

SHADIE L. BERENJI (SBN 235021)

berenji@employeejustice.law

BERENJI LAW FIRM, APC

8383 Wilshire Boulevard, Suite 708

Beverly Hills, California 90211

Telephone: (310) 855-3270

Facsimile: (310) 855-3751

Attorney for Plaintiff,

JAHAD MUHAMMAD, individually and

on behalf of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JAHAD MUHAMMAD, an individual,

Plaintiff,

v.

BATTLE-TESTED STRATEGIES, LLC, a
California limited liability company; and
DOES 1 through 30 inclusive,

Defendants.

Case No. **22STCV00781**

REPRESENTATIVE ACTION
COMPLAINT FOR DAMAGES:

- 1. RETALIATION IN VIOLATION OF
LAB. CODE § 98.6 BROUGHT UNDER
PAGA;**
- 2. RETALIATION IN VIOLATION OF
LAB. CODE § 1102.5 BROUGHT
UNDER PAGA;**
- 3. RETALIATION IN VIOLATION OF
HWHFA BROUGHT UNDER PAGA.**

DEMAND FOR JURY TRIAL

Plaintiff JAHAD MUHAMMAD (“PLAINTIFF” or “MR. MUHAMMAD”) brings this
Private Attorneys General Act action against Defendant BATTLE-TESTED STRATEGIES,
LLC and DOES 1 through 30 inclusive (collectively “DEFENDANTS”), on knowledge as to
himself and his own acts, and upon information and belief as to all other matters, as follows:

///

///

1 **NATURE OF ACTION**

2 1. Pursuant to California's Private Attorneys General Act of 2004 ("PAGA"),
3 PLAINTIFF brings this action as an "aggrieved employee" against DEFENDANTS for
4 violations of the California Labor Code. In this case, DEFENDANTS violated California
5 Labor Code sections 233, 246, 246.5, 98.6, and 1102.5, as set forth more fully below.

6 2. PLAINTIFF brings this action seeking civil penalties on behalf of himself and
7 the State of California, and reasonable attorneys' fees and costs.

8 **JURISDICTION AND VENUE**

9 3. Jurisdiction is proper in this Court by virtue of California statutes and decisional
10 law, and the local rules of the Los Angeles County Superior Court.

11 4. At all times mentioned herein, Defendant BATTLE-TESTED STRATEGIES,
12 LLC (hereinafter, "BTS") maintained its corporate headquarters and was qualified to do
13 business in the State of California.

14 5. Venue is proper under California Government Code section 12965, subdivision
15 (b), and California Code of Civil Procedure section 395, in that a substantial part of the events
16 or omissions giving rise to PLAINTIFF's claims occurred in the County of Los Angeles.
17 PLAINTIFF worked in the Los Angeles County at all times during his employment with BTS.
18 At all times relevant herein, BTS maintained its principal place of business in the County of
19 Los Angeles.

20 6. The amount in controversy is within the jurisdiction of this Court.

21 **PARTIES**

22 7. Plaintiff Jahad Muhammad is an individual, and at all times mentioned in this
23 Complaint for Damages under the Private Attorneys General Act ("Complaint"), was a resident
24 of the State of California. MR. MUHAMMAD was employed by BTS as a transportation
25 delivery associate from September 2020 to January 2021. At all times during his employment,
26 MR. MUHAMMAD reported to BTS's worksite located at 600 West Technology Drive,
27 Palmdale, California 93551 to begin performing his job duties.
28

8. At all times relevant herein, MR. MUHAMMAD was also an employee as defined by the Labor Code and under the Healthy Workplaces, Healthy Families Act of 2014 (“HWHFA”), California Labor Code section 246, subdivision (a).

9. PLAINTIFF is informed and believes and based thereon alleges that BTS owns and operates a California-based freight shipping and trucking company that transports products in California. On information and belief, BTS owns, controls, and/or operates vehicles at its Palmdale location where employees perform various job duties in order to fulfill shipments.

10. PLAINTIFF is informed and believes and based thereon alleges that at all times relevant herein, BTS was a California limited liability company that was qualified to do business in the State of California. BTS is headquartered in Lancaster, California.

11. PLAINTIFF is informed and believes that BTS is an “employer” as defined by California Labor Code sections 18, 98.6, subdivision (f), 245.5, subdivision (b), and 1102.5, subdivision (j), as well as any other applicable definitions in the Labor Code.

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

13. PLAINTIFF alleges on information and belief that Does 1 through 20 were and are corporations or other business entities, which were authorized to and did business in Los Angeles County, California. PLAINTIFF is informed and believes that Does 21 through 30 are individuals who at all relevant times herein, were and are employees, managers, supervisors, managing agents, or officers of BTS.

FACTUAL BACKGROUND

14. BTS is a Delivery Service Partner of Amazon and a California-based freight shipping and trucking company that transports products in California.

1 15. MR. MUHAMMAD was hired by BTS as a transportation delivery associate in
2 September 2020 and worked for BTS until he was wrongfully terminated on January 9, 2021.
3 At the time of MR. MUHAMMAD's wrongful termination, MR. MUHAMMAD was fully and
4 satisfactorily performing the duties he was hired to perform as a delivery associate.

5 16. MR. MUHAMMAD's job duties involved loading and delivering packages, and
6 maintaining BTS vehicles to ensure BTS's shipments were delivered timely. At the conclusion
7 of his delivery routes and/or regularly scheduled shifts, MR. MUHAMMAD was required to
8 contact his supervisors to determine if another driver needed assistance with delivering
9 packages; this is known as a "rescue route."

10 17. On January 2, 2021, MR. MUHAMMAD went to work for his regular shift.
11 After MR. MUHAMMAD worked approximately seven hours and completed his delivery route
12 in Victorville, he contacted his supervisors to determine if could return to BTS's workstation in
13 Palmdale because he was feeling sick and wanted to go home. The travel time from Victorville
14 to Palmdale is approximately one and a half hours.

15 18. In response to MR. MUHAMMAD's sick leave request, one of his supervisors,
16 Daryl Von, called him to see how he was feeling and asked if he was "hungover." MR.
17 MUHAMMAD was surprised by his question and expressly stated that he was "not hungover"
18 and he was merely feeling sick from an upset stomach that started the day before. After MR.
19 MUHAMMAD made it clear that he was "not hungover," Daryl Von informed him that he
20 could not return to BTS's workstation because he needed him to go on a rescue route to help
21 another driver in Victorville.

22 19. As instructed, MR. MUHAMMAD went on the rescue route while he continued
23 to feel sick. When MR. MUHAMMAD arrived at the rescue location, the driver no longer
24 needed his assistance. Thereby, MR. MUHAMMAD was finally permitted to drive back to
25 BTS's workstation in Palmdale and end his shift for the day. By the time MR. MUHAMMAD
26 clocked out for the day, he had worked a physically demanding shift that consisted of over 9.0
27 hours.

28 ///

1 20. On January 6, 2021, BTS's Operation Manager, Ms. Veronica Fields ("Ms.
2 Fields"), Daryl Von, and another BTS employee met with MR. MUHAMMAD. Remarkably,
3 Ms. Field told MR. MUHAMMAD that she was taking him off the shift for the entire week
4 because he was "hungover" when he asked Daryl Von if he could conclude his work shift
5 because he was feeling sick. Standing in disbelief, MR. MUHAMMAD denied that he was
6 "hungover" and reiterated that he informed Daryl Von that he was "not hungover" when he told
7 him that he was feeling sick. Notwithstanding the truth and MR. MUHAMMAD's clear and
8 consistent denials, Ms. Fields would not permit MR. MUHAMMAD to work and sent him
9 home.

10 21. Approximately twenty-five minutes after Ms. Field sent MR. MUHAMMAD
11 home, she called him and asked him to report back to work for a delivery route. MR.
12 MUHAMMAD complied and reported back to complete the delivery route, as requested by Ms.
13 Field.

14 22. A few days later, on January 8, 2021, MR. MUHAMMAD sent a written
15 message to BTS's owner, Mr. Johnathon Ervin ("Mr. Ervin"), complaining about Ms. Fields's
16 false statements and the fact that he lost wages as a result of her defamatory conduct. MR.
17 MUHAMMAD's written complaint to Mr. Ervin included, but was not limited to, the
18 following: "Never at any time did I advise Veronica nor dispatch that I had a hangover. In fact
19 I made it very clear that I did not have a hangover. I was merely suffering from an upset
20 stomach which i (sic) said I feel was simply feeling sick from the night before. The reason I
21 am reaching out to you about this is because I have now lost wages for the entire week besides
22 Wednesday, due to Veronica's assumption that I had a hangover. I hereby request that I' (sic)
23 be compensated for my days off."

24 23. To MR. MUHAMMAD's great dismay, BTS responded to his complaint about
25 BTS's unlawful conduct by terminating his employment the following day. On January 9,
26 2021, MR. MUHAMMAD received a text message from Ms. Fields stating, "Hi Jahad, after
27 review of your behavior on January 2nd we have decided to terminate your employment with
28 BTS. You can pick up your last check today or have it mailed to you."

1 24. In response to Ms. Field's message, MR. MUHAMMAD elected to pick up his
2 final paycheck from BTS. When MR. MUHAMMAD arrived at BTS's worksite, he was
3 presented with a defamatory written disciplinary notice that falsely accused him of committing
4 a crime by stating he violated the company's policy by: "Driving a company vehicle while still
5 inebriated and feeling the effects from the night before." The disciplinary notice further stated
6 that, "Coming to work inebriated is a major safety hazard that could have resulted in a motor
7 vehicle accident. It is the expectation of Battle-Tested Strategies employees to follow all laws,
8 rules and regulations regarding driving safety."

9 25. MR. MUHAMMAD could not comprehend how he was being falsely accused of
10 driving under the influence of alcohol (i.e., "inebriated") and working while he was
11 "hungover," after he repeatedly explained to BTS that he was "not hungover" and he merely
12 requested to go home after working approximately seven hours because he was still feeling sick
13 from an upset stomach that started the day before.

14 26. Ms. Field's false statement that MR. MUHAMMAD committed a crime by
15 driving a company vehicle under the influence of alcohol (i.e., "inebriated") and failed to
16 "follow all laws, rules, and regulations regarding driving safety" amount to nothing more than
17 defamation per se. Ms. Field's was aware that she did not have any evidence that MR.
18 MUHAMMAD drove a company vehicle under the influence of alcohol and moreover, BTS
19 was aware that MR. MUHAMMAD repeatedly denied its accusations that he operated a
20 company vehicle while "hungover."

21 27. Notwithstanding evidence that all of BTS's statements about MR.
22 MUHAMMAD were false and unsubstantiated, BTS knowingly used the false and defamatory
23 accusations to wrongfully terminate his employment as a subterfuge to disguise its true
24 retaliatory intent; the real reason BTS terminated MR. MUHAMMAD was because of his
25 request for sick leave and complaint that was premised on the belief that BTS committed
26 defamation and unlawfully caused him to lose wages.

27 ///

28 ///

1 **ALLEGATIONS REGARDING PAGA REPRESENTATIVE ACTION**

2 28. PLAINTIFF submits this Complaint to include allegations pursuant to California
3 Labor Code section 2698 et seq., the Private Attorneys General Act of 2004. The procedural
4 requirements of a PAGA claim, pursuant to California Code of Civil Procedure section 2699.3,
5 subdivision (a), require first that the aggrieved employee or representative shall give written
6 notice by certified mail to the California Labor and Workforce Development Agency and the
7 employer(s). PLAINTIFF has met this requirement.

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

10 The agency shall notify the employer and the aggrieved
11 employee or representative by certified mail that it does not
12 intend to investigate the alleged violation within 60 calendar days
13 of the post mark of the notice given pursuant to Paragraph (1).
14 Upon receipt of that notice or if no notice is provided within 65
15 calendar days of the postmark date of the notice given pursuant to
16 Paragraph (1), the aggrieved employee may commence a civil
17 action pursuant to Section 2699.

18 30. PLAINTIFF has met this procedural requirement. On July 14, 2021, PLAINTIFF
19 notified the California Labor and Workforce Development Agency by certified mail of the
20 violations alleged herein and of his intent to file this lawsuit. To this day, the agency has not
21 responded. As such, PLAINTIFF has complied with the administrative requirements of PAGA.

22 31. PLAINTIFF submits this Complaint to include allegations pursuant to California
23 Labor Code section 2698 et seq., the Private Attorneys General Act of 2004. As described
24 above, PLAINTIFF has complied with all of the administrative requirements.

25 32. PLAINTIFF is an aggrieved employee as defined in California Labor Code
26 section 2699, subdivision (a). PLAINTIFF brings this case on behalf of himself as he is
27 affected by the labor law violations alleged in this Complaint for penalties arising out of
28 violations of his own rights under the Labor Code.

1 33. California Labor Code section 2699, subdivision (f), provides, in pertinent part:
2 For all provisions of this code except those for which a civil
3 penalty is specifically provided, there is established a civil
4 penalty for a violation of these provisions, as follows: . . . (2) If,
5 at the time of the alleged violation, the person employs one or
6 more employees, the civil penalty is one hundred dollars (\$100)
7 for each aggrieved employee per pay period for the initial
8 violation and two hundred dollars (\$200) for each aggrieved
9 employee per pay period for each subsequent violation.

10 34. PLAINTIFF also seeks civil penalties as provided under applicable California
11 Labor Code sections for violations of the California Labor Code alleged herein pursuant to
12 California Labor Code section 2699, subdivision (a). To the extent that any violation alleged
13 herein does not carry a penalty, PLAINTIFF seeks civil penalties pursuant to California Labor
14 Code section 2699, subdivision (f). PLAINTIFF is also entitled to an award of attorneys' fees
15 and costs as set forth below.

16 35. PLAINTIFF'S PAGA claim does not require class certification because these
17 claims are made by PLAINTIFF on the behalf primarily of the State of California in this action.
18 Indeed, seventy-five percent (75%) of the net penalties obtained through PAGA accrue to the
19 State of California. Both the language of PAGA and the express intent of the Legislature
20 indicate that an aggrieved employee may bring an action on behalf of other employees without
21 complying with the requirements of a class action. California Labor Code section 2699
22 specifically states that an aggrieved employee may bring an action on behalf of other
23 employees, "[n]otwithstanding any other provision of law..." The wording of the PAGA,
24 which authorizes an aggrieved employee to bring an action "on behalf of himself or herself and
25 other current or former employees... [,]" is similar to the former wording of Business and
26 Professions Code section 17204, which authorized a person to bring an action "acting for the
27 interests of itself, its members or the general public." The Legislature has made clear that an
28 action under the PAGA is in the nature of an enforcement action, with the aggrieved employee

1 acting as a Private Attorney General to collect penalties from employers who violate labor
2 laws. Such an action is fundamentally a law enforcement action designed to protect the public
3 and penalize defendants for past illegal conduct. Restitution is not the primary object of a
4 PAGA action. An action under the PAGA is not for the purpose of recovering damages, but
5 only for the recovery of a civil penalty. Further, PAGA recoveries do not preclude an
6 employee from pursuing any other claim he/she may have available under the law, including
7 those for any unpaid wages.

8 36. As such, PLAINTIFF individually holds a substantive right to bring PAGA
9 claims by standing in the shoe of, and on behalf of, the State of California to enforce California
10 labor laws. All causes of action described herein are brought on behalf of PLAINTIFF, as an
11 aggrieved employee, and the State of California against DEFENDANTS.

12 **CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 98.6 BROUGHT**
15 **UNDER PAGA**

16 **(Against BTS and DOES 1 through 30)**

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

19 38. California Labor Code section 98.6, subdivision (a), prohibits employers from
20 discharging, discriminating, retaliating, or taking any adverse action against any employee
21 because the employee “has filed a bona fide complaint or claim or instituted or caused to be
22 instituted any proceeding under or relating to his or her rights that are under the jurisdiction of
23 the Labor Commissioner, made a written or oral complaint that he or she is owed unpaid
24 wages, or because the employee has initiated any action or notice pursuant to Section 2699, or
25 has testified or is about to testify in a proceeding pursuant to that section, or because of the
26 exercise by the employee or applicant for employment on behalf of himself, herself, or others
27 of any rights afforded him or her.”

28 ///

1 39. DEFENDANTS retaliated against and wrongfully discharged MR.
2 MUHAMMAD in violation of California Labor Code section 98.6 because he is an employee
3 who engaged in protected reporting activities. MR. MUHAMMAD had engaged in various
4 kinds of reporting activities including requesting paid sick days to care for himself, as well as
5 reporting to his superiors that he was owed unpaid wages for the days that he had been
6 unlawfully removed from BTS's work schedule. MR. MUHAMMAD's employment was
7 terminated by DEFENDANTS' solely because he reported DEFENDANTS' unlawful
8 employment practices.

9 40. Thus, MR. MUHAMMAD's termination is retaliatory and in violation of
10 California Labor Code section 98.6 because it is connected to, and a consequence of, his
11 actions in reporting his need for paid sick days to care for himself, as well as reporting to his
12 superiors that he was owed unpaid wages for the days that he had been unlawfully removed
13 from BTS's work schedule.

14 41. Under Labor Code section 98.6, an aggrieved employee can recover a civil
15 penalty not exceeding \$10,000 for each violation.

16 42. Therefore, pursuant to California Labor Code section 98.6, subdivision (b)(3),
17 MR. MUHAMMAD is entitled to a civil penalty not exceeding \$10,000 for each violation of
18 California Labor Code section 98.6 as a result of DEFENDANTS' retaliatory termination of
19 MR. MUHAMMAD's employment due to him engaging in protected reporting and/or
20 whistleblower activities.

21 43. As a result, MR. MUHAMMAD is entitled to reinstatement and reimbursement
22 for lost wages and work benefits caused DEFENDANT, pursuant to
23 California Labor Code section 98.6, subdivision (b)(1).

24 44. MR. MUHAMMAD is entitled to reasonable attorney's fees and costs of said
25 suit as specifically provided in California Labor Code section 2698 et seq.

26 ///

27 ///

28 ///

SECOND CAUSE OF ACTION
RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5 BROUGHT
UNDER PAGA
(Against BTS and DOES 1 through 30)

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

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

(b) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct

1 the violation or noncompliance, or for providing information to, or
2 testifying before, any public body conducting an investigation,
3 hearing, or inquiry, if the employee has reasonable cause to believe
4 that the information discloses a violation of state or federal statute,
5 or a violation of or noncompliance with a local, state, or federal
6 rule or regulation, regardless of whether disclosing the information
7 is part of the employee's job duties."

8 47. MR. MUHAMMAD believed that Ms. Field and BTS violated the law when
9 Ms. Field made false statements of fact about him and caused him to suffer lost wages as a
10 result of the defamatory statements. MR. MUHAMMAD believed that the law required BTS to
11 pay him the wages he lost because Ms. Field's statements were false and he was ready, willing,
12 and able to work. As a result of the foregoing beliefs, MR. MUHAMMAD complained to a
13 person with authority over him to investigate, discover, or correct these violations - Mr. Ervin.
14 MR. MUHAMMAD complained about DEFENDANTS' wage and hour violations, defamatory
15 statements, and all other concerns outlined in this Complaint and re-alleged and incorporated in
16 this cause of action.

17 48. DEFENDANTS subjected MR. MUHAMMAD to adverse employment actions,
18 including without limitation, termination because MR. MUHAMMAD reported
19 BTS's violations of the law and employment practices to his supervisor. DEFENDANTS
20 retaliated against MR. MUHAMMAD when they wrote him up for pretextual and defamatory
21 reasons and ultimately terminated him in retaliation for his complaints about BTS's defamation
22 and unlawful wage practices.

23 49. On information and belief, MR. MUHAMMAD had a good faith, reasonable
24 belief that his complaints to BTS disclosed violations of state or federal statute, or
25 a violation of or noncompliance with local, state, or federal rule or regulation.

26 50. MR. MUHAMMAD is informed and believes, and based thereupon alleges, that
27 he was terminated from his employment as a result of his complaints to DEFENDANTS about
28 BTS's unlawful wage practices and defamatory statements. DEFENDANTS believed he may

1 disclose that information to a government or law enforcement agency or to other employees.
2 As such, MR. MUHAMMAD's disclosure of these violations resulted in BTS's decision to
3 wrongfully terminate MR. MUHAMMAD.

4 51. As a direct, foreseeable, and proximate result of DEFENDANTS' conduct, as
5 alleged herein, PLAINTIFF has suffered lost income. PLAINTIFF requests penalties against
6 DEFENDANTS for their violation as provided under PAGA, in an amount to be proven at trial.

7 52. Under Labor Code section 1102.5, an aggrieved employee can recover a civil
8 penalty not exceeding \$10,000 for each violation.

9 53. Therefore, pursuant to California Labor Code sections 1102.5, subdivision (f)
10 and 1103, MR. MUHAMMAD is entitled to civil penalties for each violation of
11 California Labor Code section 1102.5, as a result of DEFENDANTS' retaliatory termination of
12 MR. MUHAMMAD's employment due to him engaging in protected reporting and/or
13 whistleblower activities.

14 54. As a proximate result of the wrongful acts of DEFENDANTS, PLAINTIFF has
15 been forced to hire attorneys to prosecute his claims herein, and has incurred and is expected to
16 continue to incur attorneys' fees and costs in connection therewith. PLAINTIFF is entitled to
17 recover attorneys' fees and costs under Labor Code section 2698 et seq.

18 55. MR. MUHAMMAD has been generally damaged by DEFENDANTS'
19 retaliation in an amount within the jurisdictional limits of this Court and requests relief as
20 described in the PRAYER below.

21 **THIRD CAUSE OF ACTION**

22 **RETALIATION IN VIOLATION OF HWHFA BROUGHT UNDER PAGA**

23 **(Against BTS and DOES 1 through 30)**

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

26 57. MR. MUHAMMAD was an employee under the Healthy Workplaces, Healthy
27 Families Act of 2014 ("HWHFA"), California Labor Code section 246, subdivision (a), and
28 entitled to use his accrued paid sick days at the time of his requested sick leave on January 2,

1 2021, as MR. MUHAMMAD had worked for BTS for more than 90 days from the
2 commencement of his employment.

3 58. At all times relevant hereto, California Labor Code section 246 was in full force
4 and effect and was binding upon DEFENDANTS and each of them. That section provides as
5 follows:

6 “(a)(1) An employee who, on or after July 1, 2015, works in
7 California for the same employer for 30 or more days within a year
8 from the commencement of employment is entitled to paid sick
9 days as specified in this section.

10 ... (b)(1) An employee shall accrue paid sick days at the rate of not
11 less than one hour per every 30 hours worked, beginning at the
12 commencement of employment or the operative date of this article,
13 whichever is later, subject to the use and accrual limitations set
14 forth in this section.

15 ... (b)(3) An employer may use a different accrual method, other
16 than providing one hour per every 30 hours worked, provided that
17 the accrual is on a regular basis so that an employee has no less
18 than 24 hours of accrued sick leave or paid time off by the 120th
19 calendar day of employment or each calendar year, or in each 12-
20 month period.”

21 59. MR. MUHAMMAD was first employed by BTS in September 2020;
22 thus, Labor Code section 246 was in effect during the entirety of MR. MUHAMMAD’s
23 employment. Accordingly, MR. MUHAMMAD accrued sick-leave at a rate of no less than 24
24 hours per year and he was not permitted to use his any of his paid sick leave during his
25 employment.

26 ///

27 ///

28 ///

1 60. At all times relevant hereto, California Labor Code section 246.5 was in full
2 force and effect and was binding upon DEFENDANTS and each of them. That section
3 provides as follows:

4 “(a) Upon the oral or written request of an employee, an employer
5 shall provide paid sick days for the following purposes: (1)
6 Diagnosis, care, or treatment of an existing health condition of, or
7 preventive care for, an employee or an employee's family member.

8 (c) (1) An employer shall not deny an employee the right to use
9 accrued sick days, discharge, threaten to discharge, demote,
10 suspend, or in any manner discriminate against an employee for
11 using accrued sick days, attempting to exercise the right to use
12 accrued sick days, filing a complaint with the department or
13 alleging a violation of this article, cooperating in an investigation
14 or prosecution of an alleged violation of this article, or opposing
15 any policy or practice or act that is prohibited by this article. (2)
16 There shall be a rebuttable presumption of unlawful retaliation if
17 an employer denies an employee the right to use accrued sick days,
18 discharges, threatens to discharge, demotes, suspends, or in any
19 manner discriminates against an employee within 30 days of any of
20 the following: ... (C) Opposition by the employee to a policy,
21 practice, or act that is prohibited by this article.”

22 61. At all times relevant hereto, California Labor Code section 233 was in full force
23 and effect and was binding upon DEFENDANTS and each of them. That section provides as
24 follows:

25 “(c) An employer shall not deny an employee the right to use sick
26 leave or discharge, threaten to discharge, demote, suspend, or in
27 any manner discriminate against an employee for using, or
28 attempting to exercise the right to use, sick leave to attend to an

1 illness or the preventive care of a family member, or for any other
2 reason specified in subdivision (a) of section 246.5.”

3 62. MR. MUHAMMAD was feeling sick as a result of an upset stomach on January
4 2, 2021, which required him to request sick leave. After requesting, but not receiving sick
5 leave, MR. MUHAMMAD’s supervisors made defamatory statements about the reason he
6 requested sick leave and used the defamatory statements to remove him from the work schedule
7 and terminate his employment. Given the defamatory statements DEFENDANTS made about
8 his request for sick leave and the nexus between the date he requested sick leave and the date
9 he was removed from the work schedule and fired (i.e., within one week of requesting sick
10 leave), it is clear that MR. MUHAMMAD’s request for sick leave contributed to BTS’s
11 decision to terminate his employment.

12 63. As a direct, foreseeable, and proximate result of DEFENDANTS’ conduct, as
13 alleged herein, PLAINTIFF has suffered lost income. PLAINTIFF requests civil penalties
14 against DEFENDANTS for their violation as provided under PAGA and Labor Code section
15 248.5, in an amount to be proven at trial.

16 64. 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 Labor Code sections 248.5 and 2698 et seq.

20 65. MR. MUHAMMAD has been generally damaged by DEFENDANTS’
21 retaliation in an amount within the jurisdictional limits of this Court and requests relief as
22 described in the PRAYER below.

23 **PRAYER**

24 WHEREFORE, Plaintiff JAHAD MUHAMMAD prays for judgment against
25 DEFENDANTS, and each of them, as follows:

- 26 1. For civil penalties, according to proof;
27 2. For reasonable attorneys’ fees and costs; and,
28 3. For such other and further relief as the Court deems proper.

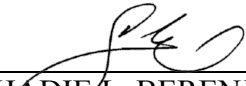
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURY TRIAL DEMANDED

Plaintiff JAHAD MUHAMMAD hereby demands trial of all issues by jury.

DATED: January 7, 2022

BERENJI LAW FIRM, APC

By: 

SHADIE L. BERENJI

Attorney for Plaintiff

JAHAD MUHAMMAD, individually and
on behalf of the State of California