

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Kristin Escalante

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MARIA PAEZ TAMAYO

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT
UNLIMITED JURISDICTION**

MARIA PAEZ TAMAYO, an individual,

Plaintiff,

v.

MICRONOVA MANUFACTURING, INC., a
California Corporation; and DOES 1
THROUGH 20, inclusive,

Defendants.

Case No.: 21STCV37828

COMPLAINT

- 1. WRONGFUL TERMINATION AND RETALIATION IN VIOLATION OF PUBLIC POLICY;**
- 2. DISCRIMINATION BASED ON DISABILITY;**
- 3. FAILURE TO ACCOMMODATE;**
- 4. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;**
- 5. FAILURE TO TAKE REASONABLE STEPS TO PREVENT DISCRIMINATION AND/OR RETALIATION;**
- 6. NEGLIGENCE, HIRING, SUPERVISION, AND RETENTION OF EMPLOYEE;**
- 7. FAILURE TO PAY OVERTIME WAGES;**
- 8. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226(a)];**
- 9. FAILURE TO PROVIDE ACCURATE ITEMIZED**

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**STATEMENTS [California Labor
Code §226.3];
10. UNLAWFUL WITHOLDING OF
WAGES;
11. WAITING TIME PENALTIES;
12. NEGLIGENCE; AND
13. VIOLATION OF CALIFORNIA'S
UNFAIR COMPETITION LAW
(Cal. Bus. & Prof. C. §§17200-17208)**

DEMAND FOR JURY TRIAL

Plaintiff MARIA PAEZ TAMAYO ("PLAINTIFF") hereby files this Complaint against Defendant MICRONOVA MANUFACTURING, INC., a California Corporation, ("DEFENDANT") and DOES 1 THROUGH 20, inclusive. PLAINTIFF is informed and believes, and on the basis of that information and belief, alleges as follows:

PARTIES

1. PLAINTIFF is, and at all times material hereto was, an individual residing in the County of Los Angeles in the State of California.

2. PLAINTIFF is informed and believes, and on this basis alleges that Defendant MICRONOVA MANUFACTURING, INC. is, and at all times material hereto was, a California corporation organized and existing under the laws of the State of California and authorized to conduct, and at all relevant times was conducting, business in the County of Los Angeles.

3. The true names and capacities of DOES 1 through 20, inclusive, whether individual, corporate, associate, or otherwise, are unknown to PLAINTIFF at this time, who therefore sues said defendants by such fictitious names; when the true names and capacities of such defendants are ascertained, PLAINTIFF will seek leave of court to amend this Complaint to insert same. PLAINTIFF is informed and believes and thereon alleges that each defendant named as a DOE is responsible for each and every act and obligation hereinafter set forth.

1 4. PLAINTIFF is informed and believes and thereon alleges that each defendant
2 named in this Complaint now is, and was at all times herein mentioned, the agent, servant,
3 employee, representative, alter ego, members of and/or engaged in a joint venture, partnership and
4 common enterprise of the other defendants herein, and was at all such times acting within the
5 course and scope of said agency and employment and with the consent and permission of each of
6 the other co-defendants, and each of the defendants herein ratified each of the acts of each of the
7 other co-defendants, and each of them.

8 **JURISDICTION AND VENUE**

9 5. Venue is proper in Los Angeles County because each DEFENDANT maintains
10 office and transacts business or at least some of the acts that are the subject matter of this Complaint
11 occurred therein.

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

13 6. On or about October 10, 2019, PLAINTIFF was employed by DEFENDANT as a
14 Production Assistant.

15 7. PLAINTIFF's employment, the conditions of her employment and the pay policies
16 she was subjected to, were controlled by DEFENDANT.

17 8. PLAINTIFF's most recent hourly rate as of 2020 was \$13.25/hour as a non-exempt
18 employee.

19 9. On or about January 24, 2020, PLAINTIFF's right hand, wrist, and forearm were
20 injured at work.

21 10. PLAINTIFF constantly made complaints to her supervisors including Ector, Rosa
22 and Celia Rojas ("ROJAS") and wished to be accommodated due to her physical disability.

23 11. However, PLAINTIFF's complaints did not receive proper attention from
24 DEFENDANT, as PLAINTIFF was instructed repeatedly to pick up her pace at work. Moreover,
25 ROJAS would berate and yell at PLAINTIFF front of other supervisors and co-workers, she would
26 accuse her of lying when she completed more work than ROJAS believed she could complete, and
27 she would constantly rush her. All of this was happening after PLAINTIFF's injury was reported
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1 and her accommodations sought.

2 12. This behavior became so abusive that PLAINTIFF suffered from severe workplace
3 stress created by ROJAS behavior and the indifference of the other supervisors. As a result,
4 PLAINTIFF was hospitalized after one encounter with ROJAS who was not happy with her pace
5 due to her know injury. Since then, PLAINTIFF has been taking medication to ease her high blood
6 pressure, anxiety and emotional distress.

7 13. Approximately on August 14, 2020, PLAINTIFF felt seriously ill and her ability to
8 sleep was affected. When she finally was able to sleep, PLAINTIFF accidentally overslept through
9 her shift.

10 14. Without communicating or conducting a follow-up investigation with PLAINTIFF,
11 DEFENDANT terminated PLAINTIFF on that day, claiming unexcused leave of absence.
12 Critically, other employees, who did not complain of work related injuries, were not fired when
13 they had unexcused absences or tardies.

14 15. In fact, some of PLAINTIFF's coworkers had more egregious absences and were
15 not terminated. Here, PLAINTIFF was terminated due to her disability. In fact, DEFENDANT
16 made no attempt to enter into an interactive process to ascertain if the absences was related to the
17 disability.

18 16. PLAINTIFF was actually fired due to her ongoing regular complaints about her
19 work conditions and her disability. DEFENDANT simply saw this an opportunity to get rid of an
20 injured worker they refused to accommodate.

21 17. PLAINTIFF is informed and believes, and on this basis alleges, that DEFENDANT
22 had a pattern and practice of replacing some overtime hours with "vacation pay" at a non-overtime
23 rate. This resulted in unusual vacation time showing up on PLAINTIFF's paystub. Moreover,
24 PLAINTIFF would be charged negative vacation time as a result.

25 18. On June 14, 2021, PLAINTIFF complied with *Labor Code* §2699.3(a) in that
26 PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development
27 Agency ("LWDA") and DEFENDANTS of the specific provisions of the labor Code alleged to
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1 have been violated, including the facts and theories to support the alleged violation. As of the date
2 of filing this complaint, (more than 60 calendar days after PLAINTIFF's LWDA letters were
3 mailed via certified mail), PLAINTIFF has not received any notification that the LWDA intended
4 to investigate the alleged violations.

5 19. On June 14, 2021, PLAINTIFF filed a complaint with the Department of Fair
6 Employment and Housing and obtained a Right-to-Sue letter on the same day.

7 **FIRST CAUSE OF ACTION**

8 **WRONGFUL TERMINATION**

9 **AND RETALIATION IN VIOLATION OF PUBLIC POLICY**

10 **(PLAINTIFF against all DEFENDANTS)**

11 20. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
12 Complaint by reference as though fully set forth herein.

13 21. PLAINTIFF was employed as an employee by DEFENDANT.

14 22. It is the public policy of the State of California that employers must follow all
15 employment laws and that employees are not subjected to retaliation or any adverse employment
16 action for being disabled. Similarly, it is against the law to discriminate against an employee due
17 to a disability. These policies are enumerated in Labor Code §132(a), FEHA, the California and
18 United States Constitutions, among other laws and regulations.

19 23. PLAINTIFF was wrongfully terminated and retaliated against by DEFENDANT in
20 violation of public policy as a result of having a disability.

21 24. The fact that PLAINTIFF had sustained an injury while on the job and made
22 complaints about pain were substantial motivating factors for the adverse employment actions
23 taken against PLAINTIFF by DEFENDANT.

24 25. As a substantial result of DEFENDANT's intentional acts in violation of public
25 policy, PLAINTIFF was harmed. Specifically, PLAINTIFF lost income, and endured emotional
26 and mental damages, among other related damages. The exact amount of damage to PLAINTIFF
27 shall be proved at trial.

1 26. PLAINTIFF believes that DEFENDANT's conducts described above were done
2 with malice, fraud and oppression and with conscious disregard for PLAINTIFF's rights and with
3 the intent, design and purpose to cause PLAINTIFF's harm. As such, PLAINTIFF is also entitled
4 to punitive and exemplary damages.

5 27. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs,
6 among other damages against DEFENDANTS.

7 **SECOND CAUSE OF ACTION**

8 **DISCRIMINATION IN VIOLATION**

9 **OF CALIFORNIA GOVERNMENT CODE §12940, ET SEQ**

10 **(PLAINTIFF against all DEFENDANTS)**

11 28. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
12 Complaint by reference as though fully set forth herein.

13 29. PLAINTIFF was employed as an employee by DEFENDANT.

14 30. During PLAINTIFF's employment with DEFENDANT, PLAINTIFF was injured,
15 and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under
16 the California Fair Employment and Housing Act ("FEHA").

17 31. DEFENDANT herein was aware of PLAINTIFF's injury and disability. However,
18 DEFENDANT, through PLAINTIFF supervisors enacted and regular barrage of adverse acts
19 against PLAINTIFF as a result of her disability, ultimately leading up to her to her wrongful
20 termination.

21 32. PLAINTIFF's disability was substantial motivating reasons for DEFENDANTS'
22 conduct that caused the actual wrongful termination.

23 33. As a substantial result of DEFENDANTS' intentional acts, PLAINTIFF was
24 harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

25 34. PLAINTIFF believes that DEFENDANTS' conducts described above were done
26 with malice, fraud and oppression and with conscious disregard for PLAINTIFF's rights and with
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1 the intent, design and purpose to cause PLAINTIFF's harm. As such, PLAINTIFF is also entitled
2 to punitive and exemplary damages.

3 **THIRD CAUSE OF ACTION**

4 **DISABILITY DISCRIMINATION – FAILURE TO ACCOMMODATE**

5 **IN VIOLATION OF GOVERNMENT CODE §12940(m)**

6 **(PLAINTIFF against all DEFENDANTS)**

7 35. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
8 Complaint by reference as though fully set forth herein.

9 36. PLAINTIFF was employed as an employee by DEFENDANT.

10 37. During PLAINTIFF's employment with DEFENDANT, PLAINTIFF was injured,
11 and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under
12 the California Fair Employment and Housing Act ("FEHA").

13 38. DEFENDANTS herein were aware of PLAINTIFF's injury and disability.
14 However, DEFENDANT failed to properly accommodate PLAINTIFF when it was reasonable to
15 do so. In fact, other supervisors and employees witnessed how PLAINTIFF was being abused
16 after complaining of her injuries and nothing was done about it.

17 39. PLAINTIFF was able to perform the essential duties of the position or a vacant
18 alternative position to which PLAINTIFF could have been reassigned with reasonable
19 accommodation for PLAINTIFF's injury and disability.

20 40. However, DEFENDANTS failed to provide such reasonable accommodation for
21 PLAINTIFF's injury and disability.

22 41. As a substantial result of DEFENDANTS' failure to accommodate, PLAINTIFF
23 was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

24 **FOURTH CAUSE OF ACTION**

25 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS**

26 **IN VIOLATION OF CALIFORNIA GOVERNMENT CODE §12940(n)**

27 **(PLAINTIFF against all DEFENDANTS)**

1 42. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
2 Complaint by reference as though fully set forth herein.

3 43. PLAINTIFF was employed as an employee by DEFENDANT.

4 44. DEFENDANTS knew or should have known about PLAINTIFF's disability and as
5 a result were required to engage PLAINTIFF in a "timely, good faith, interactive process... to
6 determine effective reasonable accommodations..." (*Government Code* §12940(n)).

7 45. During PLAINTIFF's employment with DEFENDANT, PLAINTIFF was injured,
8 and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under
9 the California Fair Employment and Housing Act ("FEHA").

10 46. DEFENDANTS knew or should have known about PLAINTIFF's injury and
11 disability.

12 47. PLAINTIFF requested that DEFENDANT make reasonable accommodation for
13 PLAINTIFF's disability so that PLAINTIFF would be able to perform the essential job
14 requirements.

15 48. PLAINTIFF was willing to participate in an interactive process to determine
16 whether reasonable accommodation could be made so that PLAINTIFF would be able to perform
17 the essential job requirements.

18 49. However, DEFENDANTS failed to participate in a timely good-faith interactive
19 process on an ongoing basis with PLAINTIFF to determine whether reasonable accommodation
20 could be made. In fact, when PLAINTIFF was absent no interactive process was made.
21 PLAINTIFF even asked about what would happen with her hand treatment upon being fired and
22 still no interactive process was made.

23 50. As a substantial result of DEFENDANT's failure to engage in the interactive
24 process, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at
25 trial.

26 **FIFTH CAUSE OF ACTION**

27 **FAILURE TO TAKE REASONABLE STEPS**

1 **TO PREVENT DISCRIMINATION AND/OR RETALIATION**

2 **IN VIOLATION OF GOVERNMENT CODE §12940 (k)**

3 **(PLAINTIFF against all DEFENDANTS)**

4 51. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
5 Complaint by reference as though fully set forth herein.

6 52. PLAINTIFF was employed as an employee by DEFENDANT.

7 53. PLAINTIFF was subject to disability discrimination in the course of employment.

8 54. DEFENDANT failed to take all reasonable steps to prevent discrimination.
9 DEFENDANTS ignored PLAINTIFF's complaints about PLAINTIFF's disability against
10 PLAINTIFF and as a result by not doing anything, had condoned, ratified and participated in the
11 acts causing PLAINTIFF harm.

12 55. As a substantial result of DEFENDANTS failure to take reasonable steps to prevent
13 discrimination and harassment, PLAINTIFF was harmed. The exact amount of damage to
14 PLAINTIFF shall be proved at trial.

15 **SIXTH CAUSE OF ACTION**

16 **NELIGENT HIRING, SUPERVISION, AND RETENTION OF SUPERVISORY**

17 **EMPLOYEE**

18 **(PLAINTIFF against all DEFENDANTS)**

19 56. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
20 Complaint by reference as though fully set forth herein.

21 57. DEFENDANT hired Rojas and other supervisors unknown to PLAINTIFF at this
22 time to oversee PLAINTIFF.

23 58. Rojas and other supervisors became unfit and incompetent to perform the work as
24 supervisors to PLAINTIFF for which Rojas and other supervisors were hired. In fact, Rojas abuses
25 were observed by PLAINTIFF co-workers and other supervisors.

1 59. DEFENDANTS knew or should have known that Rojas and other supervisors
2 became unfit and incompetent, and this unfitness or incompetence created a particular risk to
3 others.

4 60. Rojas and other supervisors' unfitness and incompetence harmed PLAINTIFF.

5 61. DEFENDANTS' negligence in hiring, supervising, and retaining Rojas and other
6 supervisors was a substantial factor in causing PLAINTIFF's harm. The exact amount of damage
7 to PLAINTIFF shall be proved at trial.

8 **SEVENTH CAUSE OF ACTION**

9 **FAILURE TO PAY OVERTIME WAGES**

10 **(PLAINTIFF against all DEFENDANTS)**

11 62. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
12 Complaint by reference as though fully set forth herein.

13 63. *Labor Code* §510(a) provides that any work in excess of eight hours in one workday
14 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
15 seventh day of work in any one workweek shall be compensated at the rate of no less than one and
16 one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day
17 shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In
18 addition, any work in excess of eight hours on any seventh day of a workweek shall be
19 compensated at the rate of no less than twice the regular rate of pay of an employee.

20 64. PLAINTIFF regularly worked for DEFENDANTS for more than eight (8) hours in
21 a day and/or forty (40) hours in a week.

22 65. DEFENDANTS knew or should have known that PLAINTIFF had worked
23 overtime hours.

24 66. PLAINTIFF was at all times relevant non-exempt hourly employees of
25 DEFENDANTS.
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1 67. However, PLAINTIFF is informed and believes that she did not receive all
2 overtime pay she earned.

3 68. PLAINTIFF is informed and believes that DEFENDANT shorted other similarly
4 situated employees of their pay as well.

5 69. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF and others
6 similarly situated, have been deprived of wages and overtime in amounts to be proven at trial, and
7 PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS plus interest, penalties
8 and attorney's fees and costs, on behalf of herself and those similarly situated pursuant to Labor
9 Code Section 2698 et seq.

10 **EIGHTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

12 **IN VIOLATION OF LABOR CODE § § 226(a)(e)**

13 **(PLAINTIFF against all DEFENDANTS)**

14 70. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
15 Complaint by reference as though fully set forth herein.

16 71. *Labor Code* §226(a) requires employers to provide accurate itemized wage
17 statements for each wage payment. *Labor Code* §226 (e) provides for a recovery of the greater of
18 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
19 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
20 aggregate penalty of four thousand dollars (\$4,000) (per employee).

21 72. Further, Labor Code §226.3 provides for civil penalties against anyone who violates
22 Labor Code §226.

23 73. DEFENDANTS failed to provide PLAINTIFF and others similarly situated with
24 complete and accurate wage statements, willfully or intentionally. DEFENDANTS also failed to
25 account for accurately withholdings, hours, wage rates, overtime, sick and vacation time, among
26 other things.
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1 74. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF and
2 others similarly situated suffered damage.

3 75. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and
4 penalties promulgated under Labor Code §§226 and 226.3 on behalf of herself and others similarly
5 situated.

6 76. PLAINTIFF is entitled to injunctive relief to ensure compliance with the
7 aforementioned Labor Code provision.

8 **NINETH CAUSE OF ACTION**

9 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

10 **IN VIOLATION OF LABOR CODE § 226.3**

11 **(PLAINTIFF against all DEFENDANTS)**

12 77. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
13 Complaint by reference as though fully set forth herein.

14 78. *Labor Code* §§226 and 226.3 provides for civil penalties against anyone who
15 violates Labor Code §226. *Labor Code* §226(a) requires employers to provide accurate itemized
16 wage statements for each wage payment. Specifically, Labor Code §226.3 provides a penalty of
17 two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand
18 dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer
19 fails to provide the employee a wage statement in compliance with Labor Code §226.

20 79. DEFENDANT failed to provide PLAINTIFF others similarly situated, with
21 complete and accurate wage statements, willfully or intentionally. DEFENDANT also failed to
22 account for accurate withholdings, hours, wage rates, overtime, sick and vacation time, among
23 other things.

24 80. As a result of DEFENDANT's aforementioned unlawful act, Plaintiff others
25 similarly situated suffered damage.
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1 81. PLAINTIFF others similarly situated are therefore entitled to recover from
2 DEFENDANTS damages and penalties promulgated under Labor Code §§226 and 226.3.

3 **TENTH CAUSE OF ACTION**

4 **UNLAWFUL WITHHOLDING OF WAGES**

5 **(PLAINTIFF against all DEFENDANTS)**

6 82. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
7 Complaint by reference as though fully set forth herein.

8 83. *California Labor Code* §216 provides that it is a misdemeanor for an employer to
9 “willfully refuse to pay wages due and payable after demand has been made” or “falsely deny the
10 amount or validity thereof.”

11 84. *California Labor Code* §225.5 provides a penalty of \$100 for an initial violation
12 and \$200 for any subsequent violation of §216 plus 25% of the withheld amount.

13 85. PLAINTIFF is informed and believes, and on this basis alleges, that by employing
14 a pay scheme to deprive PLAINTIFF others similarly situated, of some wages earned,
15 DEFENDANT unlawfully withheld wages belonging to its employees. Moreover, these wages
16 were demanded thereafter.

17 86. As a result of DEFENDANT’s aforementioned unlawful acts, PLAINTIFF others
18 similarly situated suffered damage.

19 87. As such, DEFENDANT is subject to the penalty under *Labor Code* §225.5.
20 PLAINTIFF others similarly situated are entitled to such penalties plus interest as required by law,
21 plus restitution of all wages earned but not paid. The exact amount of penalties will be proved at
22 trial.
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24 **ELEVENTH CAUSE OF ACTION**

25 **WAITING TIME PENALTIES**

26 **(PLAINTIFF against all DEFENDANTS)**

27 88. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
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1 Complaint by reference as though fully set forth herein.

2 89. *Labor Code* §203 provides that “if an employer willfully fails to pay, without
3 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages
4 of an employee who is discharged or who quits, the wages of the employee shall continue as a
5 penalty from the due date thereof at the same rate until paid or until an action therefor is
6 commenced; but the wages shall not continue for more than 30 days.”

7 90. PLAINTIFF and others similarly situated are owed wages by DEFENDANT that
8 were not paid with their final wages.

9 91. DEFENDANT acted willfully in not paying these final wages in full.

10 92. As a result of DEFENDANT’s aforementioned unlawful act, PLAINTIFF and
11 others similarly situated suffered damage.

12 93. PLAINTIFF and others similarly situated are entitled to recover from
13 DEFENDANT the statutory penalty wages for each day they were not paid, at their regular hourly
14 rate of pay, up to a thirty (30) day maximum pursuant to California Labor Code sections 203, plus
15 interest and attorney’s fees in the amount to be proven at trial.
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17 **TWELFTH CAUSE OF ACTION**

18 **NEGLIGENCE**

19 **(PLAINTIFF against all DEFENDANTS)**

20 94. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
21 Complaint by reference as though fully set forth herein.

22 95. DEFENDANT owes, and at all times relevant owed, a duty to their employees to
23 provide a safe, non-discriminating, non-retaliatory and harassment-free work environment, to
24 make sure that its supervisors take action against employees practicing workplace discrimination,
25 retaliation, and harassment, to make sure supervisors and managers look after the safety of
26 employees during their watch, to pay employees proper wages when due, and to provide them with
27 proper wage statements.
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1 96. DEFENDANT breached this duty to PLAINTIFF as highlighted above.

2 97. DEFENDANT's breach was and is the actual and proximate cause of PLAINTIFF's
3 harm.

4 98. In so doing, DEFENDANT caused Plaintiff harm including causing PLAINTIFF
5 to lose the job and general and consequential damages.

6 99. Being Discriminated against due to her disability was not part of PLAINTIFF's
7 bargained for exchange as part of her employment.

8 **THIRTEENTH CAUSE OF ACTION**

9 **VIOLATION OF CAL. BUS. & PROF. CODE § § 17200 ET. SEQ.**

10 **FOR UNFAIR BUSINESS PRACTICES**

11 **(PLAINTIFF against all DEFENDANTS)**

12 100. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
13 Complaint by reference as though fully set forth herein.

14 101. DEFENDANT, itself or through its supervisors, in an effort to exploit, harass, and
15 discriminate against their employees for profit or otherwise, have engaged in the following
16 unlawful, unfair, deceptive, and misleading business practices, amongst others outlined in this
17 complaint:

- 18 a. Wrongfully terminating and retaliating against employees with disabilities;
- 19 b. Discriminating against employees based on disability;
- 20 c. Failure to accommodate;
- 21 d. Failing to properly supervise and train its employees;
- 22 e. Failing to pay all wages earned and owed to employees; and
- 23 f. Failing to pay overtime wages earned and owed to employees.

24 102. PLAINTIFF is entitled to enforce all applicable penalty provisions of the California
25 Business and Professions Code §17202.

26 103. Pursuant to the provisions of Section 17203 of the California Business and
27 Professions Code, Plaintiff is entitled to restoration of unpaid wages and interests DEFENDANTS
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1 have collected by the use of the unfair, deceptive, and misleading business practices described in
2 this Complaint.

3 104. Pursuant to provisions of Section 17203 et seq. DEFENDANTS must be ordered to
4 disgorge all the unlawful profits in the relevant statutory to PLAINTIFF, which DEFENDANTS
5 have received from improperly billing Clients and cheating of employees in terms of their hours
6 reported as having been worked but not paid.

7 105. Pursuant to the provisions of Section 17203 of the California Business and
8 Professions Code, this Court should issue an injunction prohibiting DEFENDANTS from
9 engaging in the foregoing unfair, deceptive, and misleading business practices.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, PLAINTIFF prays for judgment against DEFENDANT, and DOES 1
12 through 20 inclusive, as follows:

13 1. General and special damages, liquidated damages (if applicable), subject to proof
14 at trial;

15 2. Emotional distress damages;

16 3. Civil and statutory penalties, including PAGA damages for PLAINTIFF and others
17 similarly situated;

18 4. Punitive and exemplary damages;

19 5. Restoration of all money gained by DEFENDANTS and all money lost by
20 PLAINTIFF by DEFENDANTS wrongly using the unfair, deceptive, and misleading business
21 practices;

22 6. Injunctive relief prohibiting DEFENDANTS from engaging in the unfair,
23 deceptive, and misleading business practices;

24 7. Declaration that DEFENDANTS' business practices are unfair within the meaning
25 to the statute;

26 8. Pre-judgment interest;

27 9. All costs of lawsuit herein incurred;
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1 10. Reasonable attorneys' fees where provided by law; and

2 11. For an award of such other and further equitable and legal relief as this Court may
3 deem appropriate.

4 Dated: October 12, 2021

BITTON & ASSOCIATES

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8 Ophir J. Bitton
9 Lei Wei
10 Attorneys for Plaintiff,
11 MARIA PAEZ TAMAYO
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Dated: October 12, 2021



Ophir J. Bitton
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