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**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

BRIAN VOKAL, individually,
and as an aggrieved employee
pursuant to the Private Attorneys
General Act (PAGA).

Plaintiff

vs.

WELCOME SACRAMENTO, LLC;
WELCOME GROUP, INC.; WELCOME
EL SEGUNDO, LLC; WELCOME
NATOMAS, LLC; DOES 1 to 20,
inclusive,

Defendants

Case No. 34-2021-00302304

**SECOND AMENDED COMPLAINT
FOR DAMAGES:**

1. Disability Discrimination (Cal. Gov't Code § 12940(a));
2. Failure to Accommodate (Cal. Gov't Code § 12940(m));
3. Failure to Engage in the Interactive Process (Cal. Gov't Code § 12940(n));
4. Failure to Pay Minimum Wage for All Hours Worked;
5. Failure to Provide Meal and Rest Periods;
6. Failure to Provide Accurate Wage Statements;
7. Waiting Time Penalties;
8. Failure to Pay Overtime Wages;
9. Unfair Competition (Business & Professions Code § 17200 *et seq.*);
10. Civil Penalties Pursuant to Private Attorney General Act, Labor Code § 2698 *et seq.*;
11. Wrongful Termination;
12. Failure to Provide Payroll Records Upon Request;
13. Failure to Provide Personnel Records Upon Request;

JURY TRIAL DEMANDED

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60380 COURTHOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY

1 Plaintiff BRIAN VOKAL ("Plaintiff") hereby files this Second Amended Complaint against
2 Defendants WELCOME SACRAMENTO, LLC; WELCOME GROUP, INC.; WELCOME EL
3 SEGUNDO, LLC; WELCOME NATOMAS, LLC; DOES 1 to 20, inclusive, (hereinafter
4 collectively referred to as "Defendants"). Plaintiff alleges as follows:

5 **PARTIES AND JURISDICTION**

6 1. Plaintiff was an employee of Defendants, where he worked as an Assistant General
7 Manager/ Operations Manager for approximately three years until his illegal and discriminatory
8 termination in or around March 2021.

9 2. At all times relevant in this Complaint, Plaintiff was over the age of eighteen and
10 resided in the State of California.

11 3. Plaintiff is informed and believes, and thereon alleges, that WELCOME
12 SACRAMENTO, LLC is a California Limited Liability Company with its principal place of
13 business in California.

14 4. Plaintiff is informed and believes, and thereon alleges, that WELCOME GROUP,
15 INC. is a California Corporation with its principal place of business in California. Plaintiff is
16 informed and believes, and on the basis alleges, that WELCOME GROUP, INC. is the owner and or
17 managing entity of the remaining Defendants, and that WELCOME GROUP, INC. provides
18 oversight and operational guidance to the remaining Defendants, including as to the wages, hours,
19 and working conditions of their employees.

20 5. Plaintiff is informed and believes, and thereon alleges, that WELCOME EL
21 SEGUNDO, LLC is a California Limited Liability Company with its principal place of business in
22 California.

23 6. Plaintiff is informed and believes, and thereon alleges, that WELCOME NATOMAS,
24 LLC is a California Limited Liability Company with its principal place of business in California.

25 7. Plaintiff is further informed and believes, and thereon alleges, that each of the
26 Defendants herein was, at all times relevant to this action, the agent, employee, or joint employer or
27 joint venturer of the remaining defendants and was acting within the course and scope of that
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1 relationship. Plaintiff is further informed and believes, and thereon alleges, that each of the
2 Defendants herein gave consent to, ratified and authorized the acts alleged herein to each of the
3 remaining defendants. The true names and capacities of the defendants named herein Does 1 through
4 20, inclusive, whether individual, corporate, associate, or otherwise are unknown to Plaintiff, who
5 therefore sue such defendants by fictitious names pursuant to California Code of Civil Procedure
6 section 474. Plaintiff will amend this complaint to show such true names and capacities of Does 1
7 through 20, inclusive, when they have been determined.

8 8. The Sacramento Superior Court has jurisdiction in this matter due to alleged
9 violations of California Labor Code §§ 203, 226, 226.7, 510, 512, 1194 Business and Professions
10 Code § 17200 *et seq.*, and the applicable Wage Order.

11 9. Venue is proper pursuant to Civil Procedure Code §§ 395(a) and 395.5, in that some
12 of the wrongful acts and violations of law asserted herein occurred within Sacramento County.

13 10. On April 5, 2021, Plaintiff filed his Labor Code § 2699.3 Private Attorney General
14 Act (“PAGA”) notice with the California Labor & Workforce Development Agency (“LWDA”).
15 The LWDA did not respond to Plaintiff’s PAGA notice within 65 days of the original Notice, thus
16 deputizing Plaintiff to represent himself, other aggrieved employees, and the California Labor
17 Commissioner for the purpose of collecting civil penalties for violations of the California Labor
18 Code committed by Defendants.

19 11. Plaintiff has filed a complaint of discrimination with the State of California
20 Department of Fair Employment and Housing against Defendant WELCOME SACRAMENTO,
21 LLC within the applicable statutory period and received a Notice of Right to Sue on June 11, 2021,
22 which was served on Defendant per the requirements of the statute.

23 **BACKGROUND**

24 12. Defendants operate a string of hotel franchises in California.

25 13. Plaintiff and similarly situated employees worked for Defendants as both exempt and
26 non-exempt employees in California. Plaintiff worked in and for WELCOME SACRAMENTO,
27 LLC, WELCOME EL SEGUNDO, LLC, AND WELCOME NATOMAS, LLC at various times
28 during his employment with Defendants.

1 14. During his employment, Plaintiff, and other aggrieved employees, have been made to
2 suffer numerous violations of the California Labor Code.

3 15. Throughout the relevant period, Defendants misclassified Plaintiff and similarly
4 situated employees as exempt, although Plaintiff's position did not qualify for any exemption under
5 California law. Nevertheless, Defendants routinely required Plaintiff to work more than eight (8)
6 hours per day, and/or forty (40) hours per week.

7 16. Plaintiff's duties as an Operations Manager/ Assistant General Manager included
8 overseeing front desk and food and beverage staff, and placing orders with vendors. However,
9 Plaintiff did not spend the majority of his working time performing these tasks. During the
10 remaining hours of the workweek, Plaintiff engaged in activities performed by hourly employees.
11 These duties included assisting guests at the front desk, monitoring the market area, bartending,
12 serving tables, and bussing tables at banquet events, and covering breaks for hourly employees.

13 17. For these reasons, Plaintiff was not primarily engaged in exempt level duties as he did
14 not perform these duties at least 50% of his working time, and was not properly classified as exempt.
15 Defendants willfully and deliberately misclassified Plaintiff and similarly situated employees as
16 employees who were exempt from the overtime provisions of the California Labor Code and Wage
17 Orders.
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19 18. Consequently, Defendants willfully and deliberately misclassified Plaintiff and
20 similarly situated employees as employees who were exempt from the overtime provisions of the
21 California Labor Code and Wage Orders. However, Defendants routinely required Plaintiff and
22 similarly situated employees to work more than eight (8) hours per day, and/or forty (40) hours per
23 week without paying minimum wage or overtime for the additional hours worked.

24 19. In addition, Defendants had a policy requiring Plaintiff and similarly situated
25 employees to spend the night at Defendants' location at least once per week in order to be available
26 for staff and guest questions or concerns. This resulted in Plaintiff working straight through on
27 Saturdays through the night and for almost a full shift on Sundays.
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1 20. Defendants did not allow Plaintiff and similarly situated exempt and non-exempt
2 employees to take their statutorily required meal and rest periods. Defendants failed to provide
3 Plaintiff and other similarly situated employees a 30-minute, duty-free meal period before the end of
4 the fifth hour of work as required under the law.

5 21. Plaintiff and similarly situated employees regularly missed their meal and rest periods
6 and/ or they were provided late. Defendants also failed to provide rest periods to Plaintiff and
7 similarly situated employees for every 4 hours worked or major fraction thereof. Defendants'
8 management staff were aware this was occurring and did not ensure meal and/ or rest periods were
9 provided to Plaintiff and similarly situated employees in compliance with California law.

10 22. Moreover, Defendant miscalculated the overtime rate of pay, for example by failing
11 to accurately include non-discretionary bonus payments, and other forms of remuneration, into the
12 regular rate of pay. Defendants also failed to properly calculate the missed rest and meal period
13 premiums on the occasions on which they paid the premiums, by failing to incorporate all forms of
14 nondiscretionary remuneration.

15 23. As a result, Defendants did not provide Plaintiff and similarly situated employees
16 legally compliant wage statements noting, among other things, total hours worked, gross wages
17 earned, the applicable hourly rates in effect during the pay period and the corresponding number of
18 hours worked at each hourly rate, and the legal name of the employer.

19 24. Defendants also did not provide Plaintiff and similarly situated aggrieved employees
20 all wages owed upon their termination or within seventy-two (72) hours of their separation from
21 employment.

22 25. Plaintiff suffers from the serious medical condition of psoriatic arthritis. This
23 condition affects Plaintiff's joints and can occasionally impede his mobility. Plaintiff has had
24 periodic flare ups of this condition during his employment.

25 26. Plaintiff was furloughed from his position with Defendants in or around November
26 2020. During his furlough, Plaintiff began a new medication in an attempt to control his serious
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1 medical condition. However, during the transition to the new medication, Plaintiff experienced
2 another flare up.

3 27. Shortly after this, Defendants called Plaintiff and offered to return him to his
4 position. Plaintiff returned to work on March 3, 2021, but Defendants were not prepared for
5 Plaintiff's return and he was not set up on Defendant's IT systems and would not have been able to
6 perform his job. When Plaintiff saw this, he explained to Defendants that he could take a few more
7 days to return due to the IT systems not being set up, and because Plaintiff could use a few more
8 days to recover from the flare up of his medical condition and his transition to new medication.

9 28. When Plaintiff returned to work on March 6, 2021, he was still experiencing some
10 discomfort due to his medical condition but was able to perform his job duties.

11 29. However, on or around March 24, 2021, Plaintiff was informed in a meeting with
12 General Manager Byron O'Neill and Area Manager Doug Warren that he was being terminated due
13 to his "mobility issues." O'Neill and Warren stated to Plaintiff that his job required him to be
14 available to support all the team members and provide assistance when needed. They felt that his
15 mobility issues due to his medical condition were interfering with Plaintiff's ability to assist the
16 other staff members with their duties, and that Plaintiff's job required him to be constantly on his
17 feet and moving. They felt he was not able to do that and therefore they terminated Plaintiff's
18 employment. On information and belief, Doug Warren is employed by Welcome Group, Inc.

19 30. In making the decision to terminate Plaintiff, Defendants failed completely to enter
20 into the interactive process to determine if a reasonable accommodation was available to Plaintiff,
21 and instead decided to terminate Plaintiff's employment due to his serious medical condition.

22 31. Defendants were aware of Plaintiff's medical condition as he had discussed it with his
23 supervisors, and his medical condition was specifically mentioned in Plaintiff's termination notice
24 signed by Byron O'Neill. *See Exhibit A.*

25 32. On March 31, 2021, Plaintiff, through his counsel, sent Defendants a request for his
26 payroll records and personnel file, pursuant to California Labor Code sections 226, 1198.5, 432.
27 Plaintiff did not receive the required records in accordance with this request within the statutorily
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1 mandated time periods. Thus, Defendants failed to comply with the requirements of Labor Code
2 sections 226, 1198.5, and 432 with regard to Plaintiff's requests for personnel records, wage records,
3 and documents signed by the employee.

4 33. Plaintiff is informed and believes that Defendants committed numerous other
5 violations of the California Labor Code, including but not limited to those identified in this
6 Complaint. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745 (2018),
7 Plaintiff intends to seek civil penalties for all violations of the California Labor Code, whether he
8 experienced them personally or not.

9 34. Upon information and belief, all transactions regarding compensation, hiring,
10 terminations, promotions, pay increases, etc. relating to Defendants' California employees were
11 submitted to and processed by Defendants in their California headquarters. Additionally, on
12 information and belief, Defendants' corporate records, in particular HR and pay records pertaining to
13 Defendants' California employees, are also maintained at Defendants' California headquarters.

14 35. Upon information and belief, Defendants maintain a central Payroll department at
15 their California headquarters which processes payroll for all Defendants' employees, including
16 Plaintiff and similarly situated, aggrieved employees.

17 36. At all times herein set forth, PAGA provides that any provision of law under the
18 Labor Code and applicable IWC Wage Order that provides for a civil penalty to be assessed and
19 collected by the LWDA for violations of the California Labor Code and applicable IWC Wage Order
20 may, as an alternative, be recovered by aggrieved employees in a civil action brought on behalf of
21 themselves and other current or former employees pursuant to procedures outlined in California
22 Labor Code section 2699.3.

23 37. PAGA defines an aggrieved employee in Labor Code section 2699(c) as "any person
24 who was employed by the alleged violator and against whom one or more of the alleged violations
25 was committed."
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1 38. Plaintiff and other current and former employees of Defendants are aggrieved
2 employees as defined by the Labor Code in that they are all Defendants' current or former
3 employees and one or more of the alleged violations was committed against them.
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6 **FIRST CAUSE OF ACTION**
7 **Disability Discrimination in Employment**
8 **(As to Defendant WELCOME SACRAMENTO, LLC)**

9 39. Plaintiff hereby incorporates by reference Paragraphs 1 through 38 of this Complaint
10 as if fully set forth herein and for a cause of action alleges as follows:

11 40. During the course of his employment with Defendants, Plaintiff suffered from a
12 disability and serious medical condition that limits a major life activity and requires on-going
13 intervention.

14 41. Defendants knew Plaintiff had a disability and serious medical condition.

15 42. Plaintiff was able to perform the essential job duties of Defendants' position with
16 reasonable accommodation. At all times during his employment, Plaintiff was qualified to perform
17 the duties of Defendants' position.

18 43. Defendants failed to accommodate Plaintiff's disability and serious medical condition
19 and failed to engage in the interactive process to determine how best to accommodate Plaintiff's
20 disability and serious medical condition. Defendants then terminated Plaintiff due to perceptions
21 regarding his disability and serious medical condition, and for requesting reasonable
22 accommodations.

23 44. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
24 Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred
25 other economic losses.

26 45. As a further direct, foreseeable, and proximate result of Defendants' unlawful actions,
27 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to his
28 damage in an amount to be proven at time of trial.

1 46. Defendants committed the acts herein despicably, maliciously, fraudulently, and
2 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
3 amounting to malice, and in conscious disregard of his rights. Plaintiff is thus entitled to recover
4 punitive damages from Defendants in an amount according to proof.

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7 **SECOND CAUSE OF ACTION**
8 **Failure to Accommodate**
9 **(As to Defendant WELCOME SACRAMENTO, LLC)**

10 47. Plaintiff hereby incorporates by reference Paragraphs 1 through 46 of this Complaint
11 as if fully set forth herein and for a cause of action alleges as follows:

12 48. During the course of his employment with Defendants, Plaintiff suffered from a
13 disability and serious medical condition that limits a major life activity and requires on-going
14 intervention.

15 49. Defendants knew Plaintiff had a disability and serious medical condition.

16 50. Plaintiff was able to perform the essential job duties of Defendants' position with
17 reasonable accommodation. At all times during his employment, Plaintiff was qualified to perform
18 the duties of Defendant's position.

19 51. Defendants failed to accommodate Plaintiff's disability and serious medical condition
20 and discriminated against Plaintiff by terminating his employment. Defendants never engaged in the
21 interactive process with Plaintiff to determine if a reasonable accommodation could be provided to
22 Plaintiff. Instead, Defendants terminated Plaintiff due to unfounded perceptions about how
23 Plaintiff's disability affected his work performance and never considered potential accommodations
24 that could be made.

25 52. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
26 Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred
27 other economic losses.
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53. As a further direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to his damage in an amount to be proven at time of trial.

54. Defendants committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of his rights. Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to proof.

THIRD CAUSE OF ACTION
Failure to Engage in the Interactive Process
(As to Defendant WELCOME SACRAMENTO, LLC)

55. Plaintiff hereby incorporates by reference Paragraphs 1 through 54 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

56. During the course of his employment with Defendants, Plaintiff suffered from a disability and serious medical condition that limits a major life activity and requires on-going intervention.

57. Defendants knew Plaintiff had a disability and serious medical condition.

58. Plaintiff attempted to obtain reasonable accommodations in the workplace by requesting them from Defendants. Plaintiff was willing to enter into the interactive process to determine an effective reasonable accommodation.

59. Defendants failed to engage in a timely, good-faith interactive process to determine an effective reasonable accommodation for Plaintiff. Instead, Defendants terminated Plaintiff due to unfounded perceptions about how Plaintiff's disability affected his work performance and never considered potential accommodations that could be made.

60. As a direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred other economic losses.

61. As a further direct, foreseeable, and proximate result of Defendants' unlawful actions, Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to his damage in an amount to be proven at time of trial.

62. Defendant committed the acts herein despicably, maliciously, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive amounting to malice, and in conscious disregard of his rights. Plaintiff is thus entitled to recover punitive damages from Defendant in an amount according to proof.

FOURTH CAUSE OF ACTION
(Failure to Pay Minimum Wage for All Hours Worked)
(As to All Defendants)

63. Plaintiff hereby incorporates by reference Paragraphs 1 through 62 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

64. Defendants were required to compensate Plaintiff with at least the State's minimum wage for all hours worked. *See* Cal. Labor Code § 1194; MW Order-2014; MW Order-2017.

65. Defendants were aware of their obligation to pay the minimum wage but failed to do so.

66. Defendants' conduct described herein violates California Labor Code section 1194, and applicable Wage Orders. As a proximate result of Defendants' conduct, Plaintiff has been damaged and deprived of minimum wages, in an amount to be established at trial. Plaintiff now seeks these wages, liquidated damages pursuant to California Labor Code section 1194.2, attorney's fees and costs, and interest pursuant to California Labor Code section 1194.

FIFTH CAUSE OF ACTION
Failure to Provide Meal and Rest Periods
(As to All Defendants)

67. Plaintiff incorporates by reference and re-allege paragraphs 1 through 66 as though fully set forth herein.

68. An employer must provide an employee a meal period and/or rest period in accordance with the applicable Wage Order and Labor Code sections 226.7 and 512.

1 69. Labor Code section 510 and Wage Order 5-2001, section 11(A) require an employer
2 to provide a meal period of not less than thirty (30) minutes for each work period of more than five
3 (5) hours. If an employee works longer than ten (10) hours in a workday, the employer must provide
4 a second meal period.

5 70. Labor Code section 510 and Wage Order 5-2001 section 12(A) require an employer
6 to provide a rest period of not less than ten (10) minutes for each work period of more than four (4)
7 hours or a major fraction thereof.

8 71. Plaintiff alleges that Defendants failed to provide Plaintiff with meal breaks of at least
9 thirty (30) minutes for several work periods that Plaintiff worked more than five (5) hours in a day,
10 or to take a second meal break of at least thirty (30) minutes for several work periods that Plaintiff
11 worked more than ten (10) hours in a day.

12 72. Plaintiff further allege that Defendants failed to provide rest breaks of at least ten (10)
13 minutes for each work period that they worked more than four (4) hours. On the occasions on which
14 Defendants did pay a missed meal or rest period premium, they failed to pay the premium at the
15 regular rate of compensation, as required under the Labor Code, by failing to incorporate into the
16 premium payment all forms of nondiscretionary compensation.

17 73. As a proximate cause of Defendants' failure to provide meal and rest periods,
18 Plaintiff is entitled to one (1) hour of pay at the regular rate of compensation for each meal period or
19 rest period not provided, as a wage, from three (3) years of the filing of this action, in an amount to
20 be established at trial. *See* Labor Code § 226.7 and Wage Order 5-2001 §§ 11(B), 12(B).

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23 **SIXTH CAUSE OF ACTION**
24 **Failure to Provide Accurate Wage Statements**
 (As to All Defendants)

25 74. Plaintiff incorporates by reference and re-allege paragraphs 1 through 73 as though
26 fully set forth herein.

27 75. According to Labor Code section 226(a), an employer must provide an itemized
28 statement to an employee, semi-monthly or at the time of each payment of wages, showing:

1 (1) gross wages earned, (2) total hours worked by the employee,
2 except for any employee whose compensation is solely based on a
3 salary and who is exempt from payment of overtime under
4 subdivision (a) of Section 515 or any applicable order of the
5 Industrial Welfare Commission, (3) the number of piece-rate units
6 earned and any applicable piece rate if the employee is paid on a
7 piece-rate basis, (4) all deductions, provided that all deductions
8 made on written orders of the employee may be aggregated and
9 shown as one item, (5) net wages earned, (6) the inclusive dates of
10 the period for which the employee is paid, (7) the name of the
11 employee and the last four digits of his or her social security number
12 or an employee identification number other than a social security
13 number, (8) the name and address of the legal entity that is the
14 employer and, if the employer is a farm labor contractor, as defined
15 in subdivision (b) of Section 1682, the name and address of the legal
16 entity that secured the services of the employer, and (9) all
17 applicable hourly rates in effect during the pay period and the
18 corresponding number of hours worked at each hourly rate by the
19 employee. The deductions made from payment of wages shall be
20 recorded in ink or other indelible form, properly dated, showing the
21 month, day, and year, and a copy of the statement and the record of
22 the deductions shall be kept on file by the employer for at least three
23 years at the place of employment or at a central location within the
24 State of California.

25 76. Plaintiff alleges that Defendants intentionally and knowingly failed to provide an
26 itemized statement or failed to provide an accurate and complete itemized statement showing the
27 requirements set forth in Labor Code section 226(a). Defendants also failed to list on the wage
28 statements provided to Plaintiff and similarly situated employees all hours worked.

77. Additionally, Plaintiff alleges he suffered injury as a result of Defendants' failure to
provide accurate and complete information as required by any one or more of items (1) to (9),
inclusive, of Labor Code section 226, subdivision (a), and Plaintiff cannot promptly and easily
determine (*i.e.* a reasonable person in each Plaintiff's position would not be able to readily ascertain
the information without reference to other documents or information) from the wage statement
alone.

78. Plaintiff is entitled to, and does hereby seek, injunctive relief requiring Defendants to
comply with Labor Code §§ 226(a) and 1174(d), and all applicable damages and civil penalties.

SEVENTH CAUSE OF ACTION

Waiting Time Penalties
(As to All Defendants)

79. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 78 as though fully set forth herein.

80. An employer must pay an employee who is terminated all unpaid wages immediately upon termination. Labor Code § 201.

81. An employer must pay an employee who resigns all unpaid wages within seventy-two (72) hours of resignation. Labor Code § 202.

82. An employer who willfully fails to pay an employee wages in accordance with Labor Code sections 201 and/or 202 must pay the employee a waiting time penalty of up to thirty (30) days. Labor Code § 203.

83. Plaintiff did not receive all wages, including minimum and overtime wages and meal and rest period premiums, at his termination or separation from employment. Specifically, Defendants failed to pay Plaintiff all wages owed at the time of termination.

84. Defendants knew of their obligation to pay Plaintiff for all hours worked because they had knowledge Plaintiff was, at all times, a non-exempt employee, worked over eight (8) hours a day and/or forty (40) hours a week, and did not receive overtime or minimum wages for all hours worked. Such conduct shows Defendants' knowledge of their obligation to pay all wages owed upon termination and willful refusal.

85. As a proximate result of the Defendants' conduct, Plaintiff has been damaged and deprived of his wages and thereby seeks his daily rate of pay multiplied by thirty (30) days for Defendants' failure to pay all wages due in an amount to be established at trial.

EIGHTH CAUSE OF ACTION

Failure to Pay Overtime Wages
(As to All Defendants)

86. Plaintiff incorporates by reference and re-allege paragraphs 1 through 85 as though fully set forth herein.

1 87. During the period Plaintiff was employed by Defendants, Defendants were required
2 to compensate him one and one-half (1½) times the regular rate of pay for hours worked in excess of
3 eight (8) hours per day and/or forty (40) hours per week, and two (2) times the regular rate of pay for
4 hours worked in excess of twelve (12) hours per day. *See* California Labor Code §§ 510, 1194.
5 Although Plaintiff regularly worked in excess of eight (8) hours a day and/or forty (40) hours per
6 week, Defendants failed to pay all overtime wages owed to him.

7 88. Although Defendants classified Plaintiff as an exempt employee, Plaintiff's position
8 and duties failed to meet the requirements of either the administrative, executive, or professional
9 exemptions of the applicable Wage Order and California Labor Code section 510.

10 89. Defendants' conduct described herein violates California Labor Code sections 510
11 and 1194, and applicable Wage Orders. As a proximate result of Defendants' conduct, Plaintiff has
12 been damaged and deprived of overtime wages, in an amount to be established at trial. Plaintiff now
13 seeks these wages, attorney's fees and costs, and interest pursuant to California Labor Code sections
14 1194.

15 **NINTH CAUSE OF ACTION**
16 **(Unfair Competition)**
17 **(As to all Defendants)**

18 90. Plaintiff incorporates by reference and re-allege paragraphs 1 through 89 as though
19 fully set forth herein.

20 91. Unfair competition shall mean and include any unlawful, unfair or fraudulent
21 business act or practice and unfair, deceptive, untrue or misleading advertising and any act
22 prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the California
23 Business and Professions Code. *See* California Business and Professions ("B&P") Code § 17200.

24 92. Plaintiff was not paid all wages owed during his employment, and was not provided
25 legally compliant meal and rest breaks. Defendants also failed to provide legally compliant paystubs
26 to Plaintiff throughout the employment relationship that failed to show, among other things, all hours
27 worked.
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1 93. Plaintiff is also informed and believe and thereon alleges that such actions and/or
2 conduct constitute a violation of the California Unfair Competition Law ("UCL") (California
3 Business and Professions Code 17200 *et seq.*), pursuant to *Cortez v. Purolator Air Filtration Prods.*
4 *Co.*, 23 Cal. 4th 163 (2000).

5 94. As a direct and legal result of the Defendants' conduct, as alleged herein, pursuant to
6 the UCL (including B&P Code §17203), Plaintiff is entitled to restitution as a result of Defendants'
7 unfair business practices, including, but not limited to, public injunctive relief, pursuant to B&P
8 Code § 17203, and interest and penalties pursuant to B&P §§ 17203, 17208, violations of Labor
9 Code §§ 1194, 226, and 226.7, all in an amount as yet unascertained but subject to proof at trial, for
10 up to four (4) years from the filing of this Action.

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12 **TENTH CAUSE OF ACTION**
13 **Civil Penalties Pursuant to PAGA § 2698 *et seq.***
14 **(As to All Defendants)**

15 95. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 94 as though
16 fully set forth herein.

17 96. Plaintiff brings this cause of action as a proxy for the State of California and in this
18 capacity, seeks penalties on behalf of all Aggrieved Employees for Defendants' violations of the
19 California Labor Code, including but not necessarily limited to, those Labor Code and Wage Order
20 violations identified above.

21 97. On or about April 5, 2021, Plaintiff, through counsel, sent written notice to the
22 LWDA regarding Defendant's violations of the California Labor Code, pursuant to Labor Code
23 section 2698, *et seq.*, PAGA. As of the date of the filing of this Complaint, the LWDA has not
24 informed Plaintiff whether the LWDA intends to investigate Plaintiff's PAGA claims. As such,
25 Plaintiff has exhausted his administrative remedies under PAGA and may proceed in this Court.

26 98. Plaintiff is thus entitled to recover civil penalties on behalf of the State of California
27 and all aggrieved employees for all violations of the Labor Code from April 4, 2020, through trial on
28 this matter.

ELEVENTH CAUSE OF ACTION
Wrongful Discharge in Violation of Public Policy
(As to Defendant WELCOME SACRAMENTO, LLC)

99. Plaintiff hereby incorporates by reference Paragraphs 1 through 100 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

100. During the course of his employment with Defendants, Plaintiff suffered from a disability and serious medical condition that limits a major life activity and requires on-going intervention.

101. Defendant knew Plaintiff had a disability and serious medical condition.

102. Plaintiff was able to perform the essential job duties of Defendant's position with reasonable accommodation. At all times during his employment, Plaintiff was qualified to perform the duties of his position.

103. Following Plaintiff's request to delay his return from furlough due to a flare up of his medical condition, and after he had been working for a period of time, Defendants failed to accommodate Plaintiff's disability and serious medical condition and failed to engage in the interactive process to determine how best to accommodate Plaintiff's disability and serious medical condition. Furthermore, Defendant terminated Plaintiff's employment due to its perceptions regarding his disability and serious medical condition.

104. Plaintiff's employment was terminated in violation of fundamental public policies of the State of California. It is, and at all times relevant to this action it has been, the law and fundamental public policy of the state of California to prevent discrimination in employment. *See City of Moorpark v. Sup. Ct. (Dillon)*, 18 Cal. 4th 1143 (1998).

105. Defendant retaliated against Plaintiff due to its perception of Plaintiff's medical condition and for requesting reasonable workplace accommodation for his disability and serious medical condition. Termination of Plaintiff's employment was a violation of public policy (a "nexus" exists between the termination and Plaintiff's protected activity). Accordingly, Plaintiff was unlawfully terminated in violation of the fundamental public policies of the state of California.

1 106. As a direct, foreseeable, and proximate result of Defendant's unlawful actions,
2 Plaintiff has suffered substantial losses in earnings and other employment benefits and has incurred
3 other economic losses.

4 107. As a further direct, foreseeable, and proximate result of Defendant's unlawful actions,
5 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to his
6 damage in an amount to be proven at time of trial.

7 108. Defendant committed the acts herein despicably, maliciously, fraudulently, and
8 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
9 amounting to malice, and in conscious disregard of his rights. Plaintiff is thus entitled to recover
10 punitive damages from Defendant in an amount according to proof.
11

12 **TWELFTH CAUSE OF ACTION**
13 **Failure to Provide Payroll Records Upon Request**
14 **(Against Defendant WELCOME SACRAMENTO, LLC)**

15 109. Plaintiff hereby incorporates by reference Paragraphs 1 through 108 of this Complaint
16 as if fully set forth herein and for a cause of action alleges as follows:

17 110. California Labor Code section 226(f) provides that if an employer failed to allow an
18 employee to inspect or copy records within twenty-one (21) days of the request for such records, the
19 employee is entitled to recover a \$750.00 penalty from the employer.

20 111. On March 31, 2021, Plaintiff requested his records, pursuant to California Labor
21 Code section 226(a), from Defendants. Defendants did not provide the records or make them
22 available.

23 112. Plaintiff seeks an injunction ordering Defendants to produce such records.

24 113. As a proximate cause of Defendants' failure to provide the requested records in a
25 timely manner, Plaintiff was damaged and is entitled to recover a \$750.00 penalty pursuant to
26 California Labor Code section 226(f), and an award of costs and reasonable attorney's fees pursuant
27 to California Labor Code section 226(h).
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THIRTEENTH CAUSE OF ACTION
Failure to Provide Personnel Records Upon Request
(Against Defendant WELCOME SACRAMENTO, LCC)

114. Plaintiff hereby incorporates by reference Paragraphs 1 through 113 of this Complaint as if fully set forth herein and for a cause of action alleges as follows:

115. California Labor Code section 1198.5(k), (b) provides that if an employer failed to allow an employee to inspect or copy records within thirty (30) days of the request for such records, the employee is entitled to recover a \$750.00 penalty from the employer.

116. On October 2, 2020, Plaintiff requested his records, pursuant to California Labor Code section 1198.5, from Defendants. However, Defendants did not provide the records or make them available.

117. Plaintiff seeks an injunction ordering Defendants to produce such records.

118. As a proximate cause of Defendants' failure to provide the requested records in a timely manner, Plaintiff was damaged and is entitled to recover a \$750.00 penalty pursuant to California Labor Code section 1198.5(k), and an award of costs and reasonable attorney's fees pursuant to California Labor Code section 1198.5(l).

DAMAGES

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. A jury trial;
2. For penalties and liquidated damages under the California Labor Code according to proof allowed by law;
3. For compensatory damages, including, but not limited to, unpaid wages, plus interest, according to proof allowed by law;
4. For an award to Plaintiff of costs of suit incurred herein and reasonable attorney's fees;
5. For injunctive relief;
6. For punitive damages according to proof;

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- 7. For an award of prejudgment and post-judgment interest; and
- 8. For an award to Plaintiff of such other and further relief as the Court deems just and proper.

Dated: October 20, 2021 **Castle Law: California Employment Counsel, PC**

By:  _____
Timothy B. Del Castillo
Kent L. Bradbury
Attorneys for Plaintiff BRIAN VOKAL

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury.

Dated: October 20, 2021

Castle Law: California Employment Counsel, PC

By: _____


Timothy B. Del Castillo

Kent L. Bradbury

Attorneys for Plaintiff BRIAN VOKAL

EXHIBIT A

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Courtyard Cal Expo - Personnel Action Form

PAYROLL TRANSACTION

Type of Change	Employee No.	Hire Date	TYPE OR PRINT ALL CHANGES CLEARLY	
☐ New Hire	<i>EUGENIYA</i>	<i>6/1/18</i>		
☐ Rehire	Name (Last Name First)		☐ Uniform Issued	Size:
☒ Termination	<i>VOKAL, BRIAN</i>		☐ Uniform Allowance	
☐ L O A	Address		Phone	
☐ Hrfy/Salary Rate Chg	City	State	Zip Code	Tax Status ☐ Single ☐ Married
☐ Transfer	<i>Roseville</i>	<i>CA</i>	<i>95678</i>	Exemptions:
☐ Occupation Change	Social Security No.	Birth Date	Sex	Timecard #
☐ Name/Address Chg				
☐ Other				
Emergency Contact Person:	Relationship to Employee	Phone	Work Permit (Required if under 18) Yes ☐ No ☐	

EFFECTIVE DATE:

DEPARTMENTAL INFORMATION

Current:	New:
Dept #	Dept #
Department	Department
Job Code	Job Code
Occupation	Occupation
Status:	Status:
☐ Full ☐ Part ☐ On Call	☐ Full ☐ Part ☐ On Call
Type	Type
☐ Regular ☐ Temp.	☐ Regular ☐ Temp.
Rate of Pay	Rate of Pay
Hourly ☐ Weekly ☐ Bi-Weekly ☐	Hourly ☐ Weekly ☐ Bi-Weekly ☐
Bi Monthly ☐ Monthly ☐ Annually ☐	Bi Monthly ☐ Monthly ☐ Annually ☐
Date of Last Evaluation	Next Evaluation Date
Merit Rate Justification (Attach Performance Evaluation)	

Additional Comments

LEAVE OF ABSENCE

Reason:	From:	To:	Actual Return Date:
☐ Medical ☐ Personal ☐ Family			
☐ Parenta ☐ Work Related Injury ☐ Other			
Employee Benefits Notified		Charge to PTO	

TERMINATION

Term Date: <i>3/24/21</i>	Last Day Worked: <i>3/24/21</i>	☐ Voluntary Quit ☒ Discharge ☐ Lay Off
Reason: <i>UNABLE TO SUPPORT TEAM Due to mobility issues job requires you to be on your feet moving. Failure to comply with malle mandate undermines staff instructions.</i>		
Justification (Attach Employee Exit Interview)		Recommend for rehire: ☐ Yes ☒ No

PAYROLL DEPARTMENT

FINAL PAYCHECK INFORMATION

Reg. Hours <i>1116.00</i>	O/T Hours	PTO Hrs	Tips \$	Other <i>16 Hrs</i>
Garnish \$	Insurance \$	Cobra ☐ Yes ☐ No		
Outstanding (Attach Backup)	Advances	Uniform	Purchases	Other
Check Date:	Check No.	Method of Payment	☐ Computer ☐ Manual	
DATE: <i>3/24/21</i>	TERMINATION NUMBER			

EMPLOYEE SIGNATURE / DATE	MANAGER SIGNATURE / DATE	GM SIGNATURE / DATE	HR
<i>[Signature]</i> <i>3/24/21</i>		<i>Brian O'Neil</i> <i>3/24/21</i>	

60330 COURTHOUSE
F. J. B. CO. INC.
100 CALIFORNIA
SACRAMENTO, CALIF.

2022 JAN -3 PM 2:51

RECEIVED
GILT DROP BOX