multiple protected classes as a result of Plaintiff's race, ancestry, color, and national origin, or a combination thereof.

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

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

55. Plaintiff is informed and believes that Plaintiff's race, ancestry, color, national origin, and/or some combination of these protected characteristics under Government Code §12926(j) were motivating reasons and/or factors in the decisions to subject Plaintiff to the aforementioned adverse employment actions.

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

57. The damage allegations of Paragraphs 44 through 47, inclusive, are herein incorporated by reference.

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

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

9
10 **SECOND CAUSE OF ACTION**
11 **FOR HARASSMENT IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
12 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

13 60. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
14 though set forth in full herein.

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

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

19 63. These laws set forth in the preceding paragraph require Defendants to refrain from
20 harassing, or creating, or maintaining a hostile work environment against an employee based upon the
21 employee's race, ancestry, color, national origin, and engagement in protected activities, as set forth
22 hereinabove.

23 64. Defendants' harassing conduct was severe or pervasive, was unwelcome by Plaintiff,
24 and a reasonable person in Plaintiff's circumstances would have considered the work environment to
25 be hostile or abusive.

26 65. Defendants violated the FEHA and the public policy of the State of California which is
27 embodied in the FEHA by creating a hostile work environment and harassing Plaintiff because of
28

1 Plaintiff's race, ancestry, color, national origin, engagement in protected activities, and/or some
2 combination of these protected characteristics, as set forth hereinabove.

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

6 67. The above said acts of Defendants constitute violations of the FEHA and violations of
7 the public policy of the State of California. Such violations were a proximate cause in Plaintiff's
8 damage as stated below.

9 68. The damage allegations of Paragraphs 44 through 47, inclusive, are herein incorporated
10 by reference.

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

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

19
20 **THIRD CAUSE OF ACTION**

21 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**

22 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

23 71. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
24 though set forth in full herein.

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

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

1 74. Plaintiff engaged in the protected activities of complaining about and protesting
2 Defendants' discriminatory and harassing conduct towards Plaintiff based upon Plaintiff's race,
3 ancestry, color, national origin, or a combination thereof.

4 75. Plaintiff suffered the adverse employment actions of unlawful harassment,
5 discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination,
6 failure to reinstate and/or return to work, and termination, and was harmed thereby.

7 76. Plaintiff is informed and believes that Plaintiff's conduct of complaining about and
8 protesting about Defendants' discriminatory and harassing conduct, and/or some combination of these
9 factors, were motivating reasons and/or factors in the decisions to subject Plaintiff to the
10 aforementioned adverse employment actions.

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

13 78. Plaintiff is informed and believes, and based thereon alleges, that the above acts of
14 retaliation committed by Defendants were done with the knowledge, consent, and/or ratification of, or
15 at the direction of, each other Defendant and the other Managers.

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

18 80. The damage allegations of Paragraphs 44 through 47, inclusive, are herein incorporated
19 by reference.

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

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

FOURTH CAUSE OF ACTION
FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION
IN VIOLATION OF GOV'T CODE §12940(k)
AGAINST JCC AND DOES 1-20, INCLUSIVE

83. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as though set forth in full herein.

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

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

86. The damage allegations of Paragraphs 44 through 47, inclusive, are herein incorporated by reference.

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

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

1 **FIFTH CAUSE OF ACTION**

2 **RETALIATION**

3 **LABOR CODE §§ 98.6, 1102.5, AND 1102.6**

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

5 89. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
6 though set forth in full herein.

7 90. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against
8 an employee for political activities; for complaining that he or she is owed unpaid wages, for
9 whistleblowing; for assigning wage claims to the Labor Commissioner resulting from demotion,
10 suspension, or discharge for lawful conduct occurring during nonworking hours away from employer's
11 premises; for filing a complaint with the Labor Commissioner or testifying in such proceedings; for
12 initiating proceedings against the employer to collect civil penalties under the "Labor Code Private
13 Attorneys General Act;" and for exercising "any rights afforded him or her" under the Labor Code.
14 Thus, Section 98.6 prohibits an employer from discharging or in any manner discriminating or
15 retaliating against an employee who, among other things, has exercised his or her rights under that
16 Chapter (Chapter 5 of the Labor Code, which encompasses §1102.5), including the right to take meal
17 breaks, and/or made a written or oral complaint that he or she is owed unpaid wages. An employee
18 who has been discharged or retaliated against in violation of Labor Code §98.6 is entitled to recovery of
19 a civil penalty against the employer in an amount not exceeding ten thousand dollars (\$10,000.00) for
20 each violation of that section.

21 91. At all relevant times, Labor Code section 1102.5 was in full force and effect and was
22 binding on Defendants. Labor Code section 1102.5, subdivision (b), prohibits an employer, or any
23 person acting on behalf of the employer, from discharging an employee or in any manner
24 discriminating or retaliating against, or taking any adverse action against, an employee because, among
25 other things, the employee disclosed, or because the employer believes that the employee disclosed or
26 may disclose, information to a government or law enforcement agency, or to a person with authority
27 over the employee or another employee who has the authority to investigate, discover, or correct the
28 violation or noncompliance, if the employee has reasonable cause to believe that the information

discloses a violation of state or federal statute, or 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. Labor Code section 1102.5, subdivision (c), also prohibits an employer, or any person acting on behalf of the employer, from retaliating 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. Sections 98.6, 232.5, and 1102.5 create an entitlement to recovery by Plaintiff in a civil action for the unlawful actions by Defendants. Pursuant to Labor Code §1102.5(f), in addition to other penalties, an employer that is a corporation or limited liability company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of this section.

92. Plaintiff is informed and believe, and based thereupon alleges, that Plaintiff was terminated from Plaintiff's employment with Defendants as a result of Plaintiff's complaints about not being paid all wages he is owed, including for reimbursement wages, and about conduct he believed to be illegal, including INDIVIDUAL DEFENDANTS' tortious conduct. Defendants' retaliatory animus is evidenced by, among other things, the following facts: (1) Plaintiff's termination occurred following Plaintiff's complaints regarding the aforementioned complaints; (2) There were no performance issues or any other legitimate reason for Plaintiff's termination; and (3) Plaintiff was wrongfully terminated.

93. Defendants' conduct described herein was undertaken, authorized, and/or ratified by Defendants, and Defendants' officers and/or managing agents, including CASNER and those identified herein as DOES 1-20, who were authorized and empowered to make decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents and individuals was therefore undertaken on behalf of Defendants. Defendants further had advanced knowledge of the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and approved by managing agents whose precise identities are unknown to Plaintiff at this time and are therefore identified and designated herein as DOES 1-20, inclusive.

94. The damage allegations of Paragraphs 44 through 47, inclusive, are herein incorporated by reference.

95. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed

1 \$10,000.00 for Defendants' violations of Labor Code § 98.6.

2 96. Plaintiff is also entitled to reasonable attorneys' fees and costs, pursuant to Labor Code
3 section 98.7, subdivision (e), and Civil Code section 1021.5.

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

8
9 **SIXTH CAUSE OF ACTION**
10 **FOR WRONGFUL TERMINATION**
11 **IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**
12 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

13 98. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
14 though set forth in full herein.

15 99. At all relevant times mentioned in this complaint, the FEHA was in full force and effect
16 and was binding on Defendants. This law requires Defendants to refrain, among other things, from
17 discriminating against any employee on the basis of race, ancestry, color, national origin, and from
18 retaliating against any employee who engages in protected activity. At all times mentioned in this
19 complaint, Article I, Section 8 of the California Constitution was in full force and effect and binding
20 on Defendants. This law requires Defendants to refrain from disqualifying a person from pursuing
21 employment on the basis of race, color, national origin, or sex.

22 100. At all times mentioned in this complaint, it was a fundamental policy of the State of
23 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of
24 race, ancestry, color, national origin and/or engagement in protected activity.

25 101. Plaintiff believes and thereon alleges that Plaintiff's race, ancestry, color, national
26 origin, engagement in protected activity with respect to these protected classes, and/or some
27 combination thereof, were factors in Defendants' conduct as alleged hereinabove.

1 102. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's
2 employment on the basis of race, ancestry, color, national origin, Plaintiff's complaining of harassment
3 and discrimination due to these protected classes, Plaintiff's engagement in protected activity, and/or
4 some combination of these factors, were a proximate cause in Plaintiff's damages as stated below.

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

23 104. At all times mentioned in this complaint, it was a fundamental policy of the State of
24 California that Defendants cannot retaliate against any employee on the basis of engagement in
25 protected activity, including complaining of being owed wages.

26 105. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's
27 engagement in protected activities under Labor Code §§ 98.6 and/or 1102.5 was a proximate cause in
28 Plaintiff's damages as stated below.

1 106. The above said acts of Defendants constitute violations of the Government Code, Labor
2 Code, and the public policy of the State of California embodied therein as set forth above. Defendants
3 violated these laws by discriminating and retaliating against Plaintiff and terminating Plaintiff's
4 employment in retaliation for exercise of protected rights.

5 107. The damage allegations of Paragraphs 44 through 47, inclusive, are herein incorporated
6 by reference.

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

13
14 **SEVENTH CAUSE OF ACTION**
15 **FOR DECLARATORY JUDGMENT**
16 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

17 109. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 108, inclusive, as
18 though set forth in full herein.

19 110. Government Code §12920 sets forth the public policy of the State of California as
20 follows:

21 It is hereby declared as the public policy of this state that it is necessary to
22 protect and safeguard the right and opportunity of all persons to seek,
23 obtain, and hold employment without discrimination or abridgment on
24 account of race, religious creed, color, national origin, ancestry, physical
25 disability, mental disability, medical condition, genetic information,
26 marital status, sex, gender, gender identity, gender expression, age, or
27 sexual orientation.

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

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

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

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

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

In order to eliminate discrimination, it is necessary to provide effective remedies that will both prevent and deter unlawful employment practices and redress the adverse effects of those practices on aggrieved persons. To that end, this part shall be deemed an exercise of the Legislature's authority pursuant to Section 1 of Article XIV of the California Constitution.

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

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

113. An actual controversy has arisen and now exists between Plaintiff and Defendants concerning their respective rights and duties as it is believed that Defendants may allege that they did not discriminate and retaliate against Plaintiff; that Plaintiff was not terminated as a result of Plaintiff's race, ancestry, color, national origin, engagement in protected activities, and/or some combination of these protected characteristics. Plaintiff contends that Defendants did discriminate and retaliate against Plaintiff on the basis of Plaintiff's race, ancestry, color, national origin, engagement in protected activities, and/or some combination of these protected characteristics; and that Plaintiff was retaliated against and, ultimately wrongfully terminated as a result of Plaintiff's race, ancestry, color, national origin, engagement in protected activities, and/or some combination of these protected characteristics. Plaintiff is informed and believes, and on that basis alleges, that Defendants shall dispute Plaintiff's contentions.

1 114. Pursuant to Code of Civil Procedure §1060, Plaintiff desires a judicial determination of
2 Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the basis of
3 Plaintiff's race, ancestry, color, national origin, engagement in protected activities, and/or some
4 combination of these protected characteristics.

5 115. Pursuant to Code of Civil Procedure §1060, Plaintiff seeks a judicial determination of
6 Plaintiff's rights and duties, and a declaration that Plaintiff's race, ancestry, color, national origin,
7 engagement in protected activities, and/or some combination of these protected characteristics was a
8 substantial motivating factor in the decision to subject Plaintiff to the aforementioned adverse
9 employment actions.

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

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

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

23
24 **EIGHTH CAUSE OF ACTION**
25 **FOR MISCLASSIFICATION AS "INDEPENDENT CONTRACTOR"**
26 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

27 118. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
28 though set forth in full herein.

1 119. Pursuant to Labor Code §226.8(a)(1), it is unlawful for any person or employer to engage
2 in willful misclassification of an individual as an independent contractor. Pursuant to Labor code
3 §226.8(b), if a court issues a determination that a person or employer has violated subdivision (a), the
4 person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and
5 not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or
6 fines permitted by law. Pursuant to Labor code §226.8(c), if a court issues a determination that a person
7 or employer has violated subdivision (a) and the person or employer has engaged in or is engaging in a
8 pattern or practice of these violations, the person or employer shall be subject to a civil penalty of not
9 less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for
10 each violation, in addition to any other penalties or fines permitted by law.

11 120. During the period of Plaintiff's employment with defendants, Plaintiff was an employee
12 of Defendants, and each of them based upon their alter ego relationship, as defined by California Labor
13 Code § 350(b). However, Defendants purposefully misclassified Plaintiff as an "Independent Contractor"
14 because, by so doing, defendants lowered their cost of doing business by means of, but not limited to, the
15 following:

16 121. Defendants did not report or pay the employer's share of federal or state payroll taxes with
17 respect to any of the funds paid to Plaintiff, as required by required by federal and state law;

18 122. Defendants did not provide or pay for Workers Compensation insurance for Plaintiff;

19 123. Defendants did not provide or pay for State Disability insurance for Plaintiff; and

20 124. Defendants did not provide or pay for benefits to Plaintiff that other of Defendants'
21 employees received.

22 125. As a direct and proximate result of the aforementioned violations of California law
23 committed by defendants, Plaintiff has suffered, and continues to suffer, substantial losses related to the
24 loss of the employer's share of payroll taxes, the use and enjoyment of such employee benefits, and
25 expenses and attorneys' fees in seeking to compel defendants to fully perform their obligation under state
26 law, all to their damage in amounts according to proof at time of trial, but in amounts in excess of the
27 minimum jurisdiction of this Court. Plaintiff is thus entitled to recover nominal, actual and compensatory
28

1 damages in amounts according to proof at time of trial, but in amounts in excess of the minimum
2 jurisdiction of this Court.

3 126. Defendants' failure to classify Plaintiff as an employee, in violation of California law, was
4 knowing and intentional. Defendants have refused to classify Plaintiff as an employee for false and
5 fraudulent reasons. The decision to misclassify Plaintiff as an "independent contractor" was made,
6 maintained, and enforced by Defendants, by and through their offices, directors and/or managing agents,
7 and was done willfully, maliciously, oppressively, and fraudulently, with the wrongful and deliberate
8 intention of injuring Plaintiff, and with a conscious disregard for Plaintiff's rights and defendants'
9 obligations under California laws, all of which has deprived Plaintiff of Plaintiff's property and legal
10 rights. Therefore, in addition to all other types of relief requested herein, Plaintiff is entitled to recover
11 punitive and exemplary damages in amounts according to proof at time of trial, but in amounts in excess
12 of the minimum jurisdiction of this Court.

13 127. Pursuant to Labor Code §226.8(b)-(c), Plaintiff seeks a determination that Defendants
14 have violated subdivision (a) and have engaged in or are engaging in a pattern or practice of these
15 violations, and seeks penalties of \$25,000 for each violation, in addition to any other penalties or fines
16 permitted by law.

17
18 **NINTH CAUSE OF ACTION**
19 **FOR FAILURE TO PAY WAGES DUE**
20 **LABOR CODE §§201, 204, 246, 1182.12, 1194, 1194.2**
21 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

22 128. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
23 though set forth in full herein.

24 129. Labor Code §§ 1194(a) states in pertinent part: "Notwithstanding any agreement to work
25 for a lesser wage, any employee receiving less than the legal minimum wage ... is entitled to recover in a
26 civil action the unpaid balance of the full amount of this minimum wage ..., including interest thereon,
27 reasonable attorney's fees, and costs of suit."
28

1 130. Labor Code §§ 1194.2(a) states in pertinent part: “In any action under ... 1194 or 1197.1
2 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the
3 commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal
4 to the wages unlawfully unpaid and interest thereon.”

5 131. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
6 required by 8 Code of Regulations §11160, as set forth hereinabove. As alleged herein, Defendants
7 routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

8 132. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
9 Code of Regulations §11160, and Industrial Welfare Commission Order No. 16-2001.

10 133. Defendants, as a pattern and practice in uniform administration of corporate policy with
11 regard to Plaintiff and the other aggrieved employees, required Plaintiff and the other aggrieved
12 employees to perform labor without compensation. Specifically, Plaintiff and the other aggrieved
13 employees were made to work through their rest breaks and overtime hours without being paid the
14 premium wage.

15 134. As such, Defendants required the Plaintiff and the other aggrieved employees to remain
16 under Defendants’ control without paying therefore, which resulted in Plaintiff and the other aggrieved
17 employees earning less than the legally required minimum wage in the State of California.

18 135. Defendants’ pattern and practice in uniform administration of corporate policy regarding
19 Defendants’ failure to pay the legal minimum wage to Plaintiff and the other aggrieved employees as
20 described herein is unlawful and creates entitlement, pursuant to Labor Code § 1194(a), to recovery by
21 Plaintiff and the other aggrieved employees, in a civil action, for the unpaid balance of the full amount
22 of the unpaid minimum wages owed, calculated as the difference between the applicable minimum wage
23 and the straight time compensation, including interest thereon.

24 136. Plaintiff accrued approximately 72 hours of sick time pursuant to Labor Code §246, and
25 Defendant failed to pay these wages, totaling approximately \$1,120.

26 137. Pursuant to Labor Code § 1194.2(a), Plaintiff and the other aggrieved employees seek
27 recovery of liquidated damages in an amount equal to the wages unlawful unpaid and interest thereon.
28

1 138. Pursuant to Labor Code § 218.6, Labor Code § 1194(a), and Civil Code § 3287, Plaintiff
2 and the other aggrieved employees seek recovery of pre-judgment interest on all amounts recovered
3 herein.

4 139. Pursuant Labor Code § 218.5 and/or Labor Code § 1194(a), Plaintiff and the other
5 aggrieved employees request that the Court award reasonable attorneys' fees and costs incurred by them
6 in this action

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

10 141. Labor Code §558(a) provides that any person acting on behalf of an employer who
11 violates, or causes to be violated, any statute or provision regulating hours and days of work in any order
12 of the Industrial Welfare Commission pay a civil penalty in the amount of \$50 for each underpaid
13 employee for each pay period in which the employee was underpaid in addition to an amount sufficient
14 to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting
15 on behalf of an employer is liable in the amount of \$100 for each underpaid employee for each pay period
16 for which the employee was underpaid in addition to an amount sufficient to recover the underpaid wages.

17
18 **TENTH CAUSE OF ACTION**
19 **FOR FAILURE TO PAY MINIMUM WAGES**
20 **LABOR CODE §§1182.12, 1194, 1194.2, 1197**
21 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

22 142. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
23 though set forth in full herein.

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

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

Effective	26+ employees	1-25 employees
1/1/21	\$13.00	\$14.00
1/1/20	\$12.00	\$13.00
1/1/19	\$12.00	\$11.00
1/1/18	\$11.00	\$10.50
1/1/17	\$10.50	\$10.00

Effective	New wage	Old Wage
1/1/16	\$10.00	\$9.00
7/1/14	\$9.00	\$8.00
1/1/08	\$8.00	\$7.50
1/1/07	\$7.50	\$6.75

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

a. During the Claim Period, Plaintiff was not paid for all hours worked in the amount according to proof.

146. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum wages in the amount according to proof.

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

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

149. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an amount according to proof, plus interest thereon

150. Pursuant to Labor Code § 1194.2(a), the Plaintiff and the other aggrieved employees seek recovery of liquidated damages in an amount equal to the wages unlawful unpaid and interest thereon.

1 151. Pursuant to Labor Code § 218.6, Labor Code § 1194(a), and Civil Code § 3287, Plaintiff
2 and the other aggrieved employees seek recovery of pre-judgment interest on all amounts recovered
3 herein.

4
5 **ELEVENTH CAUSE OF ACTION**
6 **FOR FAILURE TO PAY OVERTIME COMPENSATION**
7 **LABOR CODE §§510, 1194**
8 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

9 152. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
10 though set forth in full herein.

11 153. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
12 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
13 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
14 hours in a single day. It also requires employers to pay their non-exempt employees overtime
15 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
16 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
17 consecutive day of work.

18 154. At all relevant times, Defendants required Plaintiff to work more than eight hours per
19 day and/or more than 40 hours per workweek.

20 155. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
21 compensation required by Labor Code §510, 8 Code of Regulations §11160, and Industrial Welfare
22 Commission Order No. 16-2001.

23 156. During the Claim Period, Plaintiff worked approximately 5 hours of overtime each week,
24 all of which should have been paid at 1.5 times Plaintiff's regular hourly wage rate at that time.
25 Defendants failed to pay Plaintiff the requisite overtime wages in each of the following ways in the four
26 years immediately preceding the filing of this complaint:

27 157. During the Claim Period, Plaintiff's hourly overtime rate was \$27.00 (\$18.00 x 1.5).
28 During this time period, Plaintiff worked multiple hours of overtime each week, but did not receive any

1 wages for these hours at all. Therefore, less the minimum wage portion which Plaintiff has already
2 claimed in the preceding cause of action, Plaintiff is owed premium overtime wages for each of those
3 hours, totaling an amount according to proof.

4 158. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
5 Code §510, 8 Code Regulations §11160, and Industrial Welfare Commission Order No. 16-2001.

6 159. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
7 in the amount according to proof, above and beyond the minimum wages sought in the preceding cause
8 of action for these same hours.

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

12
13 **TWELFTH CAUSE OF ACTION**
14 **FOR FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES**
15 **LABOR CODE §2802**
16 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

17 161. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
18 though set forth in full herein.

19 162. Pursuant to Labor Code §450(a), "no employer...may compel or coerce any employee...to
20 patronize his or her employer, or any other person, in the purchase of any thing of value."

21 163. Pursuant to Labor Code §2802(a), "an employer shall indemnify his or her employee for
22 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
23 his or her duties, or of his or her obedience to the directions of the employer."

24 164. Plaintiff was required by Defendants to expend Plaintiff's personal funds because of the
25 duties required by Defendants, as alleged hereinabove.

26 165. Pursuant to Labor Code §2802(a), Defendants are legally required to reimburse Plaintiff
27 for all necessary expenditures incurred in the performance of Plaintiff's duties.
28

1 166. Defendants have failed and refused to reimburse Plaintiff for all necessary business
2 expenditures, including: using his own truck on numerous occasions for work-related purposes.

3 167. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
4 2502(a), Plaintiff is entitled to recover from Defendants the unpaid balance of all of the necessary
5 aforementioned expenditures.

6 168. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
7 2502(a), Plaintiff has been damaged in an amount according to proof at the time of trial. In the four years
8 preceding this action, therefore, Defendants have at the very least failed to reimburse Plaintiff for an
9 amount according to proof.

10 169. Pursuant to Labor Code §2802(b), Plaintiff requests that the Court award interest at the
11 same rate as judgments in civil actions, accruing from the date on which Plaintiff incurred the necessary
12 expenditure or loss.

13 170. Pursuant to Labor Code §2802(c), Plaintiff requests that the Court award Plaintiff
14 reasonable attorneys' fees and costs incurred in this action.

15
16 **THIRTEENTH CAUSE OF ACTION**
17 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS**
18 **LABOR CODE §§226.7, 512**
19 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

20 171. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
21 though set forth in full herein.

22 172. Labor Code §512 requires employers to provide every employee with an uninterrupted
23 meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

24 173. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted
25 rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion
26 thereof.

27 174. In the four years last past, Plaintiff regularly worked in excess of five hours per day, and
28 was thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on each

1 day of work. [In the four years last past, Plaintiff regularly worked in excess of 10 hours per day, and
2 was thereby entitled to take uninterrupted two 30-minute meal periods and two 10-minute rest periods on
3 each day of work / In the four years last past, Plaintiff regularly worked in excess of twelve hours per
4 day, and was thereby entitled to take two uninterrupted 30-minute meal periods and three 10-minute rest
5 periods on each day of work.]

6 175. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
7 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the
8 applicable sections of 8 Code of Regulations §11160 and Industrial Welfare Commission Order No. 16-
9 2001, as follows:

10 a. During the Claim Period, Plaintiff's statutory 30-minute meal periods were
11 missed, interrupted or cut short approximately 5 times per week for 44 weeks, or on approximately 220
12 days. During this same time period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-
13 minute rest periods on approximately 220 days (5 days per week for 44 weeks).

14 176. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8
15 Code of Regulations §11160 and Industrial Welfare Commission Order No. 16-2001. Consequently,
16 Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage,
17 whichever is greater, for each day that Plaintiff was denied such meal periods, and is owed one hour of
18 pay at Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day
19 that Plaintiff was denied such rest periods, calculated as follows:

20 a. During the Claim Period, Defendants failed to provide Plaintiff with an
21 uninterrupted statutory meal period on approximately 220 separate days. Consequently, Plaintiff is owed
22 one hour of pay at \$18.00 for each day, or \$3,960.00, plus interest thereon, for unpaid missed or
23 interrupted meal periods. During this same time period, Defendants failed to provide Plaintiff with the
24 statutory rest period on approximately 220 separate days. Consequently, Plaintiff is owed one hour of
25 pay at \$18.00 for each day, or \$3,960.00, plus interest thereon, for unpaid rest periods. Thus, Plaintiff is
26 owed a total of \$7,920.00, plus interest thereon, for unpaid meal and rest periods for this time period.

27 177. Thus, the total missed meal and rest period compensation owing Plaintiff for this time
28 period is \$7,920.00.

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

3 179. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
4 such amounts in the combined amount of \$7,920.00, pursuant to Labor Code §226.7(b), plus interest
5 thereon and costs of suit.

6
7 **FOURTEENTH CAUSE OF ACTION**
8 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
9 **LABOR CODE §§226 ET SEQ.**
10 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

11 180. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
12 though set forth in full herein.

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

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

24 183. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
25 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net
26 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and
27 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
28 by Plaintiff. For the majority of the time and as to nearly all of Plaintiff's wages, Defendants knowingly

1 and intentionally, not inadvertently, failed to provide Plaintiff with paystubs at all, and instead paying
2 Plaintiff by check without any calculations of how Plaintiff's gross wages were calculated.

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

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

12 186. Plaintiff was paid on a weekly basis, and therefore Defendants violated Labor Code §226
13 approximately 44 times during the one year preceding the filing of this complaint. Consequently,
14 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
15 amount of \$4,000.00, whichever is greater.

16 187. In addition thereto, for Defendant's 44 violations, Defendants are penalized \$50.00 for the
17 first violation, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor
18 Code §226.3 penalties of \$4,350.00.

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

22
23 **FIFTEENTH CAUSE OF ACTION**

24 **FOR WAITING TIME PENALTIES**

25 **LABOR CODE §§201-203**

26 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

27 189. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
28 though set forth in full herein.

1 190. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
2 other compensation due immediately upon termination or within 72 hours of resignation, as required.
3 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest
4 period compensation that Defendants should have paid, but did not pay to Plaintiff during the term of
5 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-
6 203.

7 191. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
8 203.

9 192. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
10 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and
11 more than \$4,800.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
12 \$160.00, inclusive of overtime.

13 193. Based on Defendants' conduct as alleged herein, Defendants are liable for \$4,800.00 in
14 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
15 fees and costs.

16
17 **SIXTEENTH CAUSE OF ACTION**
18 **FOR PRIVATE ATTORNEY GENERAL ACT**
19 **LABOR CODE §2699**

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

21 194. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
22 though set forth in full herein.

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

26 196. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and
27 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as
28 previously pleaded in this Complaint.

197. On March 29, 2021, more than 65 calendar days before filing this Complaint, Plaintiff provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code section 2699.3, subdivision (a) by citing the specific provisions of the Labor Code alleged to have been violated, including the facts and theories sufficient to support the alleged violations.

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

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

PENALTIES

200. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) (or any of its departments, divisions, commissions, board agency or employees), such civil penalties may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees) and Labor Code §2699(f) (which establishes a civil penalty for violations of all Labor Code provisions except those which a civil penalty is specifically provided), the aggrieved employees seek recovery of all applicable civil penalties, as follows:

a. As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor Code except for those for which a civil penalty is specifically provided, in the amount of one hundred dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation; and

1 b. As applicable, civil penalties under Labor Code §558 (in addition to and entirely
2 independent and apart from any other penalty provided for in the Labor Code), for violations of Labor
3 Code §§1-556, in the amount of \$50 for each underpaid aggrieved employee for each pay period the
4 aggrieved employee was underpaid, and \$100 for each subsequent violation for each underpaid employee
5 for each pay period for which the employee was underpaid, with all wages recovered pursuant to Labor
6 Code §557 paid to the aggrieved employees;

7 c. As applicable, Labor Code §98.6 (in addition to and entirely independent and apart
8 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants
9 retaliated against for complaining of activity which any aggrieved employee believed to be illegal and
10 in violation of California law, in the amount of a civil penalty not exceeding \$10,000 for each aggrieved
11 employee;

12 d. As applicable, Labor Code §204 (in addition to an entirely independent and apart
13 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
14 to pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial
15 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25
16 percent of the amount unlawfully withheld;

17 e. As applicable, civil penalties under Labor Code §203 (in addition to and entirely
18 independent and apart from any other penalty provided in the Labor Code), for any aggrieved employee
19 who was discharged or quit, and was not paid all earned wages at termination in accordance with Labor
20 Code §§201, 201.1, 201.5, 202, and 205, in the amount of a civil penalty of one day of pay, at the same
21 rate, for each day that he or she was paid late, until payment was/is made, up to a maximum of thirty
22 (30) days;

23 f. As applicable, civil penalties under Labor Code §221 (in addition to an entirely
24 independent and apart from any other penalty provided in the Labor Code), for any aggrieved employee
25 who Defendants failed to pay all earned wages during employment, in the amount of a civil penalty of
26 \$100 for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent
27 violation;

1 g. As applicable, Labor Code §510 (in addition to and entirely independent and apart
2 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
3 to pay overtime wages during employment, in the amount of a civil penalty of \$100 for the initial
4 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25
5 percent of the amount unlawfully withheld;

6 h. As applicable, civil penalties under Labor Code §225.5 (in addition to and entirely
7 independent and apart from any other penalty provided in the Labor Code), for each violation of Labor
8 Code §§221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
9 violation; and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25
10 percent of the amount unlawfully withheld;

11 i. As applicable, civil penalties under Labor Code §226.3 (in addition to and entirely
12 independent and apart from any other civil penalty provided in the Labor Code), for each violation of
13 Labor Code §226(a), in the amount of \$250 for each aggrieved employee per pay period for each
14 violation and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

15 j. As applicable, Labor Code §226.7 (in addition to an entirely independent and apart
16 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
17 to pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial
18 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

19 k. As applicable, Labor Code §512 (in addition to an entirely independent and apart
20 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
21 to pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial
22 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25;

23 l. As applicable, Labor Code §227.3(in addition to and entirely independent and
24 apart from any other penalty provided in the Labor Code), for any aggrieved employee who did not
25 receive unused vested vacation in their final check, in the amount of a civil penalty not exceeding
26 \$10,000 for each aggrieved employee;

27 m. As applicable, Labor Code §246 (in addition to an entirely independent and apart
28 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed

1 to provide paid sick leave, in the amount of a civil penalty of \$100 for the initial violation, and \$200
2 for each aggrieved employee per pay period for each subsequent violation plus 25 percent of the amount
3 unlawfully withheld;

4 n. As applicable, civil penalties under Labor Code §1197.1 (in addition to and
5 entirely independent and apart from any other penalty provided in the Labor Code) for violations of
6 Labor Code §§ 1194 and 1197, in the amount of \$100 for each underpaid aggrieved employee for each
7 pay period the aggrieved employee was intentionally underpaid in addition to an amount sufficient to
8 recover underpaid wages, and \$250 for each subsequent violation for each underpaid aggrieved
9 employees regardless of whether the initial violation was intentionally committed in addition to an
10 amount sufficient to recover underpaid wages, with all wages recovered pursuant to Labor Code
11 §§1197.1;

12 o. As applicable, civil penalties under Labor Code §2802 (in addition to and entirely
13 independent and apart from any other penalty provided in the Labor Code), for each violation of Labor
14 Code §2802, in the amount of \$100 for each aggrieved employee per pay period for each violation; and
15 \$200 for each aggrieved employee per pay period for each subsequent violation;

16 p. As applicable, Labor Code §1102.5 (in addition to and entirely independent and
17 apart from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants
18 retaliated against for complaining of activity which any aggrieved employee believed to be illegal and
19 in violation of California law, in the amount of a civil penalty not exceeding \$10,000 for each aggrieved
20 employee;

21 q. As applicable, any and all additional applicable civil penalties and sums as
22 provided by the Labor Code and/or other relevant statutes.

23 201. As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor
24 Code except for those for which a civil penalty is specifically provided, in the amount of one hundred
25 dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two hundred dollars
26 (\$200.00) for each aggrieved employee per pay period for each subsequent violation; and

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

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

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

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

11 Further, Plaintiffs are entitled; to recover reasonable attorneys' fees and costs pursuant to Labor
12 Code §§2699(g)(1) and any other applicable statute.

13
14 **SEVENTEENTH CAUSE OF ACTION**

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

16 **LABOR CODE §§226 *et seq.*, 1198.5**

17 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

18 205. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 43, inclusive, as
19 though set forth in full herein.

20 206. Labor Code §226(c) requires an employer, within twenty-one (21) days of a written
21 request thereof, to inspect or receive a copy of an employee's records. Pursuant to Labor Code §226(f),
22 an employer's failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

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

26 208. On March 29, 2021, Plaintiff made a written request to inspect or receive a copy of
27 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

1 209. Defendants failed and refused to permit Plaintiff's inspection of his personnel and payroll
2 records, and failed to provide a copy of Plaintiff's personnel and payroll records to him within the time
3 required by Labor Code §§ 226 *et seq.*, 1198.5, or ever.

4 210. As a result of Defendants' failure and refusal to comply with Labor Code §§ 226, and
5 1198.5, Plaintiff is entitled to recover from Defendants a civil penalty of \$1,500.00.

6
7 **EIGHTEENTH CAUSE OF ACTION**
8 **FOR UNFAIR COMPETITION**
9 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**
10 **AGAINST JCC AND DOES 1-20, INCLUSIVE**

11 211. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
12 though set forth in full herein.

13 212. Defendants' violations of 8 Code of Regulations §11160, Industrial Welfare Commission
14 Order No. 16-2001, Labor Code §§98.6, 201-203, 226, 226.7, 510, 512, 1102.5, 1182.12, 1194, 1194.2,
15 1197, 1198.5, 2699, and other applicable provisions, as alleged herein, including Defendants' failure and
16 refusal to pay minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks,
17 Defendants' failure to provide timely and accurate wage and hour statements, Defendants' failure to pay
18 compensation due in a timely manner upon termination or resignation, and Defendants' failure to
19 maintain complete and accurate payroll records for the Plaintiff, constitute unfair business practices in
20 violation of Business & Professions Code §§17200, et seq.

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

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendants and each of them, in an amount according to proof but estimated to be no less than \$1,000,000 as follows:

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

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

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

4. For penalties pursuant to Labor Code §226.8(b)-(c), in the amount of no less than \$25,000;

5. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12, 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 16-2001, in the amount of no less than an amount according to proof;

6. For liquidated damages pursuant to Labor Code §1194.2 in the amount an amount according to proof, plus interest;

7. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194, Industrial Welfare Commission Order No. 16-2001, and 8 Code of Regulations §11160, in the amount an amount according to proof;

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

9. For reimbursement of necessary business expenses pursuant to Labor Code §2802, in the amount of no less than an amount according to proof, plus interest;

10. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512, in the amount of no less than \$7,920.00;

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

12. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no less than an amount according to proof;

1 13. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
2 than \$4,800.00;

3 14. For statutory penalties pursuant to Labor Code §2699(f), in the amount of no less than an
4 amount according to proof on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants'
5 aggrieved employees, estimated to exceed \$500,000.00;

6 15. For statutory penalties pursuant to Labor Code §1198.5 in the amount of no less than
7 \$750.00;

8 16. For prejudgment interest on each of the foregoing at the legal rate from the date the
9 obligation became due through the date of judgment in this matter.

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

12 17. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
13 condemning Defendants' discriminatory practices;

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

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

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

22 21. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful
23 conduct, misclassification of Plaintiff as an independent contractor, and failure to pay wages and other
24 compensation in accordance with the law;

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

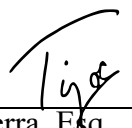
27 23. For post-judgment interest; and

28 24. For any other relief that is just and proper.

1 DATED: March 11, 2022

GUERRA & CASILLAS LLP

2
3 By:



Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
JOSEPH ENRIQUE FERRUFINO

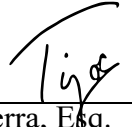
4
5
6 **JURY TRIAL DEMANDED**

7 Plaintiff demands trial of all issues by jury.

8
9 DATED: March 11, 2022

GUERRA & CASILLAS LLP

10
11 By:



Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
JOSEPH ENRIQUE FERRUFINO