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ELISEO NAVARRETE

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

ELISEO NAVARRETE, an individual,

Plaintiff,

v.

NANO FILTER, INC., a California
Corporation; THOMAS NUNEZ, an individual;
LEO JUNG, an individual; GREGORY
NEWMAN, an individual; and DOES 1 through
20, inclusive,

Defendants.

Case No. **21STCV42583**

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. FAILURE TO PROVIDE REASONABLE
ACCOMMODATIONS IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 6. FAILURE TO ENGAGE IN A GOOD
FAITH INTERACTIVE PROCESS IN
VIOLATION OF GOV'T CODE §§12940 ET
SEQ.;**
- 7. FOR DECLARATORY JUDGMENT**
- 8. RETALIATION (LAB. CODE §98.6);**
- 9. RETALIATION (LAB. CODE §§1102.5,
1102.6);**

10. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
11. FAILURE TO PAY WAGES (CAL. LABOR CODE §§201, 1194);
12. FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);
13. FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§510, 1194);
14. FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);
15. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);
16. WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);
17. PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ.);
18. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS (CAL. LABOR CODE §1198.5); AND
19. UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.)

DEMAND OVER \$25,000

[DEMAND FOR JURY TRIAL]

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

JURISDICTION

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

THE PARTIES

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

3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant NANO FILTER, INC., (hereinafter referred to as "NANO") was and is a California corporation doing business at 3833 McGowen Street, Long Beach, California 90808, in the County of Los Angeles, State of California.

4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant THOMAS NUNEZ (hereinafter referred to as "NUNEZ") was and is an individual who at all relevant times has worked in and resided in the County of Los Angeles, State of California.

5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant LEO JUNG (hereinafter referred to as "JUNG") was and is an individual who at all relevant times has worked in and resided in the County of Los Angeles, State of California.

6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant GREGORY NEWMAN (hereinafter referred to as "NEWMAN") was and is an individual who at all relevant times has worked in and resided in the County of Los Angeles, State of California.

7. NANO, NUNEZ, JUNG, and NEWMAN are hereinafter collectively referred to as "Defendants"

8. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, NANO owned and operated a private corporation that primarily operates in the manufacturing industries.

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

10. At all times relevant herein, Defendants and DOES 1-20 were Plaintiff's employers, joint employers and/or special employers within the meaning of the Labor Code and Industrial Welfare

Commission Order No. 1-2001, and are each an “employer or other person acting on behalf of an employer” as such term is used in Labor Code section 558, and liable to Plaintiff on that basis.

11. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendants NUNEZ, JUNG, and NEWMAN were and are individual residents of the County of Los Angeles, State of California, and are hereinafter individually referred to by last name and collectively referred to as the “INDIVIDUAL DEFENDANTS.” The INDIVIDUAL DEFENDANTS were Employers’ managers, corporate agents, supervisors, and/or employees.

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

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

14. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20 and the INDIVIDUAL DEFENDANTS, acted in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20 and the INDIVIDUAL DEFENDANTS, and each of them, formed and executed a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged

1 herein done as part of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff
2 harm.

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

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

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

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

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

18 a. Employers are completely dominated and controlled by one another and DOES 1-
19 20, who personally committed the frauds and violated the laws as set forth in this complaint, and who
20 have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or
21 accomplish some other wrongful or inequitable purpose.

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

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

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

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

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

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

20 21. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
21 between DOES 1-20, Employers, or any of them, (1) there is an express or implied agreement of
22 assumption pursuant to which Employers and/or DOES 1-20 agreed to be liable for the debts of the other
23 Defendants, (2) the transaction between Employers and/or DOES 1-20 and the other Defendants amounts
24 to a consolidation or merger of the two corporations, (3) Employers and/or DOES 1-20 are a mere
25 continuation of the other Defendants, or (4) the transfer of assets to Employers and/or DOES 1-20 is for
26 the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employers and/or DOES
27 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

FACTUAL ALLEGATIONS

22. On or about June 15, 2020, Employers hired Plaintiff to work as a lead machine operator. 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 3, 2021.

23. Plaintiff worked under his direct supervisor, NUNEZ, and manager, JUNG. NUNEZ and JUNG both worked under the direct supervision of NEWMAN.

24. On or about November 2020, Plaintiff injured his back while working for Employer. Plaintiff's work-related injury caused the major life activity of working to be more difficult, thus constituting a disability.

25. Plaintiff immediately informed NUNEZ and JUNG about his injury but Defendants failed to advise him of his rights to workers' compensation benefits.

26. Although Plaintiff was in severe pain, he continued trying to work, during which time Defendants neither advised him of his rights to workers' compensation benefits, nor did they offer any accommodation despite Plaintiff visibly having difficulty of doing his work.

27. Thereafter, the pain became too much for Plaintiff that he went to see a doctor who issued him work restrictions.

28. At all relevant times, Defendants failed to properly engage in a good faith interactive process in an effort to properly accommodate Plaintiff's disability and/or medical condition such that Plaintiff could continue working for Defendants.

29. At all relevant times, Defendants failed to reasonably accommodate Plaintiff even though Plaintiff was able to perform the essential job duties of Plaintiff's position or another position with or without accommodations.

30. Plaintiff made complaints to NUNEZ and JUNG about their refusal to accommodate him to no avail.

31. After Plaintiff's injury, NUNEZ and JUNG harassed Plaintiff and fostered a hostile work environment, all while under NEWMAN'S supervision and without any discipline from NEWMAN.

32. For example, while Plaintiff suffered from severe back pain due to Defendants' failure to accommodate his work-related injury, he stretched out his back in an effort to alleviate his pain. JUNG

1 saw this, approached Plaintiff, and struck him in his injured back, claiming that he could not be that
2 injured because he was young.

3 33. This incident occurred in front of many of Plaintiff's co-workers and caused him injury
4 and pain, but also great embarrassment and humiliation.

5 34. NUNEZ'S insults and accusations that Plaintiff was feigning injury occurred almost daily.

6 35. On or about January 9, 2021, Plaintiff filed a workers' compensation claim.

7 36. Subsequently, JUNG presented Plaintiff with a waiver for Plaintiff's signature. However,
8 not understanding the contents of the waiver, Plaintiff refused to sign. When he requested a copy to
9 review on his own time, he was denied one, as Defendants stated Plaintiff needed to sign before Plaintiff
10 received a copy and threatened with termination if he continued to refuse to sign the waiver.

11 37. NEWMAN later accompanied JUNG to get the waiver signed by Plaintiff. However,
12 again, since Plaintiff did not know the contents of the wavier, Plaintiff refused.

13 38. Thereafter, on or about March 3, 2021, NEWMAN and JUNG wrongfully terminated
14 Plaintiff.

15 39. Between June 15, 2020 and March 3, 2021, Plaintiff's hourly wage rate was \$19.50 an
16 hour. During this time period, Plaintiff worked on average about nine (9) hours a day five (5) days a
17 week.

18 40. Plaintiff worked approximately three to four unpaid hours each week, for which Plaintiff
19 received no wages at all, not Plaintiff's hourly wage rate, or even the requisite minimum wage.

20 41. Plaintiff worked approximately three to four overtime hours each week, but was not paid
21 for these hours at all. Therefore, Defendants failed to pay Plaintiff for hours worked beyond eight in a
22 day or beyond 40 in a week.

23 42. Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of
24 Plaintiff's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion
25 thereof. Defendant did not pay Plaintiff one (1) additional hour of pay at Plaintiff's regular rate of
26 compensation for each workday that one or more statutory rest period was not provided.

27 43. Throughout Plaintiff's employment, Plaintiff did not receive uninterrupted statutory 30-
28 minute meal periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff

1 worked. Defendants affirmatively failed to advise Plaintiff of the right to take statutory meal periods, but
2 instead would deduct a lunch hour as if Plaintiff had taken a break. Defendant did not pay Plaintiff one
3 (1) additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or more
4 statutory meal period was not provided.

5 44. Additionally, Defendant failed to provide Plaintiff with itemized wage and hour
6 statements that fully or accurately state the (1) gross wages earned, (2) the total hours worked by the
7 employee, (5) net wages earned, and (9) all applicable hourly rates in effect during the pay period and the
8 corresponding number of hours worked at each hourly rate by Plaintiff.

9 45. Defendant willfully failed to pay Plaintiff earned and due Wages upon separation of
10 employment immediately upon involuntary termination. To this date, since Plaintiff's March 3, 2021
11 unlawful termination, Defendant has failed to pay Plaintiff all wages owed.

12 46. Defendants collected and/or received from Plaintiff part of his wages theretofore paid by
13 Defendant to Plaintiff.

14 47. Defendant required Plaintiff to execute a release as a condition of being paid, and
15 employees were required to execute a statement of hours that Plaintiff worked during the pa period,
16 Defendant knew to be false.

17 48. Defendant retaliated against Plaintiff for complaining that he is owed unpaid wages,
18 exercising or requesting to exercise his rights under the Labor Code to paid sick leave, accurate paystubs,
19 and overtime pay.

20 49. Defendant failed to indemnify Plaintiff for all necessary expenditures or losses incurred
21 by Plaintiff in direct consequence of the discharge of his duties and/or of his obedience to the directions.

22 50. Defendants failed to pay Plaintiff wages for unused vested vacation time.

23 51. Defendants failed to provide Plaintiff with paid sick leave as required by law.

24 52. Defendants discriminated and retaliated against Plaintiff by wrongfully terminating him
25 for exercising Plaintiff's right to request an accommodation of Plaintiff's disability and/or medical
26 condition as recommended by his doctor.

27 53. Defendants also subjected the Plaintiff to harassment by JUNG and NUNEZ.
28

1 54. Plaintiff's termination was substantially motivated by Plaintiff's disability and/or medical
2 condition, real or perceived, request for accommodation, and/or engagement in protected activities,
3 without any discussion of disability accommodations or any good faith attempt to engage in the
4 interactive process with Plaintiff. Defendants' discriminatory animus is evidenced by the previously
5 mentioned facts.

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

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

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

20 58. Plaintiff claims general damages for emotional and mental distress and aggravation in a
21 sum in excess of the jurisdictional minimum of this Court.

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

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FIRST CAUSE OF ACTION
FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST ALL DEFENDANTS

60. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 55, inclusive, as though set forth in full herein.

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

62. 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.

63. FEHA requires Defendants to refrain from discriminating against an employee on the basis of disability and/or medical condition, real or perceived, and to prevent discrimination and harassment on the basis of disability and/or medical condition, real or perceived, use of medical leave, and engagement in protected activities from occurring.

64. Plaintiff was a member of multiple protected classes as a result of Plaintiff's disability, medical condition and/or the perception that Plaintiff was suffering from a disability and/or medical condition and Plaintiff's engagement in protected activity.

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

66. 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.

67. Plaintiff is informed and believes that Plaintiff's engagement in protected activity, disability and/or medical condition, real and perceived, 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.

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

1 69. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated
2 by reference.

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

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

11 **SECOND CAUSE OF ACTION**

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

13 **AGAINST ALL DEFENDANTS**

14 72. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 55, inclusive, as
15 though set forth in full herein.

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

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

20 75. These laws set forth in the preceding paragraph require Defendants to refrain from
21 harassing, or creating, or maintaining a hostile work environment against an employee based upon the
22 employee's disability and/or medical condition, real or perceived, use of workers' compensation
23 benefits, and engagement in protected activities, as set forth hereinabove.

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

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

1 Plaintiff's disability and/or medical condition, real or perceived, use of workers' compensation
2 benefits, engagement in protected activities, and/or some combination of these protected
3 characteristics, as set forth hereinabove.

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

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

10 80. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated
11 by reference.

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

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

20 **THIRD CAUSE OF ACTION**

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

22 **AGAINST ALL DEFENDANTS**

23 83. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 55, inclusive, as
24 though set forth in full herein.

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

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

1 86. Plaintiff engaged in the protected activities of requesting accommodation, exercising
2 Plaintiff's right to workers' compensation benefits, and complaining about and protesting Defendants'
3 discriminatory and harassing conduct towards Plaintiff based upon Plaintiff's disability and/or medical
4 condition, real or perceived.

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

8 88. Plaintiff is informed and believes that Plaintiff's conduct of requesting accommodation,
9 exercising Plaintiff's right to workers' compensation benefits, complaining about and protesting about
10 Defendants' discriminatory and harassing conduct, and/or some combination of these factors, were
11 motivating reasons and/or factors in the decisions to subject Plaintiff to the aforementioned adverse
12 employment actions.

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

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

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

20 92. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated
21 by reference.

22 93. The foregoing conduct of Defendants individually, or by and through their officers,
23 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
24 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
25 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
26 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
27 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.
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1 94. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
2 attorneys' fees and costs, including expert fees pursuant to the FEHA.

3 **FOURTH CAUSE OF ACTION**
4 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION**
5 **IN VIOLATION OF GOV'T CODE §12940(k)**
6 **AGAINST ALL DEFENDANTS**

7 95. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 55, inclusive, as
8 though set forth in full herein.

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

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

17 98. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated
18 by reference.

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

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

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FIFTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS
IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST ALL DEFENDANTS

101. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 55, inclusive, as though set forth in full herein.

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

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

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

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

106. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated by reference.

107. The foregoing conduct of Defendants individually, and/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.

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

SIXTH CAUSE OF ACTION

FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS

IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.

AGAINST ALL DEFENDANTS

109. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 55, inclusive, as though set forth in full herein.

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

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

112. Plaintiff reported the disability to Defendants and per his doctor's request sought accommodations, triggering Defendants' obligation to engage in the interactive process with Plaintiff, but at all times herein, Defendants failed and refused to do so. Thereafter, despite Defendants continuing obligation to engage in the interactive process with Plaintiff, despite Plaintiff's submission

1 of a doctors' notes identifying Plaintiff's condition and Plaintiff's desire to continue working in some
2 capacity, Defendants failed and refused to have any dialogue with Plaintiff whatsoever, on any of these
3 occasions, and Defendants violated, and continued to violate this obligation up to and including the
4 date of Plaintiff's termination or, if Defendant contends Plaintiff was never terminated, through the
5 present and ongoing.

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

8 114. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated
9 by reference.

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

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

18 **SEVENTH CAUSE OF ACTION**
19 **FOR DECLARATORY JUDGMENT**
20 **AGAINST ALL DEFENDANTS**

21 117. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 116, inclusive,
22 as though set forth in full herein.

23 118. Government Code §12920 sets forth the public policy of the State of California as
24 follows:

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

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

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

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

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

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

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

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

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

1 121. An actual controversy has arisen and now exists between Plaintiff and Defendants
2 concerning their respective rights and duties as it is believed that Defendants may allege that they did
3 not discriminate and retaliate against Plaintiff; that Plaintiff was not terminated as a result of Plaintiff's
4 disability and/or perceived disability, medical condition or perceived medical condition, engagement
5 in protected activities, and/or some combination of these protected characteristics. Plaintiff contends
6 that Defendants did discriminate and retaliate against Plaintiff on the basis of Plaintiff's disability
7 and/or perceived disability, medical condition or perceived medical condition, engagement in protected
8 activities, and/or some combination of these protected characteristics; and that Plaintiff was retaliated

1 against and, ultimately wrongfully terminated as a result of Plaintiff's medical condition, disability
2 and/or perceived disability, medical condition or perceived medical condition, engagement in protected
3 activities, and/or some combination of these protected characteristics. Plaintiff is informed and
4 believes, and on that basis alleges, that Defendants shall dispute Plaintiff's contentions.

5 122. Pursuant to Code of Civil Procedure §1060, Plaintiff desires a judicial determination of
6 Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the basis of
7 Plaintiff's perceived disability, disability, medical condition, perceived medical condition,
8 engagement in protected activities, and/or some combination of these protected characteristics

9 123. Pursuant to Code of Civil Procedure §1060, Plaintiff seeks a judicial determination of
10 Plaintiff's rights and duties, and a declaration that Plaintiff's perceived disability, medical condition,
11 perceived medical condition, disability, engagement in protected activities, and/or some combination
12 of these protected characteristics was a substantial motivating factor in the decision to subject Plaintiff
13 to the aforementioned adverse employment actions.

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

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

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

28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **RETALIATION**

3 **LABOR CODE §98.6**

4 **AGAINST ALL DEFENDANTS**

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

7 128. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against an
8 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. Thus,
14 Section 98.6 prohibits an employer from discharging or in any manner discriminating or retaliating
15 against an employee who, among other things, has exercised her or her rights under that Chapter,
16 including the right to take meal breaks, and/or made a written or oral complaint that he or she is owed
17 unpaid wages. An employee who has been discharged or retaliated against in violation of Labor Code
18 §98.6 is entitled to recovery of a civil penalty against the employer in an amount not exceeding ten
19 thousand dollars (\$10,000.00) for each violation of that section.

20 129. Plaintiff is informed and believe, and based thereupon allege, that Plaintiff was
21 terminated from Plaintiff's employment with Defendants as a result of Plaintiff's complaints about not
22 being paid all wages due, not receiving meal and/or rest breaks, exercising Plaintiff's right to take meal
23 and/or rest breaks. Defendants' retaliatory animus is evidenced by, among other things, the following
24 facts: **

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

131. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated by reference.

132. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed \$10,000.00 for Defendants' violations of Labor Code § 98.6.

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

NINTH CAUSE OF ACTION

FOR RETALIATION

IN VIOLATION OF LABOR CODE §§ 1102.5 AND 1102.6

AGAINST ALL DEFENDANTS

134. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set forth in full herein.

135. At all relevant times, Labor Code §1102.5(a) was in full force and effect, and was binding on Defendants. This law prohibits an employer, or any person acting on behalf of the employer, from discharging an employee or in any manner discriminating or retaliating against, or taking any adverse action against, an employee because, among other things, the employee disclosed information to a government or law enforcement agency, or to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or 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. Pursuant to Labor Code §1102.5(f), in addition to other penalties, an employer that is a corporation or limited liability

1 company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of
2 this section.

3 136. Defendant retaliated against Plaintiff because he complained about unpaid wages,
4 exercising or requesting to exercise his rights under the Labor Code to paid sick leave, accurate
5 paystubs, and overtime pay.

6 137. Defendants subjected Plaintiff to the adverse employment action, including without
7 limitation, termination because Plaintiff reported the suspected violations of the Labor Code to
8 Plaintiff's supervisors.

9 138. Plaintiff's reports of these violations were a motivating and contributing factor for the
10 adverse employment actions by Defendants against Plaintiff.

11 139. Said conduct violates Labor Code Labor Code §1102.5 and Labor Code §1102.6, and
12 such violations were a proximate cause in Plaintiff's damages as hereinabove stated.

13 140. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated
14 by reference.

15 141. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
16 \$10,000.00 for Defendants' violations of Labor Code § 1102.5.

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

23 **TENTH CAUSE OF ACTION**

24 **FOR WRONGFUL TERMINATION**

25 **IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**

26 **AGAINST ALL DEFENDANTS**

27 143. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 55, inclusive, as
28 though set forth in full herein.

1 144. At all relevant times mentioned in this complaint, the FEHA was in full force and effect
2 and was binding on Defendants. This law requires Defendants to refrain, among other things, from
3 discriminating against any employee on the basis of disability and/or medical condition, real or
4 perceived, and use of medical leave, and from retaliating against any employee who engages in
5 protected activity.

6 145. At all times mentioned in this complaint, it was a fundamental policy of the State of
7 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of
8 disability and/or medical condition, real or perceived, use of medical leave and/or engagement in
9 protected activity.

10 146. Plaintiff believes and thereon alleges that Plaintiff's disability and/or medical condition,
11 real or perceived, use of medical leave, engagement in protected activity with respect to these protected
12 classes, and/or some combination thereof, were factors in Defendants' conduct as alleged hereinabove.

13 147. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's
14 employment on the basis of disability, medical condition, real or perceived, or use of medical leave,
15 Plaintiff's complaining of harassment and discrimination due to these protected classes, Plaintiff's
16 engagement in protected activity, and/or some combination of these factors, were a proximate cause in
17 Plaintiff's damages as stated below.

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

22 149. 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 in violation of
24 FEHA.

25 150. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's status as
26 a protected member of the class under FEHA was a proximate cause in Plaintiff's damages as stated
27 below.
28

1 151. At all relevant times mentioned in this complaint, Labor Code §98.6 was in full force
2 and effect and was binding upon Defendants and each of them. This law prohibits retaliation against
3 employees who complain about unpaid wages and/or attempt to exercise the rights under the Labor
4 Code. Labor Code §98.6 reflects the State's broad public policy interest in protecting the rights of
5 individual employees and job applicants who could not otherwise afford to protect themselves from
6 violations of the Labor Code.

7 152. At all relevant times mentioned in this complaint, Labor Code §1102.5 was in full force
8 and effect and was binding upon Defendants and each of them. This law prohibits retaliation against
9 employees who disclose reasonable suspicions of illegal activity or conduct by their employer to a
10 government or law enforcement agency, or to employer itself. Labor Code §1102.5 reflects the State's
11 broad public policy interest in encouraging workplace "whistleblowers," who may without fear of
12 retaliation report concerns regarding an employer's suspected illegal conduct, irrespective of whether
13 the reporting is made to governmental agencies or to the employer itself, and irrespective of whether
14 the employee's suspicions are correct that the challenged conduct actually violates some law. Indeed,
15 the law in California is that an employee's good faith but mistaken belief in the illegality of his co-
16 workers', supervisor's, and employer's conduct is protected from employer retaliation in the whistle-
17 blowing context.

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

21 154. The damage allegations of Paragraphs 56 through 59, inclusive, are herein incorporated
22 by reference.

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

ELEVENTH CAUSE OF ACTION
FOR FAILURE TO PAY WAGES DUE
LABOR CODE §§201, 1182.12, 1194, 1194.2
AGAINST ALL DEFENDANTS

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

157. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and required by 8 Code of Regulations §11010, as set forth hereinabove. As alleged herein, Defendants routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

158. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8 Code of Regulations §11010, and Industrial Welfare Commission Order No. 1-2001.

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

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

161. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated above based upon Defendants' underpayment of minimum and overtime wages. Within the one year immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code §558 on eighteen (18) pay periods, the first of which Defendants are penalized \$50.00, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties of \$1,750.00.

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TWELFTH CAUSE OF ACTION
FOR FAILURE TO PAY MINIMUM WAGES
LABOR CODE §§1182.12, 1194, 1194.2, 1197
AGAINST ALL DEFENDANTS

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

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

164. 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
Effective	New wage	Old Wage
1/1/19	\$11.00	\$12.00
1/1/18	\$10.50	\$11.00

165. In the two 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. From on or about June 15, 2020 to December 31, 2020, Plaintiff worked approximately 4 hours per week without getting paid anything. Therefore Plaintiff is owed \$1,456.00 calculated at 4 unpaid hours per week for 28 weeks, at \$13 per hour.

b. From January 1, 2021 to March 3, 2021, Plaintiff worked approximately 4 hours per week without getting paid anything. Therefore, Plaintiff is owed \$504.00, calculated at 4 unpaid hours per week for 9 weeks, at \$14 per hour.

166. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum wages in the amount of \$1,960.00.

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

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

7 169. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
8 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
9 additional \$1,960.00, plus interest thereon

10 **THIRTEENTH CAUSE OF ACTION**
11 **FOR FAILURE TO PAY OVERTIME COMPENSATION**

12 **LABOR CODE §§510, 1194**
13 **AGAINST ALL DEFENDANTS**

14 170. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
15 though set forth in full herein.

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

23 172. At all relevant times, Defendants required Plaintiff to work more than eight hours per
24 day and/or more than 40 hours per workweek.

25 173. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
26 compensation required by Labor Code §510, 8 Code of Regulations §11010, and Industrial Welfare
27 Commission Order No. 1-2001.

1 174. In the four years last past, Plaintiff worked four (4) hours of overtime each week, all of
2 which should have been paid at 1.5 times Plaintiff's regular hourly wage rate at that time. Defendants
3 failed to pay Plaintiff the requisite overtime wages in each of the following ways in the two years
4 immediately preceding the filing of this complaint:

5 a. From approximately June 15, 2020 to December 31, 2020, Plaintiff's hourly
6 overtime rate was \$29.25. During this time period, Plaintiff worked an average of four (4) hours of
7 overtime each week, for 28 weeks, or 112 hours, but did not receive any wages for these hours at all.
8 Therefore, less the minimum wage portion of \$13 per hour which Plaintiff has already claimed in the
9 preceding cause of action, Plaintiff is owed \$16.25 for each of those hours, totaling \$1,820.

10 b. From approximately January 1, 2021 to March 3, 2021, Plaintiff's hourly overtime
11 rate was \$29.25. During this time period, Plaintiff worked an average of four (4) hours of overtime each
12 week, for 9 weeks, or 36 hours, but did not receive any wages for these hours at all. Therefore, less the
13 minimum wage portion of \$14 per hour which Plaintiff has already claimed in the preceding cause of
14 action, Plaintiff is owed \$15.25 for each of those hours, totaling \$549.00.

15 175. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
16 Code §510, 8 Code Regulations §11010, and Industrial Welfare Commission Order No. 1-2001.

17 176. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
18 of \$2,369.00, above and beyond the minimum wages sought in the preceding cause of action for these
19 same hours.

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

23 **FOURTEENTH CAUSE OF ACTION**

24 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS**

25 **LABOR CODE §§226.7, 512**

26 **AGAINST ALL DEFENDANTS**

27 178. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
28 though set forth in full herein.

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

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

6 181. In the two years last past, Plaintiff regularly worked in excess of five hours per day, and
7 was thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on each
8 day of work.

9 182. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
10 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the
11 applicable sections of 8 Code of Regulations §11010 and Industrial Welfare Commission Order No. 1-
12 2001, as follows:

13 a. From approximately June 15, 2020 to March 3, 2021, Plaintiff's statutory 30-
14 minute meal periods were missed, interrupted or cut short approximately 5 times per week for 37 weeks,
15 or on approximately 185 days. During this same time period, Plaintiff was deprived of one or more of
16 Plaintiff's statutory 10-minute rest periods on approximately 185 days (5 days per week for 37 weeks).

17 183. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8
18 Code of Regulations §11010 and Industrial Welfare Commission Order No. 1-2001. Consequently,
19 Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage,
20 whichever is greater, for each day that Plaintiff was denied such meal periods, and is owed one hour of
21 pay at Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day
22 that Plaintiff was denied such rest periods, calculated as follows:

23 a. From approximately June 15, 2020 to March 3, 2021, Defendants failed to provide
24 Plaintiff with an uninterrupted statutory meal period on approximately 185 separate days. Consequently,
25 Plaintiff is owed one hour of pay at \$19.50 for each day, or \$3,607.50, plus interest thereon, for unpaid
26 missed or interrupted meal periods. During this same time period, Defendants failed to provide Plaintiff
27 with the statutory rest period on approximately 185 separate days. Consequently, Plaintiff is owed one
28 hour of pay at \$19.50 for each day, or \$3,607.50, plus interest thereon, for unpaid rest periods. Thus,

1 Plaintiff is owed a total of \$7,215.00, plus interest thereon, for unpaid meal and rest periods for this time
2 period.

3 184. Thus, the total missed meal and rest period compensation owing Plaintiff for this time
4 period is \$7,215.00.

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

7 186. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
8 such amounts in the combined amount of \$7,215.00, pursuant to Labor Code §226.7(b), plus interest
9 thereon and costs of suit.

10 **FIFTEENTH CAUSE OF ACTION**

11 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**

12 **LABOR CODE §§226 ET SEQ.**

13 **AGAINST ALL DEFENDANTS**

14 187. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
15 though set forth in full herein.

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

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

27 190. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
28 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net

1 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and
2 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
3 by Plaintiff.

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

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

13 193. Plaintiff was paid on a twice monthly basis, and therefore Defendants violated Labor Code
14 §226 approximately 18 times during the one year preceding the filing of this complaint. Consequently,
15 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
16 amount of \$4,000.00, whichever is greater.

17 194. In addition thereto, for Defendant's 18 violations, Defendants are penalized \$50.00 for the
18 first violation, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor
19 Code §226.3 penalties of \$1,750.00.

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

23 **SIXTEENTH CAUSE OF ACTION**

24 **FOR WAITING TIME PENALTIES**

25 **LABOR CODE §§201-203**

26 **AGAINST ALL DEFENDANTS**

27 196. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
28 though set forth in full herein.

1 197. 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.

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

9 199. 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 \$5,557.50 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
12 \$185.25, inclusive of overtime.

13 200. Based on Defendants' conduct as alleged herein, Defendants are liable for \$5,557.50 in
14 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
15 fees and costs.

16 **SEVENTEENTH CAUSE OF ACTION**
17 **FOR PRIVATE ATTORNEY GENERAL ACT**
18 **LABOR CODE § 2699**
19 **AGAINST ALL DEFENDANTS**

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

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

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

204. On March 24, 2021, more than 65 calendar days before filing this Complaint, Plaintiff provided written notice by certified mail to the Labor and Workforce Development Agency and to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code §2699.3(a) by citing the specific provision of the Labor Code alleged to have been violated, including the facts and theories sufficient to support the alleged violations.

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

206. Here, Plaintiffs' 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.

207. 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

208. 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 recover 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

1 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent
2 violation; and

3 b) As applicable, civil penalties under Labor Code §558 (in addition to and entirely independent
4 and apart from any other penalty provided for in the Labor Code), for violations of Labor Code
5 §1-556, in the amount of \$50 for each underpaid aggrieved employee for each pay period the
6 aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid
7 wages, and \$100 for each subsequent violation for each underpaid employee for each pay
8 period for which the employee was underpaid. Plaintiff is entitled to recover \$ 1,250.00 for
9 civil penalties. Plaintiff is also able to collect an additional penalty to be distributed to the
10 other aggrieved employees in an amount according to proof

11 c) As applicable, civil penalties under Labor Code §1197.1 (in addition to and entirely
12 independent and apart from any other penalty provided in the Labor Code) for violations of
13 Labor Code §§1194 and 1197, in the amount of \$100 for each underpaid aggrieved employee
14 for each pay period the aggrieved employee was intentionally underpaid in addition to an
15 amount sufficient to recover underpaid wages, and \$250 for each subsequent violation for each
16 underpaid aggrieved employees regardless of whether the initial violation was intentionally
17 committed in addition to an amount sufficient to recover underpaid wages, with all wages
18 recovered pursuant to Labor Code §1197.1. Plaintiff may also recover penalties under § 1197.1
19 on behalf of herself and for the other aggrieved employees;

20 d) As applicable, civil penalties under Labor Code §225.5 (in addition to and entirely independent
21 and apart from any other penalty provided in the Labor Code) for violations of Labor Code §
22 221 and 223, in the amount of \$100 for each underpaid aggrieved employee for each pay period
23 the aggrieved employee was underpaid, and \$200 for each subsequent violation or any willful
24 or intentional violation, for each underpaid aggrieved employees regardless of whether the
25 initial violation was intentionally committed in addition to 25 percent of the amount unlawfully
26 withheld;

27 e) As applicable, civil penalties under Labor Code §210 (in addition to and entirely independent
28 and apart from any other penalty provided in the Labor Code), for each employee who is/was

1 not paid wages in accordance with Labor Code §§201.3, 204, 204b, 204.1, 204.2, 205, 205.5
2 and 1197.5, in the amount of a civil penalty of \$100 for each aggrieved employee per pay
3 period for each initial violation, and \$200 for each aggrieved employee per pay period for each
4 subsequent violation, plus 25 percent of the amount unlawfully withheld;

5 f) As applicable, civil penalties under Labor Code §226.3 (in addition to and entirely independent
6 and apart from any other civil penalty provided in the Labor Code), for each violation of Labor
7 Code §226(a), in the amount of \$250 for each aggrieved employee per pay period for each
8 violation and \$1,000 for each aggrieved employee per pay period for each subsequent
9 violation;

10 g) As applicable, civil penalties under Labor Code §§203 and/or 256 (in addition to and entirely
11 independent and apart from any other penalty provided in the Labor Code), for any aggrieved
12 employee who was discharged or quit, and was not paid all earned wages at termination in
13 accordance with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil
14 penalty of one day of pay, at the same rate, for each day that he or she was paid late, until
15 payment was/is made, up to a maximum of thirty (30) days; and

16 h) As applicable, any and all additional applicable civil penalties and sums as provided by the
17 Labor Code and/or other relevant statutes.

18 209. In addition, Plaintiffs seek and are entitled to seventy-five percent (75%) of all penalties
19 obtained under Labor Code §2699 to be allocated to the LWDA, for education of employers and
20 employees about their rights and responsibilities under the Labor Code, and twenty-five percent (25%)
21 to the aggrieved employees.

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

24 211. As a direct and proximate result of Defendants' California Labor Code violations as set
25 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
26 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each
27 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
28

1 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
2 provide for a penalty, §§203, 210, 225.5, 226.3, 226.7, 510, 512, 558, and 1197.1.

3 212. 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.

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

7 **EIGHTEENTH CAUSE OF ACTION**

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

9 **LABOR CODE §1198.5**

10 **AGAINST ALL DEFENDANTS**

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

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

16 216. On March 18, 2021, Plaintiff made a written request to inspect or receive a copy of
17 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

18 217. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and
19 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within
20 the time required by Labor Code §1198.5.

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

23 **NINETEENTH CAUSE OF ACTION**

24 **FOR UNFAIR COMPETITION**

25 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**

26 **AGAINST ALL DEFENDANTS**

27 219. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
28 though set forth in full herein.

220. Defendants' violations of 8 Code of Regulations §11010, Industrial Welfare Commission Order No. 1-2001, Labor Code §§201-203, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5, 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants' failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business & Professions Code §§17200, et seq.

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

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

PRAYER FOR RELIEF

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

As to the First, Second, Third, Fourth, Fifth, Sixth, and Tenth Causes of Action for FEHA Violations and Wrongful Termination:

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 prejudgment interest on each of the foregoing at the legal rate from the date the obligation became due through the date of judgment in this matter;

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

1 4. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
2 condemning Defendants' discriminatory practices;

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

5 As to the Seventh Cause of Action for Declaratory Judgment:

6 6. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
7 condemning Defendant's discriminatory practices;

8 As to the Eighth Cause of Action for Retaliation in Violation of Labor Code § 98.6:

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

10 As to the Ninth Cause of Action for Retaliation in Violation of Labor Code § 1102.5:

11 8. For civil penalties pursuant to Labor Code § 1102.5 in the amount of no less than
12 \$10,000.00

13 As to the Eleventh and Twelfth Causes of Action for Failure to Pay Regular and Minimum Wages:

14 9. For payment of unpaid regular and minimum wage compensation pursuant to Labor Code
15 §§ 200, 201, 1194, 1194.2, 1197, Industrial Welfare Commission Order No. 1-2001, and 8 Code of
16 Regulations §11010, or other applicable IWC Wage Order, in the amount of approximately \$1,960.00,
17 and liquidated damages in the amount of approximately \$1,960.00.

18 As to the Thirteenth Cause of Action for Failure to Pay Overtime Wages

19 10. For payment of unpaid overtime compensation pursuant to Labor Code §§ 510, Industrial
20 Welfare Commission Order No. 1-2001, and 8 Code of Regulations §11010, or any other applicable IWC
21 Wage Order, in the amount of approximately \$2,369.00, which is the difference between the overtime
22 rate and the regular rate of pay for Plaintiff;

23 As to the Fourteenth Cause of Action for Failure to Provide Meal and Rest Periods:

24 11. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512,
25 in the amount of no less than \$7,215.00;

26 As to the Fifteenth Cause of Action for Failure to Provide Itemized Wage and Hour Statements:

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

28 As to the Sixteenth Cause of Action for Waiting Time Penalties:

1 13. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
2 than \$5,557.50;

3 As to the Eighteenth Cause of Action for Failure to Permit Inspection of Personnel and Payroll Records:

4 14. For statutory penalties pursuant to Labor Code §1198.5 in the amount of no less than
5 \$750.00;

6 As to the Seventeenth Cause of Action for Penalties Pursuant to Labor Code §2699:

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

11 16. For civil penalties pursuant to Labor Code §558, in addition to and entirely independent
12 and apart from other penalties in the Labor Code, as follows:

- 13 a. For any violation, fifty dollars (\$50) for each aggrieved underpaid employee for each
14 pay period for which the employee was underpaid, and an additional penalty amount
15 sufficient to recover the underpaid wages;
- 16 b. For each subsequent violation, one hundred dollars (\$100) for each aggrieved
17 underpaid employee for each pay period for which the employees were underpaid, and
18 an additional penalty amount sufficient to recover the underpaid wages; and
- 19 c. For these amounts to be paid to the aggrieved employees;

20 17. For civil penalties under Labor Code §1197.1, in addition to and entirely independent and
21 apart from any other penalty provided in the Labor Code, for each violation of Labor Code §1197, in the
22 amount of \$100 for each aggrieved employee per pay period for each violation and \$250 for each
23 aggrieved employee per pay period for each subsequent violation;

24 18. For civil penalties under Labor Code §210, in addition to and entirely independent and
25 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
26 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
27 each subsequent violation;

1 19. For civil penalties under Labor Code §225.5, in addition to and entirely independent and
2 apart from any other penalty provided in the Labor Code, for each violation of Labor Code §221, in the
3 amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each
4 aggrieved employee per pay period for each subsequent violation;

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

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

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

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

17 24. For such relief as this Court may deem just and proper, including reasonable attorneys'
18 fees and costs incurred;

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

21 As to the Nineteenth Cause of Action for Unfair Business Practices:

22 25. For an accounting, under administration of Plaintiffs and/or the receiver and subject to
23 Court review, to determine the amount to be returned by Defendants, and the amounts refunded to the
24 "aggrieved employees" who are owed monies by Defendants;

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

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

3 As to All Causes of Action:

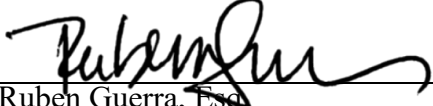
4 28. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
5 Code, Civil Code §1021.5, and/or any other basis;

6 29. For post-judgment interest; and

7 30. For any other relief that is just and proper.
8

9 DATED: November 18, 2021

GUERRA & CASILLAS LLP

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11 By: 

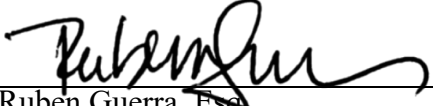
Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorney for Plaintiff
ELISEO NAVARRETE

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15 **JURY TRIAL DEMANDED**

16 Plaintiff demands trial of all issues by jury.

17 DATED: November 18, 2021

GUERRA & CASILLAS LLP

18
19 By: 

Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorney for Plaintiff
ELISEO NAVARRETE