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Superior Court of California,
County of San Diego
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By Yvette Mapula, Deputy Clerk

Attorney for Plaintiffs
DANILO ANG and REBECCA HOLLMAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

CENTRAL DIVISION

DANILO ANG, an individual, and REBECCA
HOLLMAN, an individual, on behalf of
themselves and other aggrieved employees,

Plaintiffs,

vs.

INFINITY LABORATORIES, INC., Colorado
corporation; SOPHIA SUECK, an individual;
JOANNE STARKEY, an individual, and DOES
1-20, inclusive.

Defendants.

CASE NO.: 37-2021-00025757-CU-W/T-CTL

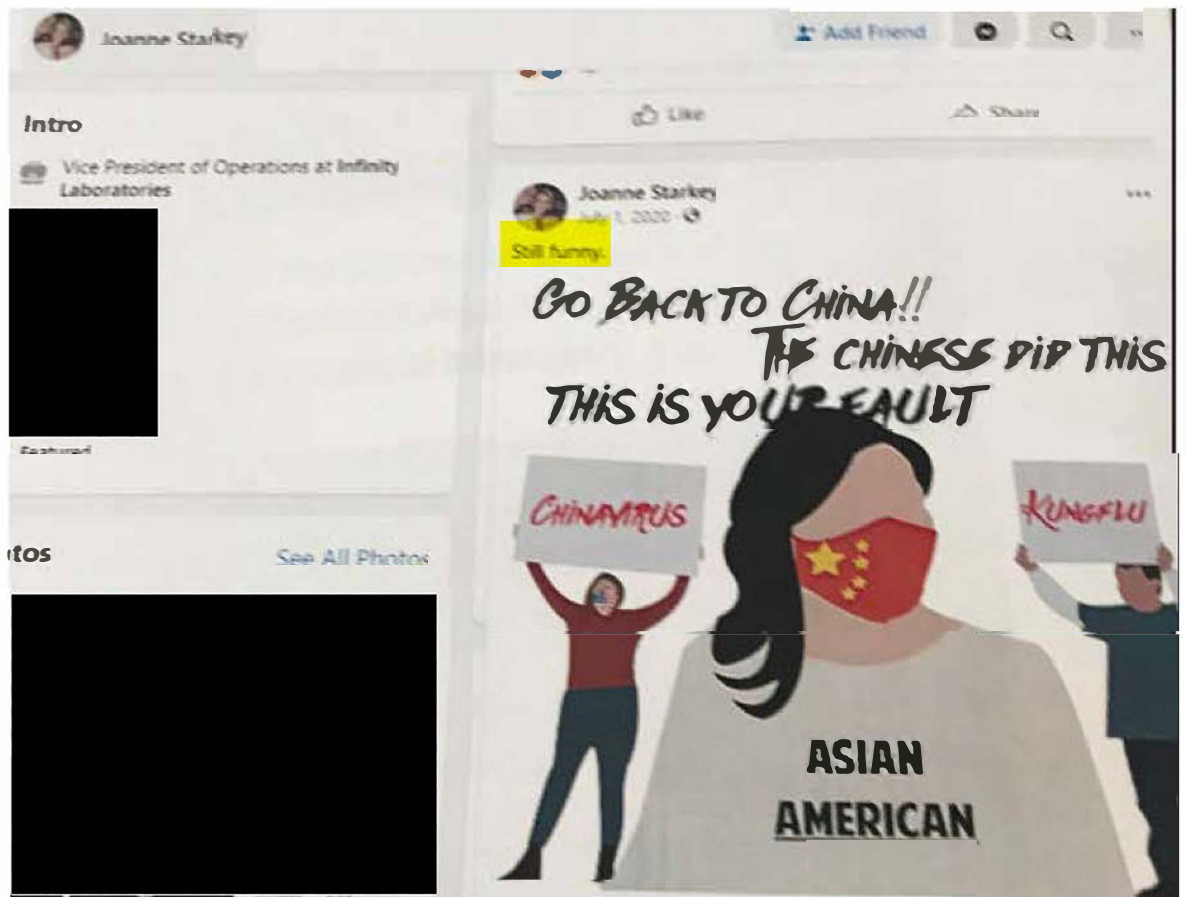
COMPLAINT FOR:

- 1) DISCRIMINATION, HARASSMENT,
AND RETALIATION ON THE BASIS
OF RACE, SEX, AND AGE;**
- 2) HOSTILE WORK ENVIRONMENT;**
- 3) VIOLATION OF CALIFORNIA
WHISTLEBLOWER PROTECTION
LAW;**
- 4) FAILURE TO PREVENT
DISCRIMINATION, HARASSMENT,
AND RETALIATION;**
- 5) WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**
- 6) NEGLIGENCE HIRING AND
SUPERVISION;**
- 7) FAILURE TO PAY OVERTIME
WAGES;**
- 8) FAILURE TO PROVIDE MEAL/REST
BREAKS**
- 9) FAILURE TO PAY ALL WAGES
OWED AT DISCHARGE;**
- 10) FAILURE TO PROVIDE ACCURATE
WAGE STATEMENTS;**
- 11) PLAINTIFF ANG'S
REPRESENTATIVE ACTION FOR
CIVIL PENALTIES;**
- 12) PLAINTIFF HOLLMAN'S
REPRESENTATIVE ACTION FOR
CIVIL PENALTIES;**

1 Plaintiffs DANILO ANG (“Plaintiff” or “Ang”) and REBECCA HOLLMAN (“Plaintiff” or
2 “Hollman”) complain as follows:

3 INTRODUCTION

4 1. Ang and Hollman were exemplary employees. Yet, despite years of faithful service,
5 Infinity Laboratories, Inc. (“Infinity”) summarily tossed them aside. And for what reason?
6 Because Ang and Hollman are Asian. Indeed, it appears Infinity is rotten at its core as Joanne
7 Starkey—the current Vice President of Operations at Infinity Laboratories—has made her hatred
8 of the Asian-American community quite clear on social media:



23 NATURE OF THE ACTION

24

25 2. This is an employment discrimination case, brought pursuant to the provisions of

26 the California Fair Employment and Housing Act, Government Code §§12940, et seq. (“FEHA”);

27 as well as a wage-and-hour action brought pursuant to the provisions of the California Labor Code.

28

THE PARTIES

3. Plaintiffs are residents of the State of California and were employed by Defendants. Ang worked as an Operator and, later, an Account Manager. Hollman worked as a Technician and sole Trainer.

4. Defendant Infinity Laboratories, Inc., a Colorado corporation, was a corporation, association, partnership, joint venture, or other business entity, organized and existing under the laws of the State of Colorado and at all times herein mentioned conducted business in the State of California, and throughout the County of San Diego, including at the location 5940 Pacific Mesa Ct #209, San Diego, CA 92121; which is the location where the unlawful employment decisions were made and/or where the records relating to the unlawful employment decisions at issue in this lawsuit were and are maintained.

5. Plaintiffs are informed and believe, and based thereon, allege that Defendant Sophia Sueck ("Sueck") is and at all times mentioned herein, a resident of the State of California and a Site Director at Defendant Infinity. Sueck took all actions alleged herein in the course and scope of her employment with Infinity; or, alternatively, in her individual capacity.

6. Plaintiffs are informed and believe, and based thereon, allege that Defendant Joanne Starkey ("Starkey") is and at all times mentioned herein, a resident of the State of Colorado. From October 2019 to November 2020, Starkey was Director of Operations at Defendant Infinity; and she has served as Vice President of Operations at Defendant Infinity since November 2020. Starkey took all actions alleged herein in the course and scope of her employment with Infinity; or, alternatively, in her individual capacity.

7. Plaintiffs are unaware of the true names and capacities of the Defendants fictitiously designated as "DOES" 1 through 20, and therefore sues those Defendants by these fictitious names. Plaintiffs will amend this Complaint when the true names and capacities of these factiously designated Defendants have been ascertained. Plaintiffs are informed and believe, and thereon allege, that "DOES" 1 through 20, are legally responsible in some manner for the events and happenings referenced that caused the injuries to Plaintiffs for which Plaintiffs now seek damages.

1 8. Plaintiffs are informed and believe, and thereon allege, that Defendants were the
2 agents, servants, employees of the other Defendants, and were acting within the scope, course and
3 authority of their agency and or employment. Plaintiffs are further informed, believe, and thereon
4 allege that each of the Defendants consented to, ratified, participated in, or authorized the acts of
5 the remaining Defendants.

6 9. Plaintiffs are informed and believe, and thereon allege, that all Defendants
7 compelled, coerced, aided, and/or abetted the discrimination, retaliation, and harassment alleged in
8 this Complaint; conduct that is prohibited under California Government Code § 1240(i).

9 **JURISDICTION, VENUE, AND EXHAUSTION OF REMEDIES**

10 10. Jurisdiction is proper in the Superior Court for the County of San Diego because it
11 has general subject matter jurisdiction and no statutory exceptions to jurisdiction exist.

12 11. This Court has jurisdiction over Defendant Infinity because it is an association,
13 corporation, or business entity based in, authorized, registered to conduct, or in fact conducts
14 substantial business in the State of California, County of San Diego.

15 12. This Court has jurisdiction over Defendant Sueck as she is a citizen of the State of
16 California.

17 13. Venue is proper in the County of San Diego as a substantial part of the events and
18 omissions giving rise to the claims occurred in this County.

19 14. Plaintiffs have filed charges of discrimination with, and received right to sue letters
20 from, the California Department of Fair Housing and Employment. Ang has also given written
21 notice by certified mail to the California Labor and Workforce Development Agency (“LWDA”)
22 and Defendant Infinity of the specific provisions of the Labor Code he alleged to have been
23 violated, including the facts and theories to support the alleged violations; and the LWDA gave no
24 notice that it intended to investigate the alleged violations. Plaintiffs have thus exhausted their
25 administrative remedies.

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

2 15. Ang and Hollman both initially worked for Ultimate Laboratories.¹ As Ultimate's
3 CEO admits, the Company's mission is to help people and to give its employees opportunities to
4 grow. Ultimate fosters a work culture rooted in respect and appreciation for its employees'
5 contributions to the company's overall success. And it was there that Ang and Hollman thrive
6 within that environment—developing excellent working relationships with management, staff, and
7 customers.

8 16. In or around May 2019, Defendant Infinity Laboratories, Inc., acquires Ultimate—
9 which, at the time, was a local business that was thriving in terms of both employee and customer
10 retention. Rather than let Ang's and Hollman's contracts lapse, Infinity chooses to retain both
11 based on their exemplary history. Ang and Hollman agree to stay on because Infinity's CEO
12 Daniel Henderson assures that nothing would change. Additionally, Henderson promises that
13 Infinity will invest in its people, and that the same opportunities for career growth that exists under
14 Ultimate will remain at Infinity.

15 17. As time passes and Infinity brings in new managers, Henderson lies become
16 increasingly clear.

17 18. Infinity soon begins evaluating both Ang and Hollman against its constantly
18 shifting, arbitrarily set standards; offering destructive criticism under the guise of "evaluation."
19 Indeed, Infinity and its agents routinely penalize Ang's and Hollman's performance in a manner so
20 egregious it evinces a clear disregard of Ang's and Hollman's contributions, as well as their
21 personhood. And Infinity continually denies reality in order to disguise its destructive criticism,
22 deceptive demotions, and discriminatory behavior.

23 **INFINITY LABS TRANSFERS SUECK TO SAN DIEGO AFTER A FAILED CAREER IN**
24 **COLORADO.**

25 19. Though it had acquired a pool of extraordinarily talented and experienced
26 employees, Infinity opted to give control of the Ang's worksite to Sueck—whose inability to work
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28 _____
¹ Ang began at Ultimate in or around 2012. Hollman began in or around 2018.

1 with those at Infinity’s Colorado location was rewarded with a transfer into her new role in San
2 Diego as Site Director.

3 20. Sueck lacked a basic working knowledge of common scientific terms, and was
4 completely unqualified for the role. But as Joanne Starkey’s *disgusting* Facebook post proves,
5 Infinity is a bastion of anti-Asian animus. And it is within that environment that Sueck thrived.

6 **SUECK MOCKS HOLLMAN’S ASIAN HERITAGE AND DUBS HOLLMAN A “GOSSIP”**
7 **FOR COMPLAINING ABOUT PAY DISPARITIES.**

8 21. During a weekly video-conference with senior-level managers in Colorado,
9 Sueck—obviously wanting to endear herself to the C-Suite executives at Infinity that share
10 Starkey’s abhorrent views—decides it would be *hilarious* to mock Hollman because she is Asian.

11 22. Hollman sat attentively throughout the meeting, and was thus extremely surprised
12 when, afterwards, Sueck accuses her of sleeping during the meeting.

13 23. When Hollman explains that was not the case, Sueck claims the other executives on
14 the videoconference also accuse her of sleeping because it looked like Hollman was closing her
15 eyes. Sueck’s implied solution? Hollman should open up her eyes more.

16 24. Sadly, with no support and facing a Company that was clearly hostile against the
17 Asian community, Hollman tried to comply, painstakingly opening her eyes wider during these
18 meetings to avoid another baseless, racist attack.

19 25. As time wears on, Sueck goes to great lengths to sabotage Hollman’s reputation by
20 engaging in negative stereotyping of Hollman as meek and lacking confidence—two other
21 negative stereotype often pinned on Asian-American women—for allowing team-members to
22 “overstep into her responsibilities.” Sueck continues attacking Hollman’s reputation by falsely
23 characterizing Hollman as a “gossip” after Hollman began asking others at the San Diego site
24 about obvious pay disparities. And to ensure she adequately derails Hollman’s career, Sueck puts
25 all of these sexist, racist attacks into Hollman’s performance reviews.

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**SUECK PASSES OVER HOLLMAN FOR A PROMOTION, INSTEAD GIVING THE
ROLE TO SOMEONE WHO IS NOT ASIAN AND YOUNGER, AND THEN DEMOTES
HOLLMAN INSTEAD.**

26. Infinity eventually tasks Sueck with hiring a new Microbiologist Laboratory Manager for the San Diego site. A perfect role for Hollman, given she is a qualified Microbiologist Technologist with years of relevant experience working in lab environments, including at the very San Diego site she would manage. But being over 40 and of Asian heritage are two deal breakers for a racist, ageist manager like Sueck.

27. Instead, Sueck finds a trusted defender of her incompetence in Arash Mahmoudi, hiring him for the role instead. Mahmoudi is just an inexperienced and unqualified as Sueck, and expectedly flounders in his new job.

28. Yet Sueck decides she is not going to correct her mistake and give the role to Hollman; the most deserving candidate. Instead, she decides to force Hollman to become the sole “Trainer” for the entire San Diego office. Hollman thus becomes responsible for training Mahmoudi *for the very role for which she applied!* Worse yet, Sueck demands Hollman do all of this work without *any* type of pay increase. But Sueck wants to keep Mahmoudi as, together, they can proceed to torment and torture others—including Ang and Hollman—because of their race.

**MAHMOUDI NITPICKS AND DIGS INTO HOLLMAN’S WORK AND, ONCE HE
GROWS BORED, CONSPIRES WITH SUECK TO GET HOLLMAN FIRED.**

29. Mahmoudi, the unqualified laboratory manager Sueck hires over Hollman, happily joins in making Hollman’s life as difficult as possible.

30. For example, when Hollman attempts to explain the severe repercussions that could result from Mahmoudi’s repeated flouting of the lab’s sanitary and safety protocol, he dismisses her outright—clearly just as unwilling to listen to her just as Sueck.

31. Mahmoudi then retaliates by discrediting Hollman’s work in front of her co-workers and supervisors at every weekly meeting. Both Sueck and Mahmoudi require Hollman to attend weekly performance improvement meetings as well, at which they continue to mete out their usual harassment and *solely* point out her mistakes.

1 32. No one else but Hollman was treated with such disdain. And it became so bad that,
2 in or around June of 2020, Hollman had to seek treatment for stress and anxiety. Then, once
3 Sueck and Mahmoudi grew bored of harassing and bullying Hollman, they conspired together to
4 get her fired. Rather than speak with Hollman, or try to understand why her supervisors were
5 setting her up to fail, Infinity fires Hollman.

6 33. Hollman was a dedicated employee, and wanted nothing more than to work. She
7 did not deserve the terrible treatment meted out by Infinity, Sueck, and Mahmoudi. She did not
8 deserve to have her reputation dragged through the mud. She certainly did not deserve to suffer at
9 the hands of Infinity's racist, sexist, ageist managers.

10 **SUECK AND MAHMOUDI HARASS AND TORMENT ANG BECAUSE HE IS ASIAN**
11 **AND SPOKE-UP ON BEHALF OF INFINITY'S CUSTOMERS BEFORE ULTIMATELY**
12 **TERMINATING HIM.**

13 34. Sueck's and Mahmoudi's incompetence and lack of qualifications makes it
14 extraordinarily difficult for Ang (and others) to perform their jobs, and has a clearly negative
15 impact on the working environment. Ang tries to help them but, rather than listen to this feedback
16 and correct their mistakes, both instead punish Ang.

17 35. Indeed, Sueck openly treats Ang (who, like Hollman, is also Asian-American) with
18 the same level of vitriol and disrespect Hollman suffered anytime he dares question her decisions.

19 36. For example, soon after starting at Infinity, Sueck randomly refuses to continue
20 working with a long-time customer for no articulable reason other than her own gross
21 incompetence. When Ang rightfully questions Sueck, she and Mahmoudi—who was just as
22 unqualified as she, and thus always eager to join in—badgers and abuses Ang for simply doing his
23 job.

24 37. Though Sueck accuses Ang of attacking her, he is merely attempting to explain that
25 Infinity could accommodate the customer's request, as it had before. But neither Sueck nor
26 Mahmoudi would hear of it. Ang is only vindicated after going out of his way to prove Infinity
27 could accommodate the customer—a fact he knew all along, and something about which both
28 Sueck and Mahmoudi should have been aware.

1 38. Nevertheless—likely to excuse their prior failure and incompetence—they
2 unilaterally impose a new policy requiring Ang to automatically reject any request from customers
3 that did not include a PO number or for “uncommon” testing. Customers who, notably, rely on
4 Infinity’s testing to help address health, environmental, and safety issues they face.

5 39. Ang was unwilling to compromise his integrity and dedication to the lab’s customers,
6 or to jeopardize the well-being of others. He thus refuses. And, once again, Sueck goes on a
7 tirade, wrongfully accusing him of “being aggressive”—the same unfounded sexist, racist
8 accusation she spread behind Ang’s back after he previously questioned her decision-making.
9 Again, Ang is not being aggressive. Sueck just dislikes him because he is Asian, and has the
10 audacity to stand up for Infinity’s customers.

11 40. Sueck is, of course, just a symptom of the rotten, vitriolic working environment that
12 Infinity cultivates. Anna Carr—the Sales and Customer Service Manager—would, for example,
13 criticize Ang for the grammar and punctuation he uses in his e-mails. Yet, when Sueck (a white
14 employee) makes those *same* mistakes, Carr has nothing to say. Additionally, *many* employees
15 had lodged complaints against Sueck for the same behavior for which she attempts to penalize
16 Ang—purportedly “aggressive” behavior and mistreatment of co-workers. Though these reports
17 went up to the CEO, nothing is done. As Infinity makes clear, it would only punish its non-white
18 staff, as Ang would soon discover.

19 41. Ang attempts to smooth things over with Sueck. He goes to Sueck’s office and
20 tries explaining himself, and the possible cause for their miscommunication. But Sueck explodes
21 in rage and demands he go back to his office. While heading back to his office, Sueck apparently
22 goes on a tirade, calling several senior level managers to ensure her false version of events is the
23 first they would hear. One of these managers—Joanne Starkey—is so concerned by Sueck’s tone
24 that, when she calls Ang, she first asks whether he is okay before asking him to leave the lab and
25 not come back until next Monday. The Vice-President of Sales Gary Doucette (“Doucette”)
26 reaches out immediately after Starkey to schedule a meeting for the following Tuesday, January
27 21, 2020, assuring Ang that they “don’t condone that type of behavior;” and allowing Ang to
28 finish some quotes for Infinity’s clients.

1 42. Ang is understandably confused and frustrated, but suspected Sueck's behavior is
2 motivated by her dislike for people with Asian heritage. He informs Infinity of his suspicions on
3 January 17, 2020. But as a precursor to what is to come, Infinity refuses to hear the report, or take
4 any of the documents he had prepared in support of it.

5 43. Surprisingly, Infinity suddenly moves the location of the January 21st meeting to
6 the Spring Hill Suites. When Ang arrives, prepared to discuss the miscommunication and explore
7 ways to move forward, he is met by private security Infinity hires to intimidate and threaten Ang.
8 When he tries to explain himself, he is met with scorn and derision. Instead of addressing any of
9 Ang's concerns, Infinity terminates Ang on January 21, 2020, bans him from the premises, and
10 forbades him from returning.

11 44. Clearly, Infinity **does** tolerate that type of behavior—just not from its Asian
12 employees. And it is willing to wrongfully terminate one of their best workers for standing up for
13 the rights of the customers he spent nearly a decade assisting.

14 45. Ang's work performance was exemplary. *All* of the negative feedback he received
15 from Infinity was issued within the seven days leading up to his termination. His customers
16 adored him. Sueck, however, clearly harbored a deep-seated animosity towards Ang, those who
17 looked like him, and people who challenged her ability to act in dereliction of state and federal
18 law. She attempted to tarnish his reputation, and ultimately forced his termination.

19 **INFINITY ATTEMPTS TO BLOCK ANG FROM MAKING A LIVING BY**
20 **CONTACTING HIS SUBSEQUENT EMPLOYER AND THREATENING TO ENFORCE**
21 **AN ILLEGAL CONTRACT.**

22 46. Infinity's harassment and abuse did not end when Ang left. Instead, they try to
23 keep *anyone* from hiring Ang under the guise of enforcing an unlawful Confidentiality,
24 Noncompetition, and Nonsolicitation Agreement (the "Agreement") he signed in November 2019.

25 47. The Agreement defines "Confidential Information" to include "information,
26 observations or data" Ang acquired through his employment that even tangentially relates to
27 Infinity's business practices, including its customer lists, employee lists and evaluations, and
28 "know-how." And it bars Ang from *ever* using or disclosing this information.

1 48. This Agreement also defines “Product” as “any product or service which is or may
2 in the future be sold, designed, developed, manufactured, considered by or of interest to
3 INFINITY;” including “all services relating to the operation of . . . any INFINITY client.” And it
4 bars Ang from “engag[ing] directly or indirectly in any activity which relates to the sale of
5 Product” for an entire year after his employment ends.²

6 49. A former Infinity client hired Ang in or around June 2020. Shortly thereafter,
7 Doucette e-mails Ang’s new employer to ask if they had hired Ang, and to check whether he was
8 violating the unlawful Agreement Infinity previously forced on Ang. Clearly, Infinity was not
9 satisfied by just terminating Ang—it wanted to ensure *no one* would hire him again.

10 **INFINITY MISCLASSIFIES HOLLMAN AND ANG AS EXEMPT FROM OVERTIME**

11 50. Infinity did not just mete out racist, sexist, and ageist abuse—it also willfully
12 misclassified both Ang and Hollman.

13 51. Ang’s success at Infinity leads to a promotion to Account Manager on December 5,
14 2019. However, despite classifying the role as “exempt,” Infinity treats Account Managers as a
15 little more than glorified middlemen who shepherd information between Infinity and its customers.

16 52. Indeed, Infinity primarily requires Account Managers serve as a primary contact
17 for, and report lab results to, its customers; manage customer accounts; and track whether Infinity
18 is meeting all agreed-upon timelines, budgets, and quality assurances.

19 53. Ang’s promotion is also, in reality, a demotion. He works as an Operator before
20 moving into the Account Manager role. Infinity classifies Operators as non-exempt from
21 overtime, due to the nature of their duties. But Infinity requires Ang continue performing the same
22 jobs he had to fill while an Operator *in addition to* his allegedly “exempt” tasks as an Account
23 Manager.

24 54. Infinity also bars Ang from exercising *any* discretion or independent judgment
25 while performing those duties. For example, whenever Ang tries to complete anything on behalf of
26 his customers, Sueck tells him he was overstepping his authority. He could not even schedule a

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28 ² While Infinity instructed Ang to cross-out a portion of the agreement’s “Noncompetition”
provision, it did not cross-out this prohibition.

1 meeting with customers, or speak to technicians, without Sueck reprimanding him for
2 overstepping.

3 55. Infinity similarly misclassified Hollman as exempt from overtime. She worked
4 predominately as a Technician, which involved the routine processing of samples submitted by
5 customers. This did not require any independent discretion or judgment. Indeed, when she
6 attempted to rely on her own experience, skills, memory, and notes—rather than the rote
7 instructions Infinity provided—the Company reprimanded her.

8 **FIRST CAUSE OF ACTION**

9 **DISCRIMINATION, HARASSMENT, AND RETALIATION** 10 **ON THE BASIS OF RACE, SEX, AND AGE IN VIOLATION OF FEHA** 11 **(Against All Defendants)**

12 1. Plaintiffs restate and incorporate by reference each and every allegation in all
13 preceding paragraphs as though fully set forth herein.

14 2. Defendants are employers as defined by applicable law or, alternatively,
15 individually liable under FEHA.

16 3. FEHA makes it unlawful for an employer to discriminate, harass, or retaliate
17 against an employee on the basis of his or her race, sex, and/or age.

18 4. Plaintiffs are members of a protected group based on their race (Asian-American),
19 sex, and age.

20 5. In violation of FEHA, Defendants discriminated, harassed, and/or retaliated against
21 Plaintiffs because of their race, sex, and age.

22 6. As a direct and proximate result of the acts of Defendants, and each of them, as
23 alleged above, Plaintiffs have incurred compensatory damages, including lost earnings and other
24 economic damages; suffered emotional distress; and have generally been damaged in an amount to
25 be ascertained at trial.

26 7. Defendants' discrimination, harassment, and/or retaliation was done intentionally,
27 in a malicious, fraudulent, and oppressive manner, entitling Plaintiffs to punitive damages.
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8. Plaintiffs have incurred and continues to incur legal expenses and attorneys' fees, which he is entitled to recover in an amount according to proof under applicable law.

SECOND CAUSE OF ACTION

HOSTILE WORK ENVIRONMENT IN VIOLATION OF FEHA

(Against All Defendants)

9. Plaintiffs restate and incorporate by reference each and every allegation in all preceding paragraphs as though fully set forth herein.

10. Defendants are employers as defined by applicable law or, alternatively, individually liable under FEHA.

11. FEHA makes it unlawful for an employer to subject an employee to a hostile working environment because of their race, sex, and/or age.

12. In violation of FEHA, Defendants subjected Plaintiffs to a hostile working environment because of their race, sex, and/or age by permeating Plaintiffs' workplace with discriminatory intimidation, ridicule, and insult that was sufficiently severe or pervasive to alter the conditions of employment and create an abusive working environment.

13. As a direct and proximate result of the acts of Defendants, and each of them, as alleged above, Plaintiffs have incurred compensatory damages, including lost earnings and other economic damages; suffered emotional distress; and has generally been damaged in an amount to be ascertained at trial.

14. Defendants' discrimination was done intentionally, in a malicious, fraudulent, and oppressive manner, entitling Plaintiffs to punitive damages.

15. Plaintiffs have incurred and continues to incur legal expenses and attorneys' fees, which he is entitled to recover in an amount according to proof under applicable law.

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA'S WHISTLEBLOWER PROTECTION LAW

(Against Entity Defendants)

16. Plaintiff Ang restates and incorporates by reference each and every allegation in all preceding paragraphs as though fully set forth herein.

1 17. California Labor Code § 1102.5 makes it unlawful for Defendants—as an employer
2 and/or agent acting on behalf of an employer—to prevent an employee from, or retaliate against an
3 employee for, providing information to a person with authority over the employee that the
4 employee has reasonable cause to believe discloses a violation of a statute or federal statute; or
5 constituted a violation or noncompliance with a local, state, or federal rule or regulation.

6 18. Plaintiff Ang had reasonable cause to believe Defendants’ refusal to work with
7 longtime customers—customers who relied on Infinity’s testing to help address health,
8 environmental, and safety issues they faced—jeopardized the well-being of others and violated a
9 statute or federal statute, or constituted a violation or noncompliance with a local, state, or federal
10 rule or regulation.

11 19. Plaintiff Ang’s act of providing this information to Sueck, who had supervisory
12 authority over him, was a contributing factor in Defendants’ decision to discharge Ang.

13 20. As a direct and proximate result of the acts of Defendants, and each of them, as
14 alleged above, Ang has incurred compensatory damages, including lost earnings and other
15 economic damages; suffered emotional distress; and has generally been damaged in an amount to
16 be ascertained at trial.

17 21. Defendants acts were done intentionally, in a malicious, fraudulent, and oppressive
18 manner, entitling Ang to punitive damages.

19 22. Ang has incurred and continues to incur legal expenses and attorneys’ fees, which
20 he is entitled to recover in an amount according to proof under applicable law

21 **FOURTH CAUSE OF ACTION**

22 **FAILURE TO PREVENT DISCRIMINATION HARASSMENT AND RETALIATION**

23 **IN VIOLATION OF FEHA**

24 **(Against All Defendants)**

25 23. Plaintiffs restate and incorporate by reference each and every allegation in all
26 preceding paragraphs as though fully set forth herein.
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1 24. Under FEHA, Defendants have a duty to prevent unlawful harassment and
2 discrimination, including retaliation. Defendants knew or should have known about the retaliation
3 based on the protected complaints of Plaintiffs as set forth above.

4 25. During the course of Plaintiffs employment, Defendants failed to prevent
5 employees from engaging in intentional actions that resulted in Plaintiffs being treated less
6 favorably because of their protected statuses (*e.g.*, their race, sex, age, and/or good faith
7 complaints).

8 26. During the course of Plaintiffs employment, Defendants failed to prevent their
9 employees from engaging in unjustified employment practices against Plaintiffs because of their
10 protected statuses (*e.g.*, their race, sex, age, and/or good faith complaints).

11 27. During the course of Plaintiffs' employment, Defendants failed to prevent a pattern
12 and practice by their employees of intentional discrimination and harassment on the bases of
13 Plaintiffs protected statuses (*e.g.*, their race, sex, age, and/or good faith complaints).

14 28. Plaintiffs believe, and on that basis, allege, that their race, sex, age, good faith
15 complaints, and/or other protected statuses or protected activities were substantial motivating
16 factors in Defendants discrimination and retaliation against them.

17 29. As a direct and proximate result of the acts of Defendants, and each of them, as
18 alleged above, Plaintiffs have incurred compensatory damages, including lost earnings and other
19 economic damages; suffered emotional distress; and has generally been damaged in an amount to
20 be ascertained at trial.

21 30. Defendants acts were done intentionally, in a malicious, fraudulent, and oppressive
22 manner, entitling Plaintiffs to punitive damages.

23 31. Plaintiffs have incurred and continues to incur legal expenses and attorneys' fees,
24 which she is entitled to recover in an amount according to proof under applicable law.

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1 **FIFTH CAUSE OF ACTION**

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

3 **(Against All Defendants)**

4 32. Plaintiffs restate and incorporate by reference each and every allegation in all
5 preceding paragraphs as though fully set forth herein.

6 33. The above-described conduct of Defendants, and each of them, was against the
7 public policy of the State of California as evinced by its enactment of FEHA and the Labor Code.

8 34. By terminating Plaintiffs because of their race, sex, age, and good faith complaints,
9 the Defendants, and each of them, terminated Plaintiffs in violation of public policy.

10 35. Additionally, California Labor Code § 232.5 makes it unlawful for Infinity to
11 “[d]ischarge, formally discipline, or otherwise discriminate against an employee who discloses
12 information about the employer’s working conditions.” Yet that is precisely what Defendants did
13 by disciplining, and (according to Defendants) ultimately discharging Plaintiffs for, complaining
14 to management about their incompetence negatively impacting working conditions at their
15 worksite.

16 36. As a direct and proximate result of the acts of Defendants, and each of them, as
17 alleged above, Plaintiffs have incurred compensatory damages, including lost earnings and other
18 economic damages; suffered emotional distress; and has generally been damaged in an amount to
19 be ascertained at trial.

20 37. Defendants’ discrimination was done intentionally, in a malicious, fraudulent, and
21 oppressive manner, entitling Plaintiffs to punitive damages.

22 38. Plaintiffs have incurred and continues to incur legal expenses and attorneys’ fees,
23 which he is entitled to recover in an amount according to proof under applicable law.

24 **SIXTH CAUSE OF ACTION**

25 **NEGLIGENT HIRING AND SUPERVISION**

26 **(Against Entity Defendants)**

27 39. Plaintiffs restate and incorporate by reference each and every allegation in all
28 preceding paragraphs as though fully set forth herein.

40. Defendants owed a duty of care to Plaintiffs to appoint, hire, retain, and supervise persons who would not engage in retaliatory, harassing, or discriminatory conduct.

41. Defendants owed a duty of care to Plaintiffs not to retain managers or employees who would discriminate against, harass, or retaliate against employees for engaging in protected activities.

42. Defendants owed a duty of care to Plaintiffs to supervise their managers and employees closely to ensure that they would refrain from harassing and retaliating against plaintiffs.

43. Defendants breached these duties. As a direct and proximate result Defendants, and each of them, as alleged above, Plaintiffs have incurred compensatory damages, including lost earnings and other economic damages; suffered emotional distress; and has generally been damaged in an amount to be ascertained at trial.

44. Plaintiffs have incurred and continues to incur legal expenses and attorneys' fees, which she is entitled to recover in an amount according to proof under applicable law.

SEVENTH CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Against Entity Defendants)

45. Plaintiffs restate and incorporate by reference each and every allegation in all preceding paragraphs as though fully set forth herein.

46. Defendants willfully misclassified Plaintiff as exempt from overtime in order to avoid their obligations under California Labor Code §§ 510, 1194, and the applicable wage order. Plaintiffs did not “customarily and regularly exercised discretion an independent judgment in the performance of [their] duties” as required to qualify as exempt from those laws.

47. Thus, Defendants violated the Labor Code by failing to compensate Plaintiffs for all overtime, calculated at one and one-half times the regular rate of pay for all hours worked in excess of 8 hours per day and/or 40 hours per week, and for the first 8 hours on the seventh consecutive workday, with double time for all hours worked in excess of 12 hours in any workday

1 and for all hours worked in excess of 8 hours on the seventh consecutive day of work in any
2 workweek.

3 48. Defendants' violation of California law was knowing and willful. As a proximate
4 result, Plaintiffs have suffered, and continue to suffer, substantial losses related to the use and
5 enjoyment of such wages, lost interest on such wages, and expenses and attorneys' fees in seeking
6 to compel Defendants to fully perform its obligations under state law, all to their respective
7 damages in amounts according to proof at time of trial, and within the jurisdiction of this Court.
8 Plaintiffs are also entitled to recover the unpaid balance of wages owed to them by Defendants,
9 plus interest, penalties, attorneys' fees, expenses, and costs of suit.

10 **EIGHTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE MEAL/REST BREAKS**

12 **(Against Entity Defendants)**

13 49. Plaintiffs restate and incorporate by reference each and every allegation in all
14 preceding paragraphs as though fully set forth herein.

15 50. Defendants willfully misclassified Plaintiff as exempt from California's meal and
16 rest break laws in order to avoid their obligations under California Labor Code §§ 226.7, 516, and
17 the applicable wage order. Plaintiffs did not "customarily and regularly exercised discretion an
18 independent judgment in the performance of [their] duties" as required to qualify as exempt from
19 those laws.

20 51. Plaintiffs worked over four hours per shift and/or over five hours per shift, and
21 were entitled to a duty-free paid rest period of not less than ten minutes for every four hours
22 worked, or major fraction thereof; as well as to a duty-free meal period of not less than thirty
23 minutes for every five hours worked, or major fraction thereof.

24 52. Defendants failed to provide legally compliant rest and meal periods during the
25 relevant time period and, as such, violated California law.

26 53. As a result of the unlawful acts of Defendants, Plaintiffs have been deprived of
27 legally compliant rest breaks and meal periods, and are thus entitled to recover damages in the
28 amount of one additional hour of compensation at their regular rate of pay for each day a paid rest

1 break was not provided; and one additional hour of compensation at their regular rate of pay for
2 each day a meal period was not provided.

3 54. Plaintiffs seek recovery of pre-judgment interest on all amounts recovered herein,
4 in addition to any damages and penalties otherwise owed.

5 **NINTH CAUSE OF ACTION**

6 **FAILURE TO PAY WAGES OWED AT DISCHARGE**

7 **(Against Entity Defendants)**

8 55. Plaintiffs restate and incorporate by reference each and every allegation in all
9 preceding paragraphs as though fully set forth herein.

10 56. Pursuant to Labor Code §§ 201–204, Defendants are required to pay all earned and
11 unpaid wages to an employee who is discharged. Labor Code § 201 mandates that if an employer
12 discharges an employee, the employee’s wages earned and unpaid at the time of discharge are due
13 and payable immediately.

14 57. Furthermore, pursuant to Labor Code § 202, Defendants are required to pay all
15 accrued wages due to an employee no later than 72 hours after the employee quits his or her
16 employment, unless the employee provided 72 hours previous notice of his or her intention to quit,
17 in which case the employee is entitled to his or wages at the time of quitting.

18 58. Labor Code § 203 provides that if an employer willfully fails to pay, in accordance
19 with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who quits, the
20 employer is liable for waiting time penalties in the form of continued compensation to the
21 employee at the same rate for up to 30 workdays.

22 59. Defendants’ misclassification of Plaintiffs as exempt, and ensuing failure to pay
23 overtime, has meant it willfully failed to pay accrued wages and other compensation to Plaintiffs
24 in accordance with Labor Code §§ 201 and 202.

25 60. As a result, Plaintiffs are entitled to all available statutory penalties, including the
26 waiting time penalties provided in Labor Code §§ 203 and 204, together with interest thereon, as
27 well as other available remedies.

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1 65. At all material times, Defendants also knowingly and intentionally failed to provide
2 Plaintiff Hollman with wage statements that included “the name and address of the legal entity that
3 is the employer” or “the last four digits of [her] social security number or an employee
4 identification number other than a social security number.”

5 66. Such a pattern, practice, and uniform administration of corporate policy as
6 described herein is unlawful and creates an entitlement to recovery by Plaintiff Hollman, in a civil
7 action, for all damages or penalties pursuant to Labor Code §226(a), including interest thereon,
8 injunctive relief pursuant to Labor Code § 226(h), attorneys’ fees, and costs of suit according to
9 the mandate of California Labor Code §226.

10 **ELEVENTH CAUSE OF ACTION**

11 **PLAINTIFF ANG’S REPRESENTATIVE ACTION FOR CIVIL PENALTIES**

12 **(Against Entity Defendants)**

13 67. Plaintiffs restate and incorporate by reference each and every allegation in all
14 preceding paragraphs as though fully set forth herein.

15 68. California Labor Code § 232 makes it unlawful for Defendants to (a) “Require, as a
16 condition of employment, that an employee refrain from disclosing the amount of his or her
17 wages; (b) “Require an employee to sign a waiver or other document that purports to deny the
18 employee the right to disclose the amount of his or her wages;” or (c) “Discharge, formally
19 discipline, or otherwise discriminate against an employee who discloses the amount of his or her
20 wages.”

21 69. California Labor Code § 232.5 makes it unlawful for Defendants to (a) “Require, as
22 a condition of employment, that an employee refrain from disclosing information about the
23 employer’s working conditions;” (b) “Require an employee to sign a waiver or other document
24 that purports to deny the employee the right to disclose information about the employer’s working
25 conditions;” or (c) “Discharge, formally discipline, or otherwise discriminate against an employee
26 who discloses information about the employer’s working conditions.”

27 70. California Labor Code § 432.5 bars any “employer, or agent, manager,
28 superintendent, or officer thereof,” from requiring “any employee or applicant for employment to

1 agree, in writing, to any term or condition which is known by such employer, or agent, manager,
2 superintendent, or officer thereof to be prohibited by law.”

3 71. Defendants violated Labor Code §§ 232, 232.5, and 432.5 by requiring Plaintiff
4 Ang, as a condition of employment, sign the Agreement, which purportedly bars him from ever
5 disclosing “details of contracts” (*i.e.* his contractual salary) and “employee lists and evaluations”
6 (*i.e.* Ang’s working conditions).

7 72. Defendants also violated California Labor Code § 432.5 by requiring Plaintiff Ang,
8 as a condition of Employment, to sign the Agreement, which unlawfully restrains trade by
9 prohibiting the use of information that is not confidential as a matter of law. For example, it
10 purports prevent employees from using or disclosing general skills and knowledge obtained at
11 Infinity; information regarding Infinity’s general business practices; and customer information that
12 is readily available to competitors through normal competitive means. These provisions violate
13 California Business & Professions Code §§ 17200 *et seq.* through application of California
14 Business & Professions Code § 16600 and the Cartwright Act.

15 73. Defendants knew or should have known those provisions were unlawful. Yet in or
16 around June 2020, Defendant Infinity tried to block Ang from finding subsequent employment
17 when Doucette—its VP of Sales—e-mailed Ang’s subsequent employer, claiming he wanted to
18 ensure Ang was not violating the Agreement. Infinity’s attempted enforcement of an invalid
19 contract brings this action within the one-year statute of limitations applicable to claims brought
20 under the California Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698-
21 2699.5.

22 74. Plaintiff Ang is thus an “aggrieved employee” within the meaning of Labor Code §
23 2699(c), and a proper representative to bring a civil action on behalf of himself and other current
24 and former employees of Defendant Infinity pursuant to the procedures specified in Labor Code §
25 2699.3.

26 75. Ang thus seeks to recover civil penalties, including but not limited to penalties
27 under Labor Code § 2699 from Defendant Infinity in a representative action for the violation of the
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1 California Labor Code set forth above. Ang is also entitled to an award of reasonable attorneys'
2 fees and costs pursuant to Labor Code § 2699(g)(l).

3 76. Ang has complied with all of the requirements set forth in Labor Code § 2699.3 to
4 commence a representative action under PAGA.

5 **TWELFTH CAUSE OF ACTION**

6 **PLAINTIFF HOLLMAN'S REPRESENTATIVE ACTION FOR CIVIL PENALTIES**

7 **(Against Entity Defendants)**

8 77. Plaintiff Hollman restates and incorporates by reference each and every allegation
9 in all preceding paragraphs as though fully set forth herein.

10 78. California Labor Code §§2698-2699, the Labor Code Private Attorney General Act
11 of 2004, provides for a civil penalty to be assessed and collected by the Labor and Workforce
12 Development Agency (LWDA), or any of its departments, divisions, commissions, boards,
13 agencies or employees for a violation of the Labor Code, may be recovered through a civil action
14 by an aggrieved employee on behalf of himself or herself, and collectively on behalf of all other
15 current or former employees.

16 79. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
17 agencies or employees, has discretion to assess a civil penalty, a court in a civil action is
18 authorized to exercise the same discretion, subject to the same limitations and conditions to assess
19 a civil penalty.

20 80. Plaintiff Hollman is an "aggrieved employee" as defined by Labor Code § 2699 as
21 she was employed by Defendants; misclassified as exempt from California's overtime and
22 meal/rest period laws; was not paid all wages owed at discharge; and was issued inaccurate wage
23 statements. She is thus a proper representative to bring a civil action on behalf of herself and all
24 other current and former employees of Defendants in California pursuant to the procedures
25 specified in Labor Code § 2699.3.

26 81. Plaintiff Hollman seeks to recover civil penalties, including but not limited to
27 penalties under Labor Code § 2699 from Defendants in a representative action for the violation of
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1 the California Labor Code set forth above. She is also entitled to an award of reasonable
2 attorneys' fees and costs pursuant to Labor Code § 2699(g)(l).

3 82. Plaintiff Hollman has complied with all of the requirements set forth in Labor Code
4 § 2699.3 to commence a representative action under PAGA.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
7 follows:

- 8 1. For nominal, actual, and compensatory damages;
- 9 2. For special and/or non-economic damages in an amount according to proof;
- 10 3. For punitive and/or exemplary damages in an amount according to proof;
- 11 4. For liquidated damages in an additional amount equal to the entire award of other
12 damages;
- 13 5. For statutory and civil penalties according to proof, including but not limited to all
14 penalties authorized by the Labor Code §§ 226(f) and 2699;
- 15 6. For attorneys' fees pursuant to applicable laws;
- 16 7. For costs of suit incurred herein;
- 17 8. For pre-judgment interest to the extent allowed by law;
- 18 9. For post-judgment interest to the extent allowed by law;
- 19 10. For declaratory relief declaring that Defendants committed the unlawful practices
20 alleged herein;
- 21 11. For injunctive relief restraining Defendants from committing any similar future
22 unlawful employment practices and implementing practices to deter or discourage similar future
23 unlawful practices; and
- 24 12. For such other and further relief as the Court deems just and proper.

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1 DATED: June 11, 2021

MOUTON LAW
STACEY Y. MOUTON

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4 By: /s/ Stacey Y. Mouton

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8 Telephone: (760) 927-0647

9 Attorney for Plaintiffs

10 DANILO ANG and REBECCA HOLLMAN

1 **DEMAND FOR JURY TRIAL**

2 Plaintiffs Danilo Ang and Rebecca Hollman each demand a trial by jury of all issues so
3 triable in this action.

4
5 DATED: June 11, 2021

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