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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ERIC ELLIS, an individual,

Plaintiff,

v.

WARREN PROPERTIES, INC., a California
corporation, and DOES 1 through 30
inclusive,

Defendants.

Case No. 21STCV26332

*Assigned to Hon. Robert S. Draper
Dept. 78*

**FIRST AMENDED COMPLAINT FOR
DAMAGES:**

1. RETALIATION IN VIOLATION OF
LABOR CODE SECTION 1102.5;
2. RETALIATION IN VIOLATION OF
FAIR EMPLOYMENT AND HOUSING
ACT;
3. RACE HARASSMENT;
4. RACE DISCRIMINATION;
5. FAILURE TO PREVENT
DISCRIMINATION/RETALIATION;
6. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;
7. DISCRIMINATION/DISCHARGE IN
VIOLATION OF LABOR CODE
SECTION 6310;
8. CALIFORNIA LAB. CODE PRIVATE
ATTORNEYS GENERAL ACT
(PAGA).

DEMAND FOR JURY TRIAL

Complaint Filed: July 16, 2021
Trial Date: None Set

1 Plaintiff ERIC ELLIS (“PLAINTIFF” or “MR. ELLIS”) brings this action against
2 Defendant WARREN PROPERTIES, INC. and DOES 1 through 30 inclusive (collectively
3 “DEFENDANTS”), on knowledge as to himself and his own acts, and upon information and
4 belief as to all other matters, as follows:

5 **NATURE OF ACTION**

6 1. This action is brought pursuant to California statutory and decisional laws.
7 PLAINTIFF alleges that California statutory and decisional laws prohibit the conduct by
8 DEFENDANTS, as alleged herein, and therefore PLAINTIFF is entitled to monetary relief on
9 the basis that DEFENDANTS violated such statutes and decisional laws.

10 **JURISDICTION AND VENUE**

11 2. Jurisdiction is proper in this Court by virtue of California statutes and decisional
12 law, and the local rules of the Los Angeles County Superior Court.

13 3. At all times mentioned herein, Defendant WARREN PROPERTIES, INC.
14 (hereinafter, “WARREN”) maintained its corporate headquarters and was qualified to do
15 business in the State of California.

16 4. Venue is proper under California Government Code section 12965, subdivision
17 (b), and California Code of Civil Procedure section 395, in that a substantial part of the events
18 or omissions giving rise to PLAINTIFF’s claims occurred in the County of Los Angeles.
19 PLAINTIFF worked in the Los Angeles County at all times during his employment with
20 WARREN. DEFENDANTS maintained, and currently maintain offices and employ a
21 substantial number of employees in Los Angeles County.

22 5. The amount in controversy is within the jurisdiction of this Court.

23 **PARTIES**

24 6. Plaintiff ERIC ELLIS is an individual, and at all times mentioned in this First
25 Amended Complaint for Damages (“Complaint”) was a resident of the State of California.
26 MR. ELLIS was employed by WARREN as a leasing agent/property manager from
27 approximately July 6, 2020 to March 10, 2021. At all times during his employment, MR.
28 ELLIS reported to WARREN’s worksites located 5401 Sepulveda Blvd., Sherman Oaks,

1 California 91411 (“Kingston”); 7745 Reseda Blvd., Reseda, California, 91335; and/or other
2 properties located across Southern California to perform his job duties.

3 7. MR. ELLIS was, at all times material herein, an “employee,” as defined by
4 California Government Code section 12926, subdivision (c), part of the California Fair
5 Employment and Housing Act (“FEHA”) – California Government Code section 12900 et seq.
6 At all times relevant herein, MR. ELLIS was also an employee as defined by the California
7 Labor Code.

8 8. PLAINTIFF is informed and believes and based thereon alleges that WARREN
9 owns and operates a California-based real estate company that acquires, develops, and/or
10 manages real property throughout California. On information and belief, WARREN owns,
11 develops, controls, manages and/or operates real property throughout Los Angeles County
12 where employees perform various job duties in order to maintain and provide quality housing.

13 9. PLAINTIFF is informed and believes and based thereon alleges that at all times
14 relevant herein, WARREN was a California corporation that was qualified to do business in the
15 State of California. WARREN is headquartered in Rancho Santa Fe, California.

16 10. PLAINTIFF is informed and believes that WARREN is an “employer” as
17 defined by California Labor Code sections 18, 1102.5, subdivision (j), and California
18 Government Code section 12926, subdivision (d), as well as any other applicable definitions in
19 the California Labor Code and Government Code.

20 11. Defendants Does 1 through 30 are sued under fictitious names pursuant to
21 California Code of Civil Procedure section 474. PLAINTIFF is informed and believes, and on
22 that basis alleges that each of the defendants sued under fictitious names is in some manner
23 responsible for the wrongs and damages alleged below and in so acting was functioning as the
24 agent, servant, partner, and/or employee of the co-defendants, and in taking the actions
25 mentioned below was acting within the course and scope of his or her authority as such agent,
26 servant, partner, and employee, with the permission and consent of the co-defendants.

27 12. PLAINTIFF alleges on information and belief that Does 1 through 20 were and
28 are corporations or other business entities, which were authorized to and did business in Los

1 Angeles County, California. PLAINTIFF is informed and believes that Does 21 through 30 are
2 individuals who at all relevant times herein, were and are employees, managers, supervisors,
3 managing agents, tenants, or officers of WARREN.

4 13. At all times mentioned in the causes of action into which this paragraph is
5 incorporated by reference, each and every defendant was the agent or employee of each and
6 every other defendant. In doing the things alleged in the causes of action into which this
7 paragraph is incorporated by reference, each and every defendant was acting within the course
8 and scope of this agency or employment and was acting with the consent, permission, and
9 authorization of each of the remaining defendants. All actions of each defendant alleged in the
10 causes of action into which this paragraph is incorporated by reference were ratified and
11 approved by the officers or managing agents of every other defendant.

12 **EXHAUSTION OF REMEDIES**

13 14. Within one year from the date of DEFENDANTS' last adverse employment
14 action and prior to the initiation of this action, PLAINTIFF exhausted his administrative
15 remedies by filing a complaint against defendant WARREN with the California Department of
16 Fair Employment and Housing ("DFEH"), pursuant to section 12900 et seq. of the California
17 Government Code, alleging the acts described in this Complaint. The DFEH issued a "Right to
18 Sue" letter to PLAINTIFF. All conditions precedent to the institution of this lawsuit have been
19 fulfilled.

20 15. The procedural requirements of a California Private Attorneys General Act of
21 2004 ("PAGA") claim, pursuant to California Code of Civil Procedure section 2699.3,
22 subdivision (a), require first that the aggrieved employee or representative shall give written
23 notice by certified mail to the California Labor and Workforce Development Agency and the
24 employer(s). PLAINTIFF has met this requirement.

25 16. Second, the procedural requirements, pursuant to California Code of Civil
26 Procedure section 2699.3, subdivision (a)(1)(2)(A), provides that:

27 The agency shall notify the employer and the aggrieved employee
28 or representative by certified mail that it does not intend to
investigate the alleged violation within 60 calendar days of the post

1 mark of the notice given pursuant to Paragraph (1). Upon receipt of
2 that notice or if no notice is provided within 65 calendar days of
3 the postmark date of the notice given pursuant to Paragraph (1), the
4 aggrieved employee may commence a civil action pursuant to
5 Section 2699.

6 17. PLAINTIFF has met this procedural requirement. On July 16, 2021, PLAINTIFF
7 notified the California Labor and Workforce Development Agency by certified mail of the
8 violations alleged herein and of his intent to file this lawsuit. To this day, the agency has not
9 responded. As such, PLAINTIFF has complied with the administrative requirements of PAGA.

10 **FACTUAL BACKGROUND**

11 18. WARREN is a California-based real estate company that acquires, develops,
12 and/or manages real property throughout California. MR. ELLIS was hired by WARREN as a
13 leasing agent/property manager on July 6, 2020 and worked for WARREN until he was
14 wrongfully terminated on March 10, 2021. At the time of MR. ELLIS's wrongful termination,
15 MR. ELLIS was fully and satisfactorily performing the duties he was hired to perform as a
16 leasing agent/property manager. MR. ELLIS's job duties involved leasing, maintaining, and/or
17 managing apartment units to ensure WARREN provided quality housing.

18 19. At all times relevant herein, WARREN was aware that MR. ELLIS had been
19 harassed and discriminated against as a result of his race because MR. ELLIS put WARREN on
20 notice as such on several occasions prior to his wrongful termination.

21 20. On or about March 5, 2021, MR. ELLIS was working as usual in his office at
22 Kingston. Suddenly, a Caucasian tenant, Jean Brownell ("Mr. Brownell"), aggressively entered
23 MR. ELLIS's office. Upset that the repairs in his flooded unit were not yet completed, Mr.
24 Brownell began loudly cursing at MR. ELLIS and making racial slurs such as, "this is fucking
25 bullshit, niggers can never get anything right!" Mr. Brownell continued to threaten MR. ELLIS
26 by throwing items off of his desk and shouting, "I'll see you when you get off work!," in a
27 threatening manner. Mr. Brownell also damaged items in the office and violently kicked over a
28 trash can.

29 21. In response to Mr. Brownell's racist conduct, MR. ELLIS stood in shock and
30 became concerned for his safety. Mr. Brownell was a much larger man than MR. ELLIS,

1 which caused MR. ELLIS to feel threatened and helpless. In fact, this was not the first time
2 that MR. ELLIS was involved in an exchange with Mr. Brownell, so he knew that Mr.
3 Brownell was aggressive and posed a threat. MR. ELLIS was so intimidated by Mr.
4 Brownell's appearance, racist comments, and physical obstruction that he feared for his life.
5 Since Mr. Brownell is a larger man, MR. ELLIS had no choice but to stay quiet and wait for
6 Mr. Brownell to leave his office. Finally, Mr. Brownell stepped out of the office. Fearing for
7 his safety, MR. ELLIS quickly locked his office door to protect himself from this dangerous
8 racist. Approximately five minutes later, Mr. Brownell returned to the office and began
9 banging on the door and glass in an attempt to enter again. Unable to get into MR. ELLIS's
10 office, Mr. Brownell finally left the premises.

11 22. About one month prior to the above-mentioned incident, Mr. Brownell
12 aggressively cursed at MR. ELLIS when MR. ELLIS politely told him to keep his dog on a
13 leash to prevent anyone at Kingston from being bitten.

14 23. Accordingly, as this was the second time that, Mr. Brownell, one of
15 DEFENDANTS' tenants, made a discriminatory and/or inappropriate comment to MR. ELLIS,
16 Mr. Brownell's racist comments and actions extremely disturbed MR. ELLIS and caused him
17 to believe that he was in danger because of the color of his skin. The disparaging remarks
18 affected MR. ELLIS so much emotionally that they prompted him to complain to WARREN.
19 Shortly thereafter, MR. ELLIS called his manager Bradley Paxton ("Mr. Paxton") and notified
20 him about the incident with Mr. Brownell. Mr. Paxton told MR. ELLIS that he would make
21 some calls and see what he could do for him; however, Mr. Paxton never followed up with MR.
22 ELLIS. The phone call ended with no resolution for MR. ELLIS.

23 24. That same day at 1:59 pm, MR. ELLIS reported the incident again via email to
24 Mr. Paxton and to the director of legal operations - Brooke Davis ("Ms. Davis"). In his email,
25 MR. ELLIS stated "...Today 3/05 he [Mr. Brownell] came in the office and cursed me out,
26 hurling insults and racial epithets towards me. He was upset that JGB construction has. He is
27 now threatening me and saying that he is going to "see me when I get off work". I have locked
28 my door to ensure that he does not attempt to enter. Not sure what he means. However, I do

1 take these threats made against me very seriously.” Thereafter, Ms. Davis and Mr. Paxton
2 responded to MR. ELLIS in a manner that neglected the urgency of the situation. Following
3 the email exchange, WARREN did not take any action against Mr. Brownell to protect MR.
4 ELLIS. Once again, MR. ELLIS’s complaints ended with no resolution for MR. ELLIS.

5 25. WARREN did not follow up with MR. ELLIS about the above-mentioned
6 incident, even though it knew that this was not the first instance of racism that MR. ELLIS
7 experienced at Kingston. For example, another tenant at Kingston, Eric Cannon (“Mr.
8 Cannon”), walked into MR. ELLIS’s office with a pocketknife and began making racist
9 remarks. Mr. Cannon shouted to MR. ELLIS, “I do not want a Mexican maintenance man. I
10 am ready to go back to jail. I do not want you to let those beaners come into my apartment.”
11 Thereafter, MR. ELLIS reported the incident to Mr. Paxton, but WARREN failed to take any
12 corrective action to prevent MR. ELLIS from experiencing harassment and discrimination in
13 the workplace.

14 26. On or about March 8, 2020, MR. ELLIS was taking his legally-mandated break
15 at his apartment at Kingston when suddenly Allyson Asbell (“Ms. Asbell”) banged loudly on
16 his door and introduced herself as a manager from their corporate office. Ms. Asbell ordered
17 MR. ELLIS to immediately come down to his office even though he was still on his legally-
18 mandated break. When MR. ELLIS arrived at the office, Ms. Asbell and Mr. Paxton were
19 waiting there for him. Ms. Asbell immediately began berating MR. ELLIS and interrogating
20 him about why his office was unorganized. MR. ELLIS explained to Ms. Asbell that Mr.
21 Brownell had created the mess while making racist remarks and threats a few days earlier.

22 27. Then, Ms. Asbell began falsely blaming MR. ELLIS for the high delinquency
23 rate at Kingston and telling him that the delinquencies are a result of him purportedly never
24 being present at the property. She also questioned him about keys for a specific unit at
25 Kingston and why the keys were not tagged when he gave her the key. These accusations were
26 utterly false because MR. ELLIS was always present at the property for his scheduled shifts,
27 proactively checked on tenants when rents were becoming due, and properly maintained all the
28 keys for Kingston. As such, Ms. Asbell’s accusations of MR. ELLIS neglecting his job duties

1 were made because of his race and in retaliation for MR. ELLIS's complaints about the race
2 harassment and unsafe working conditions he experienced at Kingston.

3 28. Ms. Asbell then informed MR. ELLIS that she was terminating his employment
4 and he had "three days to get off the premises." This sudden termination was a shock to MR.
5 ELLIS because he had satisfactorily performed all his job duties. Moreover, MR. ELLIS was
6 initially under the impression that Ms. Asbell and Mr. Paxton were meeting with him to address
7 his concerns about Mr. Brownell and to make sure that he was safe at the premises. To his
8 surprise, Ms. Asbell & Mr. Paxton met with MR. ELLIS for the sole purpose of terminating
9 him for reporting the incident of racism and unsafe working conditions at Kingston.

10 29. Following WARREN's unlawful and retaliatory termination of MR. ELLIS,
11 MR. ELLIS told Ms. Asbell that WARREN cannot force him to vacate his unit due to the
12 COVID-19 eviction moratorium. Ms. Asbell responded by saying that human resources (HR)
13 would contact him. When HR contacted MR. ELLIS, he explained how WARREN had
14 discriminated against him by terminating him in retaliation for his complaints of race
15 harassment from Mr. Brownell. HR then told him that she was going to place a hold on his
16 termination. Two days later, HR informed MR. ELLIS that WARREN was terminating his
17 employment and she believed his termination was not "racially motivated nor retaliatory."

18 30. On March 10, 2021, WARREN's retaliatory and discriminatory animus
19 culminated into WARREN issuing a separation of employment notice to MR. ELLIS.
20 WARREN used false and retaliatory accusations to wrongfully terminate his employment as a
21 subterfuge to disguise its true retaliatory intent; the real reasons WARREN terminated MR.
22 ELLIS was because of his race and complaints of race harassment and unsafe working
23 conditions.

24 31. Shockingly, MR. ELLIS was terminated less than four days after he made his
25 final complaint of harassment, retaliation and unsafe working conditions to WARREN.
26 Moreover, on numerous occasions, MR. ELLIS reported the harassment he suffered to multiple
27 individuals at WARREN.
28

32. To make matters worse, on March 10, 2021, WARREN unlawfully served MR. ELLIS with a notice to vacate his apartment unit at Kingston by March 15, 2021 even though MR. ELLIS lawfully held possession of the unit as a tenant. The notice stated “Please be advised that you are wrongfully residing within the above-mentioned premises. You are hereby notified to vacate said premises by within five (5) days (March 15, 2021). If you do not vacate the premises, Warren Properties Inc. will seek legal action before the Justice of the Peace.” As such, WARREN not only retaliated against MR. ELLIS by unlawfully terminating his employment, but also retaliated against him by threatening to seek a frivolous legal action to force MR. ELLIS to surrender his apartment unit. Thus, WARREN was willing to go through great lengths in order to retaliate against MR. ELLIS, even if it meant forcing him out of his home during a global pandemic.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5

(Against WARREN and DOES 1 through 30)

33. PLAINTIFF re-alleges and incorporates by reference each and every allegation set forth in all the foregoing paragraphs as if fully set forth herein.

34. At all times relevant hereto, California Labor Code section 1102.5 was in full force and effect and was binding upon DEFENDANTS and each of them. That section provides as follows:

“(a) An employer, or any person acting on behalf of the employer, shall not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, or from providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the

1 employee has reasonable cause to believe that the information
2 discloses a violation of state or federal statute, or a violation of or
3 noncompliance with a local, state, or federal rule or regulation,
4 regardless of whether disclosing the information is part of the
5 employee's job duties.

6 (b) An employer, or any person acting on behalf of the employer,
7 shall not retaliate against an employee for disclosing information,
8 or because the employer believes that the employee disclosed or
9 may disclose information, to a government or law enforcement
10 agency, to a person with authority over the employee or another
11 employee who has the authority to investigate, discover, or correct
12 the violation or noncompliance, or for providing information to, or
13 testifying before, any public body conducting an investigation,
14 hearing, or inquiry, if the employee has reasonable cause to believe
15 that the information discloses a violation of state or federal statute,
16 or a violation of or noncompliance with a local, state, or federal
17 rule or regulation, regardless of whether disclosing the information
18 is part of the employee's job duties."

19 35. At all times relevant hereto, California Civil Code section 52.1 was in full force
20 and effect and was binding upon DEFENDANTS and each of them. That section authorizes
21 suit against anyone who by threat, intimidation, or coercion interferes with the exercise or
22 enjoyment of rights secured by the state or federal constitutions or laws without regard to
23 whether the victim is a member of a protected class.

24 36. At all times relevant hereto, California Government Code section 12940 et seq.
25 were in full force and effect and were binding on DEFENDANTS. Under FEHA, California
26 Government Code section 12940 et seq., it is an unlawful employment practice for an employer
27 because of the race of a person to terminate said person, harass said person, or discriminate
28 against them in terms, conditions, or privileges of employment. FEHA requires

1 DEFENDANTS to refrain from discriminating and/or harassing against any employee on the
2 basis of race. FEHA also imposes on an employer a duty to take immediate and appropriate
3 corrective action to end discrimination and take all reasonable steps necessary to prevent
4 discrimination/retaliation from occurring, among other things.

5 37. At all times relevant hereto, California Labor Code section 6310 was in full
6 force and effect and was binding on DEFENDANTS. Under California Labor Code section
7 6310, subdivision (b), it is an unlawful employment practice for an employer to discharge,
8 threaten to discharge, demote, suspend, or in any other manner discriminate against an
9 employee in the terms and conditions of employment because of an employee's bona fide oral
10 or written complaint to the employer of unsafe working conditions or work practices in his
11 employment or place of employment.

12 38. WARREN's tenant, Mr. Brownell, harassed MR. ELLIS because of his race by:
13 making racist and racially-motivated comments such as "this is fucking bullshit, niggers can
14 never get anything right;" physically threatening and intimidating MR. ELLIS; and causing
15 physical destruction in MR. ELLIS's office. MR. ELLIS reported Mr. Brownell's race
16 harassment to Mr. Paxton, Ms. Davis, and Ms. Asbell; however, WARREN failed to take any
17 action against Mr. Brownell to protect MR. ELLIS. MR. ELLIS put WARREN on notice that
18 his safety was in jeopardy at Kingston because Mr. Brownell was a dangerous man, who
19 racially harassed him, made threats to him, and was targeting him due to his race. As such,
20 MR. ELLIS's numerous complaints of race harassment went unanswered.

21 39. In addition to disclosing the race harassment MR. ELLIS experienced from
22 WARREN's tenants, MR. ELLIS disclosed DEFENDANTS' discriminatory and retaliatory
23 acts to HR, Mr. Paxton, Ms. Davis, and Ms. Asbell, who were persons with authority over him
24 and other employees who had the authority to investigate, discover, or correct those violations.

25 40. MR. ELLIS filed numerous complaints, verbal and written, relating to the
26 discriminatory and retaliatory acts of WARREN; the race harassment he endured as an African-
27 American by its tenants; and all other concerns outlined in this Complaint and re-alleged and
28 incorporated in this cause of action. MR. ELLIS was retaliated against by WARREN when

1 WARREN disciplined and terminated him in retaliation for his complaints about WARREN's
2 discrimination and retaliation, and the race harassment he endured as an African-American by
3 WARREN's tenants.

4 41. On information and belief, MR. ELLIS had a good faith and reasonable belief
5 that his complaints to WARREN disclosed violations of state or federal statute, or a violation of
6 or noncompliance with local, state, or federal rule or regulation. MR. ELLIS had a good faith
7 and reasonable belief that his complaints to WARREN about Mr. Brownell's threats,
8 intimidation, and behavior disclosed a violation of California Civil Code section 52.1. MR.
9 ELLIS had a good faith and reasonable belief that his complaints to WARREN about the race
10 harassment he endured by WARREN's tenants disclosed WARREN's violations of and failure
11 to comply with California Government Code section 12940 et seq. MR. ELLIS had a good
12 faith and reasonable belief that his oral and written complaints to WARREN about the unsafe
13 working conditions at Kingston due to Mr. Brownell's race harassment and physical threats
14 disclosed WARREN's violations of California Labor Code section 6310.

15 42. MR. ELLIS was terminated in retaliation for disclosing these violations to
16 WARREN and because DEFENDANTS believed he may disclose that information to a
17 government or law enforcement agency or to other employees. As such, MR. ELLIS's
18 disclosure of these violations was a contributing and substantial factor in DEFENDANTS'
19 decision to wrongfully terminate MR. ELLIS.

20 43. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as
21 alleged herein, PLAINTIFF has suffered lost income, employment, and career opportunities,
22 and has suffered and continues to suffer other economic loss, the precise amount of which will
23 be proven at trial. PLAINTIFF claims such amounts as damages pursuant to California Civil
24 Code sections 3287 and/or 3288 and/or any other provision of law providing for prejudgment
25 interest.

26 44. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as
27 alleged herein, PLAINTIFF has suffered and continues to suffer great anxiety, embarrassment,
28

1 anger, loss of enjoyment of life, humiliation, physical pain, financial distress, and emotional
2 distress, the precise amount of which will be proven at trial.

3 45. As a proximate result of the wrongful acts of DEFENDANTS, PLAINTIFF has
4 been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to
5 continue to incur attorneys' fees and costs in connection therewith. PLAINTIFF is entitled to
6 recover attorneys' fees and costs under California Code of Civil Procedure sections 1021.5
7 and/or California Labor Code sections 1102.5, subdivision (j) and 2698 et seq.

8 46. The acts taken toward PLAINTIFF were carried out by DEFENDANTS'
9 officers, directors, and/or managing agents acting in a despicable, oppressive, fraudulent,
10 malicious, deliberate, egregious, and inexcusable manner and in conscious disregard for the
11 rights and safety of PLAINTIFF. DEFENDANTS and their agents/employees or supervisors,
12 authorized, condoned and ratified the unlawful conduct of each other. Consequently,
13 PLAINTIFF is entitled to an award of punitive damages against DEFENDANTS.

14 47. PLAINTIFF has been generally damaged in an amount within the jurisdictional
15 limits of this Court and requests relief as described in the PRAYER below.

16 **SECOND CAUSE OF ACTION**

17 **RETALIATION IN VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT**

18 **(Against WARREN and DOES 1 through 30)**

19 48. PLAINTIFF alleges and incorporates by reference each of the foregoing
20 paragraphs of this Complaint as if fully alleged herein.

21 49. At all times herein mentioned, California Government Code section 12940 et
22 seq. were in full force and effect and were binding on DEFENDANTS. Under California
23 Government Code section 12940, subdivision (h), it is illegal for "an employer or person to
24 discharge, expel, or otherwise discriminate against any person because the person has opposed
25 practices forbidden under this part"

26 50. DEFENDANTS violated FEHA in that they discriminated against MR. ELLIS
27 and eventually terminated him in retaliation for him opposing practices forbidden by FEHA.
28 DEFENDANTS' false and retaliatory accusation that MR. ELLIS neglected his job duties was

made in order to wrongfully terminate MR. ELLIS's employment and disguise DEFENDANTS' true retaliatory intent; the real reason DEFENDANTS terminated MR. ELLIS was because of his complaints of race harassment by Mr. Brownell.

51. MR. ELLIS engaged in protected activity, including making complaints about DEFENDANTS' race discrimination, harassment, and retaliation. MR. ELLIS reported the instances of race discrimination and harassment in writing via email and/or in person to HR, Mr. Paxton, Ms. Davis, and Ms. Asbell with the hope that DEFENDANTS would take some type of action to protect him. To MR. ELLIS's surprise, DEFENDANTS retaliated against him by disciplining and terminating him in retaliation for his complaints about the discrimination, harassment, and retaliation.

52. As a proximate result of MR. ELLIS's actions and complaints, DEFENDANTS retaliated against MR. ELLIS and subjected him to adverse employment decisions and actions, including but not limited to, termination of his employment.

53. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as alleged herein, PLAINTIFF has suffered lost income, employment, and career opportunities, and has suffered and continues to suffer other economic loss, the precise amount of which will be proven at trial.

54. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as alleged herein, PLAINTIFF has suffered and continues to suffer great anxiety, embarrassment, anger, loss of enjoyment of life, humiliation, physical pain, financial distress, and emotional distress, the precise amount of which will be proven at trial.

55. As a proximate result of the wrongful acts of DEFENDANTS, PLAINTIFF has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. PLAINTIFF is entitled to recover attorneys' fees and costs under California Government Code section 12965, subdivision (b).

56. The acts taken toward PLAINTIFF were carried out by DEFENDANTS' officers, directors, and/or managing agents acting in a despicable, oppressive, fraudulent,

1 malicious, deliberate, egregious, and inexcusable manner and in conscious disregard for the
2 rights and safety of PLAINTIFF. DEFENDANTS and their agents/employees or supervisors,
3 authorized, condoned and ratified the unlawful conduct of each other. Consequently,
4 PLAINTIFF is entitled to an award of punitive damages against DEFENDANTS.

5 57. PLAINTIFF has been generally damaged in an amount within the jurisdictional
6 limits of this Court and requests relief as described in the PRAYER below.

7 **THIRD CAUSE OF ACTION**

8 **RACE HARASSMENT**

9 **(Against WARREN and DOES 1 through 30)**

10 58. PLAINTIFF alleges and incorporates by reference each of the foregoing
11 paragraphs of this Complaint as if fully alleged herein.

12 59. At all times herein mentioned, California Government Code section 12940 et
13 seq. were in full force and effect and were binding on DEFENDANTS. Under California
14 Government Code section 12940, subdivision (j), it is an unlawful employment practice for an
15 employer to harass an employee because of an employee's race.

16 60. DEFENDANTS and DEFENDANTS' tenants' harassing conduct and comments
17 based on PLAINTIFF's race were severe and/or pervasive enough to create a work
18 environment that a reasonable person would consider intimidating, hostile, and/or abusive.

19 61. For example, the conduct of Mr. Brownell and other tenants, as herein described
20 above, constitutes harassment, in violation of Government Code section 12940, subdivision (j).
21 The harassment complained of was sufficiently severe and/or pervasive so as to alter the
22 conditions of PLAINTIFF's employment and create an abusive working environment.

23 62. PLAINTIFF was also treated differently than other employees due to
24 his race and reporting of the herein described incidents to his employer WARREN.

25 63. The conduct, statements and acts described herein were an ongoing part of a
26 continuing scheme and course of conduct. WARREN knew the substance of the above-
27 described facts and circumstances and ratified the wrongs and injuries mentioned herein when
28 it was in their ability to prevent, remedy and/or correct these wrongs. WARREN continued to

1 ratify and refused to remedy or correct the aforementioned conduct, notwithstanding the fact
2 that its officials, supervisors and/or managing agents knew or reasonably should have known,
3 and know or reasonably should know, of the conduct and its unlawful motivations.

4 64. PLAINTIFF is an African American male. At all relevant times, WARREN and
5 Mr. Brownell perceived PLAINTIFF to be African American and/or Black. Beginning on or
6 about November 2020 and continuing throughout PLAINTIFF's employment with
7 DEFENDANTS, DEFENDANTS' tenants, including but not limited to Mr. Brownell,
8 subjected PLAINTIFF to a barrage of discriminatory and harassing comments on the basis of
9 his race. These included, but were not limited to:

10 (a) During MR. ELLIS's employment, Eric Cannon ("Mr. Cannon"), a tenant at
11 Kingston, walked into MR. ELLIS's office with a pocket office and began making
12 racist remarks. Mr. Cannon shouted to MR. ELLIS "I do not want a Mexican
13 maintenance man. I am ready to go back to jail. I do not want you to let those beaners
14 come into my apartment." MR. ELLIS informed Mr. Paxton of the incident, but
15 WARREN failed to take any action to prevent further racial harassment of MR. ELLIS.

16 (b) On or about March 5, 2021, Mr. Brownell entered MR. ELLIS's office and
17 began loudly cursing at MR. ELLIS and calling him racial slurs such "this is fucking
18 bullshit, niggers can never get anything right." Mr. Brownell continued to threaten MR.
19 ELLIS by throwing items off of his desk and shouting inappropriate racially motivated
20 statements such as "I'll see you when you get off work." Mr. Brownell damaged items
21 in MR. ELLIS's office and threw stacks of documents to the floor, creating a mess for
22 MR. ELLIS to clean up. Mr. Brownell even violently kicked over MR. ELLIS's trash
23 can across the office. MR. ELLIS reported the incident to Mr. Paxton, Mr. Davis, and
24 Ms. Asbell, however, WARREN failed to take any action.

25 65. WARREN's tenants' conduct was severe and/or pervasive enough to create a
26 work environment that a reasonable person would consider intimidating, hostile, and/or
27 abusive. WARREN's tenants' harassing conduct interfered with PLAINTIFF's work
28 performance and seriously affected his psychological well-being. PLAINTIFF was deeply

upset by WARREN's tenants' racially-harassing conduct and considered his work environment to be intimidating, hostile and/or abusive. PLAINTIFF is informed and believes, and based thereon alleges, that DEFENDANTS failed to conduct a reasonable and good faith investigation of PLAINTIFF's complaints and failed to take reasonable action to prevent further harassment from occurring. As a result, the harassment of PLAINTIFF continued through the end of his employment.

66. PLAINTIFF is informed and believes, and based thereon alleges, DEFENDANTS engaged in and/or allow their tenants to engage in a pattern and practice of discrimination and racial harassment of their African-American employees.

67. PLAINTIFF alleges that DEFENDANTS wrongfully terminated him due to his race and in retaliation for his protected complaints of race discrimination and harassment.

68. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct and the conduct of DEFENDANTS' tenants, as alleged herein, PLAINTIFF has suffered lost income, employment, and career opportunities, and has suffered and continues to suffer other economic loss, the precise amount of which will be proven at trial.

69. As a proximate result of the wrongful acts of DEFENDANTS and their tenants, PLAINTIFF has suffered and continues to suffer great anxiety, embarrassment, anger, loss of enjoyment of life, humiliation, physical pain, financial distress, and emotional distress, the precise amount of which will be proven at trial.

70. As a proximate result of the wrongful acts of DEFENDANTS and their tenants, PLAINTIFF has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. PLAINTIFF is entitled to recover attorneys' fees and costs under California Government Code section 12965, subdivision (b).

71. The acts taken toward PLAINTIFF were carried out by DEFENDANTS' officers, directors, tenants and/or managing agents acting in a despicable, oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner and in conscious disregard for the rights and safety of PLAINTIFF. DEFENDANTS and their agents/employees or

1 supervisors, authorized, condoned and ratified the unlawful conduct of each other.
2 Consequently, PLAINTIFF is entitled to an award of punitive damages against
3 DEFENDANTS.

4 72. PLAINTIFF has been generally damaged in an amount within the jurisdictional
5 limits of this Court and requests relief as described in the PRAYER below.

6 **FOURTH CAUSE OF ACTION**

7 **RACE DISCRIMINATION**

8 **(Against WARREN and DOES 1 through 30)**

9 73. PLAINTIFF alleges and incorporates by reference each of the foregoing
10 paragraphs of this Complaint as if fully alleged herein.

11 74. At all times mentioned herein, California Government Code section 12940 et
12 seq. were in full force and effect and were binding on DEFENDANTS. Under FEHA,
13 California Government Code section 12940 et seq., it is an unlawful employment practice for
14 an employer because of the race of a person to terminate said person or discriminate against
15 them in terms, conditions, or privileges of employment. FEHA requires DEFENDANTS to
16 refrain from discriminating against any employee on the basis of race.

17 75. Dishonest reasons for termination may allow for a finding of prohibited bias.
18 *Guz v. Bechtel Nat. Inc.* (2000) 24 Cal.4th 317, 356. Additionally, pretext can be inferred from
19 the time of a company's decision to terminate an individual, as well as by the individual's job
20 performance prior to termination. *Nazir v. United States, Inc.* (2009) 178 Cal.App.4th 243,
21 271-272.

22 76. At all relevant times herein, PLAINTIFF was an African-American man and a
23 member of a protected group. PLAINTIFF's race was a contributing and substantial factor in
24 causing DEFENDANTS to discipline PLAINTIFF and terminate his employment, in violation
25 of California Government Code section 12940, subdivision (a).

26 77. DEFENDANTS stated to MR. ELLIS that he was being disciplined because of
27 his "neglect of job duties." DEFENDANTS disciplined MR. ELLIS by terminating his
28 employment, even though his purported conduct was, at worst, substantially similar to or less

1 severe than that of other non African-American employees, who received much lesser
2 discipline. Additionally, the reason that WARREN gave for firing MR. ELLIS is patently
3 false. DEFENDANTS' dishonest and pretextual reasons for termination allow for a finding of
4 bias against African-Americans, which amounts to discrimination.

5 78. In the past, other non African-American employees who allegedly neglected
6 their job duties received less severe penalties and/or were not terminated by WARREN.
7 Similar or even more serious employment violations committed by non African-American
8 employees were either disregarded or treated more leniently. As such, WARREN discharged
9 and disciplined African-Americans with greater frequency and more severity than non African-
10 American employees. For these reasons, MR. ELLIS believes that WARREN unlawfully
11 terminated him because of WARREN's racial animus towards African Americans. Thus,
12 WARREN intentionally and unlawfully discriminated against MR. ELLIS based on his race.

13 79. Additionally, DEFENDANTS subjected PLAINTIFF to different terms and
14 conditions of employment based on PLAINTIFF's known and/or perceived race, in violation of
15 the FEHA. DEFENDANTS' acts created an intimidating, oppressive, hostile, offensive and
16 abusive work environment, which altered and impaired Plaintiff's employment and emotional
17 well-being.

18 80. DEFENDANTS engaged in and/or condoned racially disparate discipline,
19 racially disparate promotion opportunities, and/or routine retaliation against leasing
20 agents/property managers who challenged or complained of racially discriminatory conduct and
21 harassment by WARREN and its tenants. DEFENDANTS' procedures for handling
22 complaints, investigations and discipline have an adverse discriminatory impact against
23 African-Americans. DEFENDANTS' disparate treatment of complaints and discipline is itself
24 a form of discrimination. Complaints made by African-American employees, such as MR.
25 ELLIS, are not treated as seriously as complaints made by other non African-American
26 employees. As such, African-American employees, like MR. ELLIS, who complain of
27 discrimination and harassment, become the victims of retaliation.
28

81. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as alleged herein, PLAINTIFF has suffered lost income, employment, and career opportunities, and has suffered and continues to suffer other economic loss, the precise amount of which will be proven at trial.

82. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as alleged herein, PLAINTIFF has suffered and continues to suffer great anxiety, embarrassment, anger, loss of enjoyment of life, humiliation, physical pain, financial distress, and emotional distress, the precise amount of which will be proven at trial.

83. As a proximate result of the wrongful acts of DEFENDANTS, PLAINTIFF has been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to continue to incur attorneys' fees and costs in connection therewith. PLAINTIFF is entitled to recover attorneys' fees and costs under California Government Code section 12965, subdivision (b).

84. The acts taken toward PLAINTIFF were carried out by DEFENDANTS' officers, directors, and/or managing agents acting in a despicable, oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner and in conscious disregard for the rights and safety of PLAINTIFF. DEFENDANTS and their agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each other. Consequently, PLAINTIFF is entitled to an award of punitive damages against DEFENDANTS.

85. PLAINTIFF has been generally damaged in an amount within the jurisdictional limits of this Court and requests relief as described in the PRAYER below.

FIFTH CAUSE OF ACTION

FAILURE TO PREVENT DISCRIMINATION/RETALIATION

(Against WARREN and DOES 1 through 30)

86. PLAINTIFF alleges and incorporates by reference each of the foregoing paragraphs of this Complaint as if fully alleged herein.

87. At all times mentioned herein, California Government Code section 12940 et seq., including but not limited to section 12940, subdivision (k), were in full force and effect

1 and were binding upon DEFENDANTS. These sections impose on an employer a duty to take
2 immediate and appropriate corrective action to end discrimination and take all reasonable steps
3 necessary to prevent discrimination/retaliation from occurring, among other things.

4 88. PLAINTIFF was subject to discrimination on the basis of: (1) race (i.e., African-
5 American); and, (2) his complaints about DEFENDANTS' unlawful workplace discrimination
6 and retaliation.

7 89. DEFENDANTS failed to take all reasonable steps necessary to prevent
8 discrimination against PLAINTIFF based on: (1) race (i.e., African-American); and, (2) his
9 complaints about DEFENDANTS' unlawful workplace discrimination and retaliation.

10 90. For example, prior to MR. ELLIS's complaint about Mr. Brownell's race
11 harassment, MR. ELLIS had reported Mr. Cannon for his racial slurs and inappropriate conduct
12 to Mr. Paxton; however, WARREN did not take any action against Mr. Cannon to prevent
13 further race harassment Kingston. As such, WARREN and its officers, managers, and/or
14 principals were aware of the racist tenants residing at Kingston and the numerous instances of
15 race harassment that leasing agents/property managers, such as MR. ELLIS, endured while
16 working for WARREN.

17 91. DEFENDANTS' failure to take all reasonable steps necessary to prevent
18 discrimination/retaliation was a contributing and substantial factor in causing PLAINTIFF's
19 harm and a violation of California Government Code section 12940, subdivision (k).

20 92. Additionally, the California Code of Regulations provides that an employer
21 must develop a discrimination prevention policy which states that an employer "will conduct a
22 fair, timely, and thorough investigation" when it receives an allegation of misconduct. Cal.
23 Code Regs. tit. 2, § 11023(b).

24 93. PLAINTIFF made verbal and written complaints to DEFENDANTS, in which
25 he explained that he felt like he was being harassed and discriminated against for being
26 African-American and for subsequently complaining about the harassment and discrimination.
27 DEFENDANTS failed to conduct an investigation into PLAINTIFF's allegation of misconduct
28

1 and as a result failed to prevent discrimination and retaliation against PLAINTIFF from
2 occurring.

3 94. Furthermore, DEFENDANTS failed to implement adequate training, policies or
4 instructions that would have prevented the aforementioned discrimination against employees
5 having engaged in protected activity.

6 95. As a result of the failure of DEFENDANTS to prevent discrimination and
7 retaliation, MR. ELLIS suffered adverse employment actions and was wrongfully terminated.

8 96. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as
9 alleged herein, PLAINTIFF has suffered lost income, employment, and career opportunities,
10 and has suffered and continues to suffer other economic loss, the precise amount of which will
11 be proven at trial.

12 97. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as
13 alleged herein, PLAINTIFF has suffered and continues to suffer great anxiety, embarrassment,
14 anger, loss of enjoyment of life, humiliation, physical pain, financial distress, and emotional
15 distress, the precise amount of which will be proven at trial.

16 98. As a proximate result of the wrongful acts of DEFENDANTS, PLAINTIFF has
17 been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to
18 continue to incur attorneys' fees and costs in connection therewith. PLAINTIFF is entitled to
19 recover attorneys' fees and costs under California Government Code section 12965,
20 subdivision (b).

21 99. The acts taken toward PLAINTIFF were carried out by DEFENDANTS'
22 officers, directors, and/or managing agents acting in a despicable, oppressive, fraudulent,
23 malicious, deliberate, egregious, and inexcusable manner and in conscious disregard for the
24 rights and safety of PLAINTIFF. DEFENDANTS and their agents/employees or supervisors,
25 authorized, condoned and ratified the unlawful conduct of each other. Consequently,
26 PLAINTIFF is entitled to an award of punitive damages against DEFENDANTS.

27 100. PLAINTIFF has been generally damaged in an amount within the jurisdictional
28 limits of this Court and requests relief as described in the PRAYER below.

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107. The acts taken toward PLAINTIFF were carried out by DEFENDANTS' officers, directors, and/or managing agents acting in a despicable, oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner and in conscious disregard for the rights and safety of PLAINTIFF. DEFENDANTS and their agents/employees or supervisors, authorized, condoned and ratified the unlawful conduct of each other. Consequently, PLAINTIFF is entitled to an award of punitive damages against DEFENDANTS.

108. PLAINTIFF has been generally damaged in an amount within the jurisdictional limits of this Court and requests relief as described in the PRAYER below.

SEVENTH CAUSE OF ACTION

DISCRIMINATION/DISCHARGE IN VIOLATION OF LABOR CODE SECTION 6310

(Against WARREN and DOES 1 through 30)

109. PLAINTIFF alleges and incorporates by reference each of the foregoing paragraphs of this Complaint as if fully alleged herein.

110. Pursuant to California Labor Code section 6310, subdivision (b), it is an unlawful employment practice for an employer to discharge, threaten to discharge, demote, suspend, or in any other manner discriminate against an employee in the terms and conditions of employment because of an employee's bona fide oral or written complaint to the employer of unsafe working conditions or work practices in his employment or place of employment.

111. On or about March 5, 2021, PLAINTIFF made verbal and written complaints to DEFENDANTS about the race harassment and unsafe working conditions he endured from Mr. Brownell. On or about March 8, 2021, PLAINTIFF again made another complaint to DEFENDANTS about the race harassment and unsafe working conditions he endured from Mr. Brownell at Kingston. As such, DEFENDANTS were on notice of Mr. Brownell's threats, physical destruction, intimidation, and racist statements towards PLAINTIFF and clearly knew that PLAINTIFF's safety was in jeopardy at Kingston.

112. PLAINTIFF's actions described above constitute protected activity under Labor Code section 6310.

1 113. DEFENDANTS had direct knowledge of PLAINTIFF's protected activity
2 because PLAINTIFF complained directly to DEFENDANTS about safety concerns at
3 Kingston.

4 114. DEFENDANTS violated Labor Code section 6310 when they unlawfully
5 discharged and discriminated against PLAINTIFF in retaliation for PLAINTIFF's complaints
6 to management regarding DEFENDANTS' unsafe working conditions.

7 115. DEFENDANTS' adverse actions against PLAINTIFF were the direct result of
8 him engaging in protected activity (complaining about unsafe working conditions). By such
9 conduct, DEFENDANTS unlawfully retaliated against him for exercising rights afforded to
10 him under Labor Code section 6310.

11 116. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as
12 alleged herein, PLAINTIFF has suffered lost income, employment, and career opportunities,
13 and has suffered and continues to suffer other economic loss, the precise amount of which will
14 be proven at trial.

15 117. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as
16 alleged herein, PLAINTIFF has suffered and continues to suffer great anxiety, embarrassment,
17 anger, loss of enjoyment of life, humiliation, physical pain, financial distress, and emotional
18 distress, the precise amount of which will be proven at trial.

19 118. The acts taken toward PLAINTIFF were carried out by DEFENDANTS'
20 officers, directors, and/or managing agents acting in a despicable, oppressive, fraudulent,
21 malicious, deliberate, egregious, and inexcusable manner and in conscious disregard for the
22 rights and safety of PLAINTIFF. DEFENDANTS and their agents/employees or supervisors,
23 authorized, condoned and ratified the unlawful conduct of each other. Consequently,
24 PLAINTIFF is entitled to an award of punitive damages against DEFENDANTS.

25 119. PLAINTIFF is entitled to reasonable attorney's fees and costs of said suit as
26 specifically provided in California Code of Civil Procedure section 1021.5 and Labor Code
27 sections 2698 et seq.

28 120. PLAINTIFF is entitled to penalties under California Labor Code sections 2698
et seq. due to DEFENDANTS' violations of the California Labor Code.

1 121. PLAINTIFF has been generally damaged in an amount within the jurisdictional
2 limits of this Court and requests relief as described in the PRAYER below.

3 **EIGHTH CAUSE OF ACTION**

4 **CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT**

5 **(Against WARREN and DOES 1 through 30)**

6 122. PLAINTIFF re-alleges and incorporates by reference each and every allegation
7 set forth in all the foregoing paragraphs as if fully set forth herein

8 123. As set forth in detail above, DEFENDANT violated California Labor Code
9 sections 1102.5 and 6310.

10 124. PLAINTIFF submits this Complaint to include allegations pursuant to California
11 Labor Code sections 2698 et seq., the Private Attorneys General Act of 2004. As described
12 above, PLAINTIFF has complied with all of the administrative requirements.

13 125. PLAINTIFF is an aggrieved employee as defined in California Labor Code
14 section 2699, subdivision (a). PLAINTIFF brings this case on behalf of himself as he is
15 affected by the labor law violations alleged in this First Amended Complaint for penalties
16 arising out of violations of his own rights under the Labor Code.

17 126. California Labor Code section 2699, subdivision (f), provides, in pertinent part:

18 For all provisions of this code except those for which a civil
19 penalty is specifically provided, there is established a civil
20 penalty for a violation of these provisions, as follows: . . . (2) If,
21 at the time of the alleged violation, the person employs one or
22 more employees, the civil penalty is one hundred dollars (\$100)
23 for each aggrieved employee per pay period for the initial
24 violation and two hundred dollars (\$200) for each aggrieved
25 employee per pay period for each subsequent violation.

26 127. PLAINTIFF also seeks civil penalties as provided under applicable California
27 Labor Code sections for violations of the California Labor Code alleged herein pursuant to
28 California Labor Code section 2699, subdivision (a). To the extent that any violation alleged

1 herein does not carry a penalty, PLAINTIFF seeks civil penalties pursuant to California Labor
2 Code section 2699, subdivision (f). PLAINTIFF is also entitled to an award of attorneys' fees
3 and costs as set forth below.

4 128. PLAINTIFF's PAGA claim does not require class certification because these
5 claims are made by PLAINTIFF on the behalf primarily of the State of California in this action.
6 Indeed, seventy-five percent (75%) of the net penalties obtained through PAGA accrue to the
7 State of California. Both the language of PAGA and the express intent of the Legislature
8 indicate that an aggrieved employee may bring an action on behalf of other employees without
9 complying with the requirements of a class action. California Labor Code section 2699
10 specifically states that an aggrieved employee may bring an action on behalf of other
11 employees, "[n]otwithstanding any other provision of law..." The wording of the PAGA,
12 which authorizes an aggrieved employee to bring an action "on behalf of himself or herself and
13 other current or former employees... [,]" is similar to the former wording of Business and
14 Professions Code section 17204, which authorized a person to bring an action "acting for the
15 interests of itself, its members or the general public." The Legislature has made clear that an
16 action under the PAGA is in the nature of an enforcement action, with the aggrieved employee
17 acting as a Private Attorney General to collect penalties from employers who violate labor
18 laws. Such an action is fundamentally a law enforcement action designed to protect the public
19 and penalize defendants for past illegal conduct. Restitution is not the primary object of a
20 PAGA action. An action under the PAGA is not for the purpose of recovering damages, but
21 only for the recovery of a civil penalty. Further, PAGA recoveries do not preclude an
22 employee from pursuing any other claim he/she may have available under the law, including
23 those for any unpaid wages.

24 129. As such, PLAINTIFF individually holds a substantive right to bring PAGA
25 claims by standing in the shoe of, and on behalf of, the State of California to enforce California
26 labor laws.

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1 **PRAYER**

2 WHEREFORE, Plaintiff ERIC ELLIS prays for judgment against DEFENDANTS, and
3 each of them, as follows:

4 1. For general damages, according to proof on each cause of action for which such
5 damages are available;

6 2. For special damages, according to proof on each cause of action for which such
7 damages are available;

8 3. For compensatory damages, according to proof on each cause of action for
9 which such damages are available;

10 4. For punitive damages, according to proof on each cause of action for which such
11 damages are available;

12 5. For penalties pursuant to Labor Code section 2698 et seq.;

13 6. For prejudgment and post-judgment interest according to law;

14 7. For reasonable attorneys' fees incurred in this action on those causes of action
15 for which such fees are recoverable under the law;

16 8. For costs of suit incurred in this action; and,

17 9. For such other and further relief as the Court deems just and proper.

18 **JURY TRIAL DEMANDED**

19 Plaintiff ERIC ELLIS hereby demands trial of all issues by jury.

20 DATED: December 28, 2021

BERENJI LAW FIRM, APC

21 By:

22 
23 SHADIE L. BERENJI
24 Attorney for Plaintiff
25 ERIC ELLIS
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1 **PROOF OF SERVICE**

2 I, SHADIE L. BERENJI, am employed in the County of Los Angeles, State of
3 California. I am over the age of 18 and not a party to the within action; my business address
4 is 8383 Wilshire Blvd., Suite 708, Los Angeles, California, 90211.

5 On the date set forth below, I served the foregoing document entitled, **FIRST**
6 **AMENDED COMPLAINT FOR DAMAGES** on the following interested parties:

7 Thomas S. Ingrassia, Esq.

Attorneys for Defendant

8 Zachary H. Rankin, Esq.

WARREN PROPERTIES, INC.

9 **Pettit Kohn Ingrassia Lutz & Dolin PC**

10 tingrassia@PettitKohn.com

11 zrankin@PettitKohn.com

12 kwood@pettitkohn.com

13 janderson@pettitkohn.com

14 ☐ **[by MAIL]** I am readily familiar with the firm's practice of collection and
15 processing correspondence for mailing. Under that practice it would be deposited
16 with the U.S. Postal Service on that same day with postage thereon fully prepaid at
17 Los Angeles, California in the ordinary course of business. I am aware that on motion
18 of the party served, service is presumed invalid if postage cancellation date or postage
19 meter date is more than one day after date of deposit for mailing this affidavit.

20 ☐ **[by OVERNIGHT DELIVERY]** On this date, I placed the documents in
21 envelope(s) addressed to the person(s) on the service list, and caused those envelopes to
22 be delivered to an overnight delivery carrier, with delivery fees provided for, for next-
23 business-day delivery to whom it is to be served.

24 ☒ **[by ELECTRONIC SERVICE]** Pursuant to California Code of Civil Procedure
25 section 1010.6, I electronically served the above-listed document(s) on the parties listed
26 herein by electronic transmission.

27 ☐ **[by PERSONAL SERVICE]** I caused to be delivered by messenger such
28 envelope(s) by hand to the office of the addressee(s).

☒ **STATE** - I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct.

Executed on December 28, 2021, at Beverly Hills, California.

SHADIE L. BERENJI

Print Name

By:


Signature