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SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

MAYALL HURLEY P.C.
ROBERT J. WASSERMAN (SBN: 258538)
rwasserman@mavallaw.com
JOHN P. BRISCOE (SBN: 273690)
jbriscoe@mavallaw.com
2453 Grand Canal Boulevard
Stockton, California 95207-8253
Telephone: (209) 477-3833
Facsimile: (209) 473-4818

Attorneys for Plaintiff Jessica Collard

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF HUMBOLDT

JESSICA COLLARD, an individual,

Plaintiff,

vs.

**MURPHY'S MARKETS, INC., a
corporation; and DOES 1-100, inclusive,**

Defendants.

Case No.: **CV2101368**

**CLASS ACTION AND INDIVIDUAL
COMPLAINT**

CLASS ACTION VIOLATIONS

1. FAILURE TO PAY OVERTIME AT CORRECT RATE
2. FAILURE TO PROVIDE PAID SICK LEAVE AT CORRECT RATE
3. UNFAIR COMPETITION
4. FAILURE TO PAY ALL WAGES DUE AT END OF EMPLOYMENT
5. FAILURE TO FURNISH ACCURATE ITEMIZED WAGE STATEMENTS

INDIVIDUAL VIOLATIONS

6. DISABILITY DISCRIMINATION
7. FAILURE TO ACCOMMODATE
8. FAILURE TO ENGAGE IN INTERACTIVE PROCESS
9. RETALIATION FOR TAKING PROTECTED MEDICAL LEAVE
10. RETALIATION FOR REQUESTING ACCOMMODATION FOR DISABILITY
11. FAILURE TO PREVENT DISCRIMINATION AND RETALIATION

JURY TRIAL DEMANDED

1 Plaintiff Jessica Collard brings this class and individual action against Murphy's Markets, Inc.,
2 a corporation; and Does 1 through 100, for violations of the Labor Code and Government Code,
3 respectively.

4 PARTIES

5 1. Jessica Collard ("Collard" or "Plaintiff") is and at all times relevant herein was
6 employed in Humboldt County, California, and was an "employee" as defined by the Fair
7 Employment and Housing Act ("FEHA"), as well as the Labor Code and the applicable California
8 Industrial Wage Commission ("IWC") Order(s).

9 2. Murphy's Markets, Inc. ("MMI" or "Defendant") is a California corporation formed
10 under the laws of that state.

11 3. At all times relevant herein, MMI has been an "employer" under the FEHA, as well as
12 the Labor Code and the applicable California Industrial Wage Commission ("IWC") Order(s).

13 4. MMI and Does 1-100 are collectively referred to as Defendants.

14 5. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as
15 Does 1 through 100, whether individual, corporate, associate, or otherwise and therefore sues such
16 Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names
17 and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each
18 of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged
19 and that Plaintiff's injuries and damages herein alleged were legally caused by such Defendants.
20 Unless otherwise indicated, each Defendant was acting within the course and scope of said agency
21 and/or employment, with the knowledge and/or consent of said co-Defendant.

22 6. Plaintiff is informed and believes and thereupon alleges that at all times mentioned
23 herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant,
24 employee, partner and/or joint venturer of and was acting in concert with each of the remaining
25 Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting
26 within the course and scope of such agency, service, employment partnership, joint venture and/or
27 concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and
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1 within the course and scope of such agency and/or employment, with the knowledge and/or consent of
2 the remaining Defendants.

3 **VENUE AND JURY TRIAL DEMAND**

4 7. Venue is proper in this court because the unlawful acts alleged herein took place in
5 Humboldt County, California and Plaintiff's place of employment with Defendants was within
6 Humboldt County. Plaintiff hereby demands a jury trial.

7 **GENERAL ALLEGATIONS**

8 8. Collard was hired by MMI on or around April 15, 2019 as a supervisor at the Murphy's
9 Market in Arcata, California. MMI owns and operates no less than five grocery markets in Humboldt
10 County. On information and belief, MMI employs more than 200 employees in California.

11 9. At all times during her employment with MMI, Collard was properly classified and paid
12 as a nonexempt, hourly employee. Collard also worked and earned overtime on a regular basis.

13 10. Beginning in 2020, Collard and other California employees of MMI were paid
14 nondiscretionary bonuses and/or other items of compensation in addition to their hourly pay.
15 **(Exhibit 1.)** These bonuses were referred to as "hazard pay" and were paid to employees for
16 working during the COVID-19 pandemic.

17 11. MMI promised Collard and other employees that they would receive this extra pay
18 for working during the pandemic; thus, they were nondiscretionary bonuses, owed pursuant to a
19 contract, agreement, or promise, and were not determined at the sole discretion of the employer.
20 (See *Ferra v. Loews Hollywood Hotel, LLC* (2021) 280 Cal.Ptr.3d 783, 786; see also Division of
21 Labor Standards Enforcement (DLSE), Update of the DLSE Enforcement Policies and
22 Interpretations Manual (rev. 2019) § 49.1.2.4.(e), p. 49-3 (2019 DLSE Manual), citing 29 CFR §§
23 778.211, 778.213 (2021); see also *Alvarado v. Dart Container Corp. of Cal.* (2018) 4 Cal.5th 542,
24 561.)

25 12. To the extent that these payments did not constitute nondiscretionary bonuses, they
26 constituted "other items of compensation".
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1 13. However, and although Collard and other California employees of MMI earned
2 overtime while also earning hazard pay, MMI failed to incorporate the value of hazard payments
3 when calculating these employees' "regular rate of pay" for purposes of paying overtime and
4 doubletime; instead, MMI merely took the employees' base hourly rate and multiplied it by 1.5 or
5 2, as appropriate. (**Exhibit 1.**) Accordingly, MMI violated Labor Code section 510.

6 14. Similarly, MMI failed to properly calculate and pay sick leave to Collard and other
7 California employees of MMI. MMI did provide paid sick leave; however, when calculating and
8 paying such sick leave, MMI again failed to account for the value of earned nondiscretionary
9 bonuses and other items of compensation; instead, it paid sick leave at only its employees' base
10 hourly rate. (**Exhibit 2.**) Accordingly, MMI violated Labor Code section 246.

11 15. Because Collard and other employees were not paid all overtime, doubletime, and
12 sick leave at the appropriate rate, *supra*, the itemized wage statements issued to them did not
13 accurately show gross wages earned, net wages earned, and all applicable hourly rates in effect
14 during the pay period and the corresponding number of hours worked at each rate, in violation of
15 Labor Code section 226, subdivisions (a)(1), (5), and (9).

16 16. At no point since the cessation of Collard's employment has she been paid the full
17 balance of unpaid overtime and paid sick leave, *supra*. Accordingly, MMI violated Labor Code
18 sections 201 and 202. Furthermore, and because Collard was not timely paid all wages due and
19 owing upon the close of each pay period (because she was not paid the full balance of unpaid
20 overtime, doubletime, and paid sick leave), MMI violated Labor Code section 204. These
21 violations were similarly committed as against current and other former California employees of
22 MMI.

23 17. From at least four years prior to the filing of this action, MMI has adopted and
24 employed unfair business practices. These unfair business practices include, but are not limited to,
25 failing to properly calculate and pay all overtime and sick pay.

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INDIVIDUAL ALLEGATIONS

18. At all times during her employment with MMI, Collard performed her job duties with competence and distinction; demonstrating her excellent performance, Collard became Assistant Manager (at the Trinidad market) n or around October 2019.

19. In 2021, Collard suffered from multiple disabilities and needed medical leave on three separate occasions.

20. First, on April 20, 2021, Collard was diagnosed with "significant work related stress, causing elevated blood pressure and anxiety." According to her doctor, Collard was at an acute risk of a stroke. These symptoms limited Collard's ability to work and perform other major life activities. Accordingly, Collard's doctor recommended that she take a month off work and wrote a doctor's note with this recommendation; Collard immediately provided this doctor's note to Dave Breisacher ("Breisacher") of Human Resources (via hand), and took approximately four weeks' medical leave.

21. Collard returned to work on May 16, 2021. However, that very same evening Collard was the victim of a battery in which she suffered, inter alia, a cervical strain and subconjunctival hemorrhage of the right eye. As before, these injuries limited Collard's ability to work and perform other major life activities. That evening, Collard informed Nelson Fagundes ("Fagundes", Manager) of this attack and her injuries.

22. Per Fagundes' instructions, on May 17, 2021 Collard called Breisacher and told him about the attack and her injuries. Breisacher told Collard to take time off. Collard obtained medical attention on May 19, 2021 and was subsequently granted additional medical leave.

23. Collard returned to work on approximately June 14, 2021 and was able to perform her job duties.

24. Unfortunately, Collard was injured on June 17, 2021 while playing tennis; she suffered injuries to her ribs which were later diagnosed as contusions and torn cartilage.

25. Collard came to work on June 18, 2021, and tried to work through the pain, though her injuries limited her ability to, *inter alia*, stand, walk, breathe, and work. Collard rested over the weekend but was compelled to seek medical attention on June 21, 2021. She informed Breisacher of

1 her injuries and diagnosis of rib contusions. To recuperate, Collard took paid time off on June 22-23,
2 2021.

3 26. Collard received a further medical consultation on June 24, 2021 in which she was
4 diagnosed with torn cartilage. She informed Breisacher of this diagnosis and that she had been placed
5 off work through June 28, 2021. Collard's medical leave was subsequently extended through July 5,
6 2021 as her symptoms continued to limit major life activities, *supra*.

7 27. On July 6, 2021, Collard was informed by Breisacher that she was terminated due to
8 attendance issues. However, Collard's attendance occurrences were caused by her various disclosed
9 disabilities, *supra*, and MMI had been made aware of this.

10 28. On August 31, 2021, Collard filed a complaint with the California Department of
11 Fair Employment and Housing, and was issued a right-to-sue notice that same day. (**Exhibit 3.**)

12 29. Furthermore, Collard was not paid all wages to which she was entitled under law.

13 30. The foregoing list of misconduct is a partial list only and set forth by way of example.

14 **CLASS ACTION ALLEGATIONS**

15 31. Collard brings the First through Fifth Causes of Action as a class action, on behalf of
16 herself and all others similarly situated, pursuant to Code of Civil Procedure 382. The classes which
17 Collard seeks to represent consist of the following:

- 18
- 19 a. All current and former nonexempt California employees of Defendants who
20 received nondiscretionary bonuses and/or other items of compensation and
21 worked overtime during one or more pay periods at any time from four years
22 prior to the filing of this Complaint through the entry of final judgment in this
23 action (the "Overtime Class");
- 24 b. All current and former nonexempt California employees of Defendants who
25 received nondiscretionary bonuses and/or other items of compensation and
26 received sick pay during one or more pay periods at any time from four years
27 prior to the filing of this complaint through the entry of final judgment in this
28 action (the "Sick Pay Class");
- c. All members of the Overtime Class and Sick Pay Class who received one or
more wage statements at any time from one year prior to the filing of this
complaint through the entry of final judgment in this action (the "Wage
Statement Class"); and

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2 d. All members of the Overtime Class and Sick Pay Class whose employment
3 with Defendants ended at any time from three years prior to the filing of this
4 Complaint through the entry of final judgment in this action (the "Waiting
5 Time Penalty Class").

6 The Overtime Class, the Sick Pay Class, the Wage Statement Class, and the Waiting Time Penalty
7 Class are collectively referred to as "the Class."

8 32. The Class is so numerous that joinder of all members is impracticable, and the
9 disposition of their claims in a class action is a benefit to the parties and to the Court. Plaintiff is
10 informed and believes, and based thereon alleges, that Defendants employ more than 200 employees
11 who satisfy the class definition. Although the exact number and identity of class members is not
12 presently known, they can be identified in Defendants' records through coordinated discovery pursuant
13 to this class action.

14 33. This action may be maintained as a class because the questions of law and fact which are
15 common to class members clearly predominate over any questions affecting only individual members
16 and because a class action is superior to other available methods for adjudicating the controversy.

17 34. There are numerous common questions of law and fact arising out of Defendants'
18 conduct. This class action focuses on Defendants': (a) systematic failure to properly calculate and pay
19 overtime; (b) systematic failure to properly calculate and pay sick leave; (c) systematic failure to
20 comply with Labor Code section 226(a); and (d) systematic failure to pay all wages upon cessation of
21 employment.

22 35. Furthermore, common questions of fact and law predominate over any questions
23 affecting only individual members of the class. The predominating common or class-wide questions of
24 law and fact include the following:

- 25 a. Whether Defendants failed to properly calculate and pay their nonexempt
26 California employees with overtime;
27 b. Whether Defendants failed to properly calculate and pay their nonexempt
28 California employees with paid sick leave;

- c. Whether the wage statements Defendants furnished to their California employees complied with Labor Code section 226;
- d. Whether Defendants failed to pay their nonexempt California employees all wages due upon cessation of employment;
- e. Whether the alleged violations of the Labor Code constitute unfair business practices;
- f. Whether the Class is entitled to injunctive relief; and
- g. Whether the Class is entitled to unpaid wages, statutory penalties, and/or restitutionary relief, and the amount of the same.

36. Collard's claims are typical of the claims of the members of the Class as a whole, all of whom have sustained and/or will sustain damage and injury as a proximate and/or legal result of the alleged violations of Defendants. Collard's claims are typical of those of the Class because Defendants subjected Plaintiff and each member of the Class to the same violations alleged herein.

37. The defenses of Defendants, to the extent that such defenses apply, are applicable generally to the whole Class and are not distinguishable as to the proposed class members.

38. Collard will fairly and adequately protect the interests of all members of the Class, and has retained attorneys with extensive experience in litigation, including class and representative actions. Plaintiff has no interests that conflict with those of the Class. Collard is able to fairly and adequately protect the interests of all members of the class because it is in her best interest to prosecute the claims alleged herein in order to obtain the full compensation due herself and the other class members.

39. A class action is superior to any other method available for fairly and efficiently adjudicating the controversy because 1) joinder of individual class members is not practicable, 2) litigating the claims of individual class members would be unnecessarily costly and burdensome and would deter individual claims, 3) litigating the claims of individual class members would create a risk of inconsistent or varying adjudications that would establish incompatible standards of conduct for Defendants, 4) class members still working for Defendants may be fearful of retaliation if they were to bring individual claims, 5) class members would be discouraged from pursuing individual claims

1 because the damages available to them are relatively small, and 6) public policy encourages the use of
2 the class actions to enforce employment laws and protect individuals who, by virtue of their
3 subordinate position, are particularly vulnerable.

4 40. Judicial economy will be served by maintenance of this lawsuit as a class action. To
5 process numerous virtually identical individual cases will significantly increase the expense on the
6 Court, the class members, and Defendants, all while unnecessarily delaying the resolution of this
7 matter. There are no obstacles to effective and efficient management of this lawsuit as a class action by
8 this Court and doing so will provide multiple benefits to the litigating parties including, but not limited
9 to, efficiency, economy, and uniform adjudication with consistent results.

10 41. Notice of a certified class action and any result or resolution of the litigation can be
11 provided to class members by mail, email, publication, or such other methods of notice as deemed
12 appropriate by the Court.

13 **FIRST CAUSE OF ACTION**
14 **FAILURE TO PAY OVERTIME AT CORRECT RATE**
15 **(Lab. Code § 510 & 1198)**
16 **Against Defendants**

17 42. Plaintiff hereby realleges and incorporates by reference each and every allegation set
18 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
19 allegations of this cause of action.

20 43. Pursuant to Labor Code section 510, any work in excess of eight hours in one workday
21 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
22 seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-
23 half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be
24 compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any
25 work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no
26 less than twice the regular rate of pay of an employee.

27 44. Pursuant to Labor Code section 1198, the maximum hours of work and standard
28 conditions of labor fixed by the commission shall be the maximum hours of work and the standard

1 conditions of labor for employees and the employment of any employee for longer hours than those
2 fixed by the commission or under conditions of labor prohibited by the order is unlawful.

3 45. During the relevant time period, Plaintiff and other class members regularly worked
4 overtime and doubletime.

5 46. During the relevant time period, Defendants intentionally and willfully failed to pay the
6 proper overtime/doubletime wages due to Plaintiff and other class members.

7 47. Wherefore, Plaintiff and the Class have been injured as set forth above and request relief
8 as hereafter provided.

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10 **SECOND CAUSE OF ACTION**
FAILURE TO PROVIDE SICK LEAVE AT CORRECT RATE
(Lab. Code, §§ 218, 233, 246 et seq.)
11 **Against Defendants**

12 48. Plaintiff hereby realleges and incorporates by reference each and every allegation set
13 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
14 allegations of this cause of action.

15 49. Labor Code section 246(l) requires that employers pay sick time pay to non-exempt
16 employees at that employee's "regular rate of pay."

17 50. According to the California Supreme Court, sick pay is a form of wages. (*Murphy v.*
18 *Kenneth Cole Productions* (2007) 40 Cal.4th 1094, 1103.)

19 51. Labor Code section 233 provides that "any employer who provides sick leave for
20 employees shall permit an employee to use in any calendar year the employee's accrued and
21 available sick leave entitlement, in an amount not less than the sick leave that would be accrued
22 during six months at the employee's then current rate of entitlement, for the reasons specified in
23 subdivision (a) of Section 246.5."

24 52. During the relevant time period, Defendants intentionally and willfully failed to pay
25 Plaintiff and other class members sick pay as required by law. Accordingly, Plaintiff and other
26 class members did not receive the full amount of paid sick time that they was entitled to receive by
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1 law, and were therefore denied the right to use sick leave within the meaning of Labor Code
2 sections 233(a) and (c).

3 53. Any employer who violates Labor Code section 233 is liable to employees for the
4 greater of one days' pay or actual damages, reasonable equitable relief, and reasonable attorneys'
5 fees and costs. (Lab. Code, § 233, subds. (d), (e).)

6 54. Further, Labor Code section 218 authorizes a private right of action to recover unpaid
7 wages.

8 55. Wherefore, Plaintiff and the Class have been injured as set forth above and request relief
9 as hereafter provided.

10 **THIRD CAUSE OF ACTION**
11 **UNFAIR BUSINESS PRACTICES**
12 **(Bus. & Prof. Code, § 17200, *et seq.*)**
Against Defendants

13 56. Plaintiff hereby realleges and incorporates by reference each and every allegation set
14 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
15 allegations of this cause of action.

16 57. The statutory violations, as alleged above, are unfair business practices within the
17 meaning of the Unfair Competition Law (Business and Professions Code sections 17200 *et seq.*), and
18 include, but are not limited to, failing to properly calculate and pay overtime and sick wages.

19 58. Wherefore, Plaintiff and the Class have been injured as set forth above and request relief
20 as hereafter provided.

21 **FOURTH CAUSE OF ACTION**
22 **FAILURE TO PAY ALL WAGES DUE AT END OF EMPLOYMENT**
23 **(Lab. Code, § 201, *et seq.*)**
Against Defendants

24 59. Plaintiff hereby realleges and incorporates by reference each and every allegation set
25 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
26 allegations of this cause of action.

1 60. Labor Code section 201 provides that if an employer discharges an employee, the wages
2 earned and unpaid at the time of discharge are due and payable immediately.

3 61. Labor Code section 202 requires an employer to pay an employee all earned wages
4 within 72 hours of the employee quitting his or her employment, or immediately at the time of quitting
5 if the employee has given 72 hours previous notice of his or her intention to quit.

6 62. As set forth above, Plaintiff and other class members were not timely paid all earned but
7 unpaid wages when their employment with Defendants ended.

8 63. Wherefore, Plaintiff and the Class have been injured as set forth above and request relief
9 as hereafter provided.

10 **FIFTH CAUSE OF ACTION**
11 **FAILURE TO FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE STATEMENTS**
12 **(Lab. Code, § 226(a))**
 Against Defendants

13 64. Plaintiff hereby realleges and incorporates by reference each and every allegation set
14 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
15 allegations of this cause of action.

16 65. Pursuant to Labor Code section 226(a) "every employer shall, semimonthly or at the
17 time of each payment of wages, furnish each of his or her employees, either as a detachable part of the
18 check, draft, or voucher paying the employee's wages, or separately when the wages are paid by
19 personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
20 total hours worked by the employee [. . .], (3) the number of piece-rate units earned and any applicable
21 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
22 inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the
23 last four digits of his or her social security number or an employee identification number, (8) the name
24 and address of the legal entity that is the employer [. . .], (9) all applicable hourly rates in effect during
25 the pay period and corresponding number of hours worked at each hourly rate by the employee and, if
26 the employer is a temporary services employer [. . .], the rate of pay and the total hours worked for each
27 temporary services assignment."

1 66. An employee suffering injury as a result of the knowing and intentional failure by an
2 employer to comply with Labor Code section 226(a) is entitled to recover the greater of all actual
3 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
4 dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the aggregate
5 penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's
6 fees. (Lab. Code, § 226, subd. (e)(1).)

7 67. An employee is deemed to suffer injury if the employer fails to provide a wage
8 statement or if the employer fails to provide accurate and complete information as required by any one
9 or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and
10 easily determine from the wage statement alone, i) the amount of gross/net wages paid to the employee
11 during the pay period or any of the other information required to be provided pursuant to Labor Code
12 section 226(a) items (2) to (4), inclusive, (6) and (9), ii) deductions made by the employer, iii) the name
13 and address of the employer and iv) the name of the employee and the last four digits of his or her
14 social security number or employee identification number. (Lab. Code, § 226, subds. (e)(2)(A), (B)(i)-
15 (iv).) "Promptly and easily determine" means a reasonable person would be able to readily ascertain
16 the information without reference to other documents or information. (Lab. Code, § 226, subd.
17 (e)(2)(C).)

18 68. As set forth above, Defendants intentionally and willfully failed to furnish accurate
19 itemized wage statements which complied with Labor Code section 226.

20 69. Wherefore, Plaintiff and the Class have been injured as set forth above and request relief
21 as hereafter provided.

22 **SIXTH CAUSE OF ACTION**
23 **DISABILITY DISCRIMINATION**
24 **(Gov. Code, § 12940, subd. (a))**
 By Plaintiff Against Defendants

25 70. Plaintiff hereby realleges and incorporates by reference each paragraph above as
26 though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this
27 cause of action.

1 71. The Fair Employment and Housing Act ("FEHA") explicitly prohibits an employer
2 from refusing to hire or employ a person, discharging a person from employment, or discriminating
3 against such person in compensation or in terms, conditions or privileges of employment on the
4 basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability,
5 medical condition, marital status, sex, age or sexual orientation. (Gov. Code, § 12940, subd. (a).)
6 "Race, religious creed, color, national origin, ancestry, physical disability, mental disability,
7 medical condition, marital status, sex, age, or sexual orientation" includes a perception that the
8 person has any of those characteristics or that the person is associated with a person who has, or is
9 perceived to have, any of those characteristics. (Gov. Code, § 12926, subd. (n).)

10 72. At all times relevant herein mentioned, Plaintiff was qualified for the position she
11 held with Defendants.

12 73. Defendants were at all times material herein Plaintiff's employer pursuant to
13 Government Code section 12926, subdivision (d) and were therefore barred from discriminating in
14 its employment decisions in violation of Government Code section 12940, subdivision (a).

15 74. Nevertheless, as set forth above, Defendants discriminated against Plaintiff based on
16 the basis of disability, in violation of Government Code section 12940, subdivision (a).

17 75. Defendants' actions towards Plaintiff were committed by them, their officers,
18 directors, and/or managing agents, and/or employees in an oppressive, fraudulent, and malicious
19 manner, and ratified by them, in order to injure or damage Plaintiff, thereby justifying an award of
20 punitive damages.

21 76. Wherefore, Plaintiff has been injured as set forth above and requests relief as
22 hereafter provided.

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1 **SEVENTH CAUSE OF ACTION**
2 **FAILURE TO ACCOMMODATE**
3 **(Gov. Code, § 12940, subd. (m))**
4 **By Plaintiff Against Defendants**

5 77. Plaintiff hereby realleges and incorporates by reference each and every allegation set
6 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
7 allegations of this cause of action.

8 78. The FEHA requires an employer to “make reasonable accommodation for the
9 known physical or mental disability of an applicant or employee.” (Gov. Code, § 12940(m).)

10 79. Defendants were at all times material herein Plaintiff’s employers pursuant to
11 Government Code section 12926(d), had knowledge of Plaintiff’s disabilities, and were required to
12 reasonably accommodate her pursuant to Government Code section 12940(m).

13 80. Nevertheless, as set forth above, Defendants failed to make a reasonable
14 accommodation for Plaintiff’s known disabilities in violation of Government Code section
15 12940(m).

16 81. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants
17 and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious
18 manner in order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

19 82. As a direct and proximate result of Defendants’ conduct, Plaintiff has suffered
20 damages and requests relief as hereafter provided.

21 **EIGHTH CAUSE OF ACTION**
22 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS**
23 **(Gov. Code, § 12940, subd. (n))**
24 **By Plaintiff Against Defendants**

25 83. Plaintiff hereby realleges and incorporates by reference each and every allegation
26 set above as though fully set forth herein, except as said paragraphs are inconsistent with the
27 allegations of this cause of action.

28 84. The FEHA requires an employer “to engage in a timely, good faith, interactive
process with the employee or applicant to determine effective reasonable accommodations, if any,

1 in response to a request for reasonable accommodation by an employee or applicant with a known
2 physical disability or known medical condition.” (Gov. Code, § 12940, subd. (n).)

3 85. Defendants were at all times material herein Plaintiff’s employer(s) pursuant to
4 Government Code section 12926, subdivision (d), had knowledge of Plaintiff’s disabilities/medical
5 condition, and was required to engage in the interactive process pursuant to Government Code
6 section 12940, subdivision (n).

7 86. Nevertheless, as set forth above, Defendants failed to engage in a timely, good faith,
8 interactive process to determine effective reasonable accommodations in violation of Government
9 Code section 12940, subdivision (n).

10 87. As a result of Defendants’ conduct, Plaintiff has suffered damages.

11 88. Defendants’ actions towards Plaintiff were committed or ratified by Defendants,
12 and/or their managing agents and/or employees in an oppressive, fraudulent, and malicious manner
13 in order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

14 89. Wherefore, Plaintiff seeks damages as set forth below.

15 **NINTH CAUSE OF ACTION**
16 **RETALIATION FOR TAKING PROTECTED MEDICAL LEAVE**
17 **(Gov. Code, § 12945.2)**
18 **By Plaintiff Against Defendants**

19 90. Plaintiff hereby realleges and incorporates by reference each and every paragraph
20 set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
21 allegations of this cause of action.

22 91. The California Family Rights Act (“CFRA”) is part of the FEHA and explicitly
23 prohibits an employer or person from discharging, expelling, or otherwise discriminating against
24 any person because the person has taken protected medical leave. (Gov. Code, § 12945.2.)

25 92. Nevertheless, as set forth above, Defendants discriminated against Plaintiff for
26 taking leave pursuant to the CFRA.
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93. Defendants' actions towards Plaintiff were committed or ratified by Defendants, and/or their managing agents and/or employees in an oppressive, fraudulent, and malicious manner in order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

94. Wherefore, Plaintiff requests relief as hereafter provided.

TENTH CAUSE OF ACTION
RETALIATION FOR REQUESTING ACCOMMODATION FOR DISABILITY
(Gov. Code, § 12940, subd. (m)(2))
By Plaintiff Against Defendants

95. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

96. The FEHA explicitly prohibits an employer from retaliating or otherwise discriminating against a person for requesting accommodation for a disability, regardless of whether the request was granted. (Gov. Code, § 12940, subd. (m)(2).)

97. Nevertheless, as set forth above, Defendants unlawfully retaliated against Plaintiff for requesting accommodation, in violation of the FEHA.

98. As a result of Defendant's conduct, Plaintiff has suffered damages.

99. Wherefore, Plaintiff seeks damages as set forth below.

ELEVENTH CAUSE OF ACTION
FAILURE TO PREVENT DISCRIMINATION AND RETALIATION
(Gov. Code, § 12940, subd. (k))
By Plaintiff Against Defendants

100. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

101. FEHA requires an employer to take all reasonable steps necessary to prevent discrimination and retaliation from occurring. (Gov. Code, § 12940, subd. (k).)

102. Nevertheless, as set forth above, Defendants failed to prevent discrimination and retaliation against Plaintiff.

103. As a result of Defendants' conduct, Plaintiff has suffered damages.

104. Defendants' actions towards Plaintiff were committed by them, their officers, directors, and/or managing agents, and/or employees in an oppressive, fraudulent, and malicious manner, and ratified by them, in order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

105. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants as follows:

As to the First through Fifth Causes of Action:

1. That this Court certify the Class;
2. That this Court appoint Collard as Class Representative;
3. That this Court appoint Mayall Hurley P.C. as Class Counsel;
4. That this Court award actual and compensatory damages, as well as restitutionary relief, to Collard and other members of the Class, including but not limited to the remedies provided for under Labor Code section 233(d);
5. That this Court award injunctive relief, including that available under Labor Code sections 226(h) and 248.5(e), as well as Business and Professions Code section 17203;
6. That this Court award statutory penalties including, but not limited to, those available under Labor Code sections 203 and 226;
7. That this Court award statutory attorneys' fees and costs, including those available under Labor Code sections 218.5, 226(e)(1) and (h), 233(e), 248.5(e), 1194, as well as those available under Code of Civil Procedure section 1021.5;
8. That this Court award prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law; and
9. That this Court award such other and further relief as the court deems just and proper.

///

1 **As to the Sixth through Eleventh Causes of Action:**

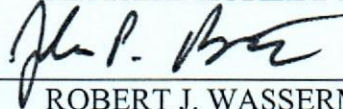
- 2 1. For compensatory damages, both general and special;
- 3 2. For punitive damages;
- 4 3. For injunctive relief;
- 5 4. For statutory attorneys' fees and costs, including those available under Government
- 6 Code section 12965(b) and Code of Civil Procedure section 1021.5;
- 7 5. For prejudgment and post-judgment interest according to any applicable provision
- 8 of law or as otherwise permitted by law, including those available under Civil Code
- 9 sections 3287(a) and 3289(b); and
- 10 6. For such other and further relief as the court deems just and proper.

11 ///

12 **DATED:** September 20, 2021

MAYALL HURLEY P.C.

13 By



14 ROBERT J. WASSERMAN
15 JOHN P. BRISCOE
16 Attorneys for Plaintiff
17 JESSICA COLLARD
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Exhibit 1

PERSONAL AND CHECK INFORMATION

JESSICA COLLARD

EARNINGS

Soc Sec #: XXX-XX-XXXX Employee ID: 1158

Hire Date: 04/15/19

Status: FT

Filing Status:

Federal: Single, 1

State: CA, Single, 1

Br/Dept: 5/100

Pay Period: 03/29/20 to 04/11/20

Check Date: 04/17/20 Check #: 26964

TIME OFF (Based On Policy Year)

DESCRIPTION

PAID SICK LEAVE - HOURS

TOTAL BAL

19.000

NET PAY ALLOCATIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
Check Amount	182.70	365.40
CHECKING1	0.00	9668.51
Net Pay	182.70	10033.91

DESCRIPTION	HRS/ UNITS	RATE	CURRENT (\$)	YTD HRS/ UNITS	YTD (\$)
REGULAR				603.50	12673.50
OVERTIME				18.00	567.00
BONUS			200.00		400.00
HOLIDAY				8.00	168.00
SICK LEAVE				19.00	399.00
HOURS WORKED				621.50	
ADJ EARNINGS			200.00		14207.50
GROSS EARNINGS			200.00	648.50	14207.50

DEDUCTIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
ROA		1262.56
TOTAL	0.00	1262.56

WITHHOLDINGS

DESCRIPTION	CURRENT (\$)	YTD (\$)
FEDERAL W/H		1298.48
OASDI	12.40	880.87
MEDICARE	2.90	206.00
STATE W/H CA		383.60
STATE SDI CA	2.00	142.08
TOTAL	17.30	2911.03

NET PAY

CURRENT (\$)	YTD (\$)
182.70	10033.91

Payrolls by Paychex, Inc.

0485-2936 MURPHYS MARKETS, INC ■ 785 BAYSIDE ROAD ■ ARCATA, CA 95521 ■

PERSONAL AND CHECK INFORMATION

JESSICA COLLARD

Soc Sec #: XXX-XX-XXXX Employee ID: 1158

Hire Date: 04/15/19

Status: FT

Filing Status:

Federal: Single, 1

State: CA, Single, 1

Br/Dept: 5/100

Pay Period: 03/29/20 to 04/11/20

Check Date: 04/17/20 Check #: Direct Deposit

TIME OFF (Based On Policy Year)

DESCRIPTION

PAID SICK LEAVE - HOURS

TOTAL BAL

19.000

NET PAY ALLOCATIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
Check Amount	0.00	365.40
CHECKING1 -	1462.15	9668.51
Net Pay	1462.15	10033.91

EARNINGS

DESCRIPTION	HRS/ UNITS	RATE	CURRENT (\$)	YTD HRS/ UNITS	YTD (\$)
REGULAR	80.00	21.0000	1680.00	603.50	12673.50
OVERTIME	6.00	31.5000	189.00	18.00	567.00
BONUS					400.00
HOLIDAY				8.00	168.00
SICK LEAVE				19.00	399.00
HOURS WORKED	86.00			621.50	
ADJ EARNINGS			1869.00		14207.50
GROSS EARNINGS	86.00		1869.00	648.50	14207.50

DEDUCTIONS

DESCRIPTION	CURRENT (\$)	YTD (\$)
ROA	7.07	1262.56
TOTAL	7.07	1262.56

WITHHOLDINGS

DESCRIPTION	CURRENT (\$)	YTD (\$)
FEDERAL WH	180.72	1298.48
OASDI	115.88	880.87
MEDICARE	27.10	206.00
STATE W/H CA	57.39	383.60
STATE SDI CA	18.69	142.08
TOTAL	399.78	2911.03

NET PAY

CURRENT (\$)	YTD (\$)
1462.15	10033.91

Payrolls by Paychex, Inc.

0435-2936 MURPHYS MARKETS, INC ■ 785 BAYSIDE ROAD ■ ARCATA, CA 95521 ■

Exhibit 2

PERSONAL AND CHECK INFORMATION

Jessica Collard

Soc Sec #: xxx-xx-xxxx Employee ID: 1158

Home Department: 100 GROCERY / 5 TRINIDAD

Pay Period: 08/02/20 to 08/15/20

Check Date: 08/21/20 Check #: 28543

NET PAY ALLOCATIONS

DESCRIPTION	THIS PERIOD (\$)	YTD (\$)
Check Amount	0.00	21874.19
Chkg	1001.20	1001.20
NET PAY	1001.20	22875.39

TIME OFF (Based on Policy Year)

DESCRIPTION	TOTAL BAL
PAID SICK	5.575 hrs

EARNINGS

DESCRIPTION	HRS/UNITS	RATE	THIS PERIOD (\$)	YTD HOURS	YTD (\$)
Regular	67.00	21.0000	1407.00	1225.50	25735.50
Overtime	3.00	31.5000	94.50	43.25	1362.38
Bonus			200.00		2200.00
Holiday				8.00	168.00
Holiday Worked				16.50	866.25
Sick Leave	8.00	21.0000	168.00	43.00	903.00
Vacation				18.50	388.50
Total Hours	78.00			1354.75	
Gross Earnings			1869.50		31623.63
Total Hrs Worked	70.00				

WITHHOLDINGS

DESCRIPTION	FILING STATUS	THIS PERIOD (\$)	YTD (\$)
Social Security		110.33	1949.52
Medicare		25.83	455.94
Fed Income Tax	S 1	168.58	2835.35
CA Income Tax	SMI2 0 1	51.49	835.29
CA Disability		17.80	314.44
TOTAL		374.03	6390.54

DEDUCTIONS

DESCRIPTION	THIS PERIOD (\$)	YTD (\$)
Dental Ins	4.05	8.10
Medical Ins	84.95	169.90
Roa	404.40	2177.96
Vision Ins	0.87	1.74
TOTAL	494.27	2357.70

NET PAY

THIS PERIOD (\$)
1001.20

YTD (\$)
22875.39

Payrolls by Paychex, Inc.

0942 Y485-2936 MURPHYS MARKETS- INC • 785 Bayside Road • Arcata CA 95521 • (916) 759-5633

Exhibit 3



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758

(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711

<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

KEVIN KISH, DIRECTOR

August 31, 2021

John Briscoe
2453 Grand Canal Blvd.
Stockton, California 95207

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202108-14474516
Right to Sue: Collard / Murphys Markets, Inc.

Dear John Briscoe:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

August 31, 2021

RE: **Notice of Filing of Discrimination Complaint**
DFEH Matter Number: 202108-14474516
Right to Sue: Collard / Murphys Markets, Inc.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be made within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfef.ca.gov

KEVIN KISH, DIRECTOR

August 31, 2021

Jessica Collard
[REDACTED]

RE: Notice of Case Closure and Right to Sue
DFEH Matter Number: 202108-14474516
Right to Sue: Collard / Murphys Markets, Inc.

Dear Jessica Collard:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective August 31, 2021 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for DFEH's Small Employer Family Leave Mediation pilot program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free voluntary mediation service. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free voluntary mediation service. A request for mediation must be submitted to the DFEH within 30 days of receipt of the Notice of Case Closure and Right to Sue. If mediation is requested, the employee is prohibited from filing a civil action until mediation is complete. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from DFEH's receipt of a mediation request under section 12945.21 until mediation is complete. To request DFEH Small Employer Family Leave Mediation, email DRDOnlineRequests@dfef.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758

(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711

<http://www.dfeh.ca.gov> | Email: contact.center@dfefh.ca.gov

KEVIN KISH, DIRECTOR

Department of Fair Employment and Housing

COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)

In the Matter of the Complaint of

Jessica Collard

DFEH No. 202108-14474516

Complainant,

vs.

Murphys Markets, Inc.
785 Bayside Rd.
Arcata, California 95521

Respondents

1. Respondent **Murphys Markets, Inc.** is an employer **Murphys Markets, Inc.** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant **Jessica Collard**, resides in the City of **McKinleyville**, State of **California**.

3. Complainant alleges that on or about **July 6, 2021**, respondent took the following adverse actions:

Complainant was discriminated against because of complainant's disability (physical or mental), medical condition (cancer or genetic characteristic), other, family care or medical leave (cfra) and as a result of the discrimination was terminated, laid off, forced to quit, denied hire or promotion, reprimanded, suspended, denied reasonable accommodation for a disability, other, denied work opportunities or assignments, denied or forced to transfer, denied family care or medical leave (cfra).

Complainant experienced retaliation because complainant requested or used a disability-related accommodation, requested or used family care or medical leave (cfra) and as a result was laid off, forced to quit, denied hire or promotion, reprimanded, suspended, denied reasonable accommodation for a disability, other, denied work opportunities or assignments, denied or forced to transfer, denied family care or medical leave (cfra).

1 **Additional Complaint Details:** Complainant was hired by Respondent on or around April
15, 2019 as a supervisor at the Murphy's Market in Arcata, California. At all times,
2 Complainant performed her job duties with competence and distinction; demonstrating her
excellent job performance, Complainant became Assistant Manager (at the Trinidad
3 location) in or around October 2019. In 2021, Complainant suffered from multiple disabilities
and needed medical leave on three separate occasions. First, on April 20, 2021,
4 Complainant was diagnosed with "significant work related stress, causing elevated blood
pressure and anxiety." According to her doctor, Complainant was at an acute risk of a
5 stroke. These symptoms limited Complainant's ability to work and perform other major life
activities. Accordingly, Complainant's doctor recommended that she take a month off work
6 and wrote a doctor's note with this recommendation; Complainant immediately provided this
doctor's note to Dave Breisacher of Human Resources (via hand), and took approximately
7 four weeks' medical leave. Complainant returned to work on May 16, 2021. However, that
8 very same evening Complainant was the victim of a battery in which she suffered, inter alia,
a cervical strain and subconjunctival hemorrhage of the right eye. As before, these injuries
9 limited Complainant's ability to work and perform other major life activities. That evening,
Complainant informed Nelson Fagundes (Manager) of this attack and her injuries. Per Mr.
10 Fagundes' instructions, the next day Complainant called Mr. Breisacher and told him about
the attack and her injuries. Mr. Breisacher told Complainant to take time off. Complainant
11 obtained medical attention on May 19, 2021 and was subsequently granted additional
medical leave. Complainant returned to work on approximately June 14, 2021 and was able
12 to perform her job duties. Unfortunately, Complainant was injured on June 17, 2021 while
playing tennis; she suffered injuries to her ribs which were later diagnosed as contusions
13 and torn cartilage. Complainant came to work on June 18, 2021, and tried to work through
the pain, though her injuries limited her ability to, inter alia, stand, walk, breathe, and work.
14 Complainant rested over the weekend but was compelled to seek medical attention on June
21, 2021. She informed Mr. Breisacher of her injuries and diagnosis of rib contusions.
15 Complainant received a further medical consultation on June 24, 2021 in which she was
diagnosed with torn cartilage. She informed Mr. Breisacher of this diagnosis and that she
16 had been placed off work through June 28, 2021. Complainant's medical leave was
subsequently extended through July 5, 2021 as her symptoms continued to limit major life
17 activities, supra. On July 6, 2021, Complainant was informed by Mr. Breisacher that she was
terminated due to attendance issues. However, Complainant's attendance occurrences were
18 caused by her various disclosed disabilities, supra, and Respondent had been made aware
of this. Thus, Complainant was discriminated against and terminated because of her
19 disability, perceived disability, and perceived future disability, and was retaliated against for
requesting and taking protected medical leave and for requesting accommodation.
20 Respondent further failed to provide reasonable accommodations and to engage in a good
faith interactive process to determine such accommodations. Respondent failed to prevent
21 the foregoing, which is a partial list of misconduct only and set forth by way of example.

1 VERIFICATION

2 I, **John P. Briscoe**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On August 31, 2021, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

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Stockton, CA