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VIOLETA MUNOZ MEDINA

Assigned for All Purposes
Judge Randall J. Sherman
CX-105

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

VIOLETA MUNOZ MEDINA, an individual,

Plaintiff,

v.

VITA-HERB NUTRICEUTICALS, INC., a
California Corporation; SALVADOR
MERCADO, an individual; JOSEPH
PATRONES, an individual; BING BAKSH an
individual; and DOES 1 through 20, inclusive,

Defendants.

Case No. 30-2022-01263866-CU-WT-CXC

COMPLAINT FOR DAMAGES FOR:

- 1. DISCRIMINATION IN VIOLATION OF
GOV'T CODE §§ 12940 ET SEQ.;**
- 2. HARASSMENT IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 3. RETALIATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 4. FAILURE TO PREVENT
DISCRIMINATION, HARASSMENT AND
RETALIATION IN VIOLATION OF
GOV'T CODE §12940(k);**
- 5. RETALIATION (CAL. LABOR CODE
§ 98.6);**
- 6. RETALIATION (CAL. LABOR CODE
§§ 1102.5, 1102.6, 6310);**
- 7. WRONGFUL CONSTRUCTIVE
TERMINATION IN VIOLATION OF
PUBLIC POLICY;**
- 8. FOR DECLARATORY JUDGMENT;**
- 9. FAILURE TO PAY ALL WAGES DUE
AND IMPROPER DEDUCTIONS (CAL.
LABOR CODE §§ 200, 201, 204, 221, 351;**

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- 10. FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);
 - 11. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);
 - 12. WAITING TIME PENALTIES (CAL. LABOR CODE §§201, 203);
 - 13. PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §§2699, ET. SEQ.); AND
 - 14. UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.).

10 DEMAND OVER \$25,000
11 [DEMAND FOR JURY TRIAL]

12 COMES NOW PLAINTIFF, VIOLETA MUNOZ MEDINA, and for causes of action
13 against the Defendants and each of them, alleges as follows:
14

15 **JURISDICTION**

16 1. This Court is the proper court, and this action is properly filed in Orange County, because
17 Defendants' obligations and liability arise therein, because Defendants maintain offices and transact
18 business within such county, and because the work which is the subject of this action was performed by
19 Plaintiff in Orange County.

20
21 **THE PARTIES**

22 2. Plaintiff, VIOLETA MUNOZ MEDINA (hereinafter referred to as "PLAINTIFF" or
23 "MUNOZ") is and at all times relevant hereto was a resident of the County of Orange, State of California.

24 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
25 hereto, Defendant VITA-HERB NUTRICEUTICALS, INC. (hereinafter referred to as "VITA-HERB")
26 was and is a California corporation doing business at 172 East La Jolla Street, Placentia, in the County
27 of Orange, State of California.
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1 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
2 hereto, VITA-HERB owned and operated a private business.

3 5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
4 hereto, Defendant SALVADOR MERCADO (hereinafter referred to as “MERCADO”) was and is an
5 individual residing in the County of Orange, State of California.

6 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
7 hereto, Defendant JOSEPH PATRONES (hereinafter referred to as “PATRONES”) was and is an
8 individual residing in the County of Orange, State of California.

9 7. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
10 hereto, Defendant BING BAKSH (hereinafter referred to as “BAKSH”) was and is an individual residing
11 in the County of Orange, State of California.

12 8. MERCADO, PATRONES, and BAKSH are collectively referred to as “Individual
13 Defendants.”

14 9. VITA-HERB and Individual Defendants are collectively referred to as “Defendants.”

15 10. At all times relevant herein, Individual Defendants and DOES 1-20 were each a
16 “supervisor” within the meaning of Government Code section 12926, subdivision (t) under the Fair
17 Employment and Housing Act (“FEHA”). Plaintiff is informed and believes, and thereon alleges that at
18 all time relevant to this action, Individual Defendants and DOES 1-20 were managers and/or supervisors
19 of VITA-HERB, acting as managing agents for VITA-HERB; BAKSH, MERCADO, PATRONES and
20 DOES 1-20 were each acting within the course and scope of his or her employment and on behalf of
21 Defendant such that his or her acts or omissions are imputed to VITA-HERB under the doctrine of
22 *respondent superior*; or, alternatively, at all times relevant to this action, VITA-HERB cloaked VITA-
23 HERB and DOES 1-20 with the appearance of actual authority, such that Plaintiff was justified in relying
24 thereon, and therefore his or her acts or omissions are imputed to VITA-HERB under the doctrine of
25 *respondent superior*.

26 11. At all times relevant herein, VITA-HERB and DOES 1-20 were Plaintiff’s employers,
27 joint employers and/or special employers within the meaning of Government Code §§12926, subdivision
28

1 (d), 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more
2 persons and are therefore subject to the jurisdiction of this Court.

3 12. At all times relevant herein, VITA-HERB, BAKSH, MERCADO, PATRONES, and
4 DOES 1-20 were Plaintiff's employers, joint employers and/or special employers within the meaning of
5 the Labor Code and IWC Wage Order No. 1-2001 or any other applicable wage order, and are each any
6 "employer or other person acting on behalf of an employer" as such term is used in Labor Code section
7 558, 558.1, and/or 1197.1, and liable to Plaintiff on that basis.

8 13. The true names and capacities, whether individual, corporate, associate, or otherwise, of
9 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
10 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
11 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
12 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
13 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
14 alleged hereinafter.

15 14. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
16 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,
17 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
18 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part
19 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,
20 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

21 15. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
22 of them, including Defendants and those defendants named as DOES 1-20, acted in concert with one
23 another to commit the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced
24 one another in the wrongful acts alleged herein, and/or attempted to do so. Plaintiff is further informed
25 and believes, and based thereupon alleges, that Defendants, and each of them, including those defendants
26 named as DOES 1-20, and each of them, formed and executed a conspiracy or common plan pursuant to
27 which they would commit the unlawful acts alleged herein, with all such acts alleged herein done as part
28 of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff harm.

1 16. Whenever and wherever reference is made in this complaint to any act or failure to act by
2 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
3 and/or failures to act by each Defendant acting individually, jointly and severally.

4 17. Plaintiff has filed complaints of discrimination, harassment, retaliation, failure to prevent
5 discrimination or retaliation, failure to accommodate, failure to engage in the interactive process, and
6 wrongful termination under Government Code §§12940, et seq., the California Fair Employment and
7 Housing Act (“FEHA”) with the California Department of Fair Employment and Housing (“DFEH”),
8 and has satisfied Plaintiff’s administrative prerequisites with respect to these and all related filings.

9
10 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

11 18. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
12 of interest and ownership between VITA-HERB and DOES 1-20 that the individuality and separateness
13 of Defendants have ceased to exist.

14 19. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
15 purported corporate existence, VITA-HERB and DOES 1-20 are, in reality, one and the same as
16 Defendants, including, but not limited to because:

17 a. VITA-HERB and DOES 1-20 are completely dominated and controlled by one
18 another, and personally committed the frauds and violated the laws as set forth in this complaint and have
19 hidden and currently hide behind DOES 1-20 to perpetrate frauds, circumvent statutes, or accomplish
20 some other wrongful or inequitable purpose.

21 b. VITA-HERB and DOES 1-20 derive actual and significant monetary benefits by
22 and through one another’s unlawful conduct, and by using one another as the funding source for their
23 own personal expenditures.

24 c. VITA-HERB and DOES 1-20, while really one and the same, were segregated to
25 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
26 accomplishing some other wrongful or inequitable purpose.

27 d. VITA-HERB does not comply with all requisite corporate formalities to maintain
28 a legal and separate corporate existence.

1 e. The business affairs of VITA-HERB and DOES 1-20 are, and at all times relevant
2 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
3 inextricable confusion. VITA-HERB and DOES 1-20 are, and at all times relevant hereto were, used by
4 one another as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and
5 were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of
6 Defendants would not promote justice, in that it would permit Defendants to insulate themselves from
7 liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate
8 existence of VITA-HERB and DOES 1-20 should be disregarded in equity and for the ends of justice
9 because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

10 20. Accordingly, VITA-HERB constitutes the alter ego of DOES 1-20, and the fiction of their
11 separate corporate existence must be disregarded.

12 21. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
13 thereon alleges that VITA-HERB and DOES 1-20 are Plaintiff's joint employers by virtue of a joint
14 enterprise, and that Plaintiff was an employee of VITA-HERB and DOES 1-20. Plaintiff performed
15 services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all
16 Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the manner in
17 which Defendants' business was and is conducted.

18 22. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
19 between DOES 1-20, VITA-HERB, or any of them, (1) there is an express or implied agreement of
20 assumption pursuant to which VITA-HERB and/or DOES 1-20 agreed to be liable for the debts of the
21 other Defendants, (2) the transaction between Employers and/or DOES 1-20 and the other Defendants
22 amounts to a consolidation or merger of the two corporations, (3) VITA-HERB and/or DOES 1-20 are a
23 mere continuation of the other Defendants, or (4) the transfer of assets to VITA-HERB and/or DOES 1-
24 20 is for the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, VITA-HERB
25 and/or DOES 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

26
27 **FACTUAL ALLEGATIONS**

28 23. On or around January 20, 2015, Plaintiff was hired by VITA-HERB as a machine operator.

1 24. Plaintiff worked under her supervisor and plant manager, SALVADOR MERCADO.

2 25. All employees of VITA-HERB worked for and were supervised by BING BAKSH.
3 BAKSH was the Chief Executive Officer (“CEO”) and Human Resources (“HR”) representative at
4 VITA-HERB.

5 26. At all relevant times, VITA-HERB promised to pay Plaintiff \$14.95 per hour.

6 27. At all relevant times, Defendants failed to permit Plaintiff to timely take her paid and
7 uninterrupted 10-minute rest break for every four hours worked. Plaintiff was unable to exercise her right
8 to take the full 10 minutes, and Defendants turned a blind eye knowing the same.

9 28. At all relevant times, Plaintiff did not receive uninterrupted statutory 30-minute meal
10 periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff worked.

11 29. Although Plaintiff was entitled to and did accrue sick time for which he was never paid,
12 Defendants violated Labor Code §§ 233, 245, and 246 because Defendants failed to provide Plaintiff with
13 paid sick leave.

14 30. Defendants violated Labor Code §§ 204 and 223 because Defendants failed to pay wages
15 for all hours worked paid at least twice during each calendar month to employees as required “by
16 contract” under Labor Code section 223, as well as an improper collection of wages paid to an employee
17 under Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist.
18 Mar. 6, 2013).

19 31. Throughout Plaintiff’s employment, Plaintiff was not provided with paystubs that
20 complied with Labor Code § 226, as EMPLOYERS consistently provided incorrect and inaccurate
21 paystubs.

22 32. Plaintiff is informed and believes, and thereon alleges, that herself and other employees
23 were subject to the same violations and, therefore, are aggrieved employees within the meaning of
24 California Labor Code § 2699. Thus, Plaintiff, as an aggrieved employee, reserves her right to bring an
25 action against DEFENDANTS, on behalf of herself and other current and former employees.

26 33. *Additionally, pursuant to Huff v. Securitas Security Services USA, Inc.* (2018) 23
27 Cal.App.5th 745, as an aggrieved employee, Plaintiff may investigate and pursue claims and penalties on
28 behalf of other aggrieved employees for other violations that she was not personally “aggrieved” by.

HOSTILE WORK ENVIRONMENT ALLEGATIONS

34. JOSEPH PATRONES sexually harassed Plaintiff and used his power to create unequal treatment in the workplace, against Plaintiff's benefit, thereby fostering a hostile work environment under BAKSH and MERCADOS's supervision without receiving any form of discipline from them. Thus, BAKSH and MERCADO effectively ratified PATRONES's unlawful conduct.

35. On or around December 2019, PATRONES began to work for VITA-HERB. Shortly after PATRONES began to work for VITA-HERB, in or about January 2020, he began making sexual advances towards Plaintiff.

36. In or about February 2020, PATRONES asked Plaintiff to go out with him, and Plaintiff agreed. However, when Plaintiff found out that PATRONES was married, she declined his invitation to go on a second date and insisted that they maintain a professional relationship only.

37. PATRONES remained persistent and asked Plaintiff out on dates several more times, but MUNOZ rejected his advances each time and made it clear his continued advances were unwanted.

38. Shortly thereafter, PATRONES's behavior escalated and became more aggressive, despite the fact that Plaintiff consistently and firmly declined PATRONES's advances every time.

39. For example, PATRONES began to send inappropriate text messages to Plaintiff. PATRONES also commented on Plaintiff's body often, especially when he was standing behind her.

40. In an effort to flirt with Plaintiff, PATRONES made uneasy comments like "I like the way you look from behind." At one point, PATRONES said "nice view" as he stared at Plaintiff's buttocks. Later, PATRONES told Plaintiff she "had a nice body" and that he wanted to "touch it."

41. PATRONES also invited Plaintiff to book a hotel room, telling her to "imagine the things they could do together."

42. On or around, February 20, 2020, Plaintiff grew anxious of PATRONES's unwanted sexual advances, and she disclosed the same to her supervisor, MERCADO.

43. MERCADO dismissed Plaintiff, as he believed that PATRONES was not "that kind of guy."

44. PATRONES never received any form of discipline for his actions. In fact, VITA-HERB promoted PATRONES to Safety Officer a few weeks later.

1 45. In or about March 2020, after PATRONES's promotion, in retaliation for complaining
2 about his behavior, and for declining his numerous offers of a date, PATRONES created new "rules" that
3 applied only to Plaintiff. PATRONES created the following unfair situations for Plaintiff:

4 a) For example, Plaintiff was the only employee who was not allowed to walk through VITA-
5 HERB's front door which is the entryway for all employees; instead, Plaintiff had to use the back door;

6 b) PATRONES also demanded that Plaintiff turn over her office keys to him even though it
7 was against company policy;

8 c) Plaintiff was the only employee not allowed to wear mascara; and

9 d) Plaintiff was the only employee who was not allowed to roll up her scrubs in spite the fact
10 that VITA-HERB machine operators work in a room with extreme heat exposure that necessitates that
11 they take numerous water breaks daily.

12 46. MERCADO, noticing the mistreatment and retaliation against Plaintiff, and remarked to
13 Plaintiff, "maybe because you didn't sleep with him, he's acting like that."

14 47. In or about April 2020, PATRONES told Plaintiff to move out of his way. A frustrated
15 PATRONES then grabbed Plaintiff, picked her up in the air, and moved her out of his pathway.

16 48. That very same day, PATRONES falsely reported to BAKSH that Plaintiff sexually
17 harassed him to undercut Plaintiff's complaint about PATRONES' conduct.

18 49. A meeting was called, and Plaintiff showed the attendees, including BAKSH and
19 MERCADO, the uninvited, sexually harassing text messages from PATRONES.

20 50. In response, BAKSH told Plaintiff that she was confused about what the term sexual
21 harassment meant and that she was causing trouble within his company.

22 51. During the meeting, Plaintiff asked for the reports she had made regarding her situation
23 with PATRONES, but she was told that those reports were confidential.

24 52. After the meeting, BAKSH asked Plaintiff if she could prove sexual harassment, and
25 Plaintiff sent him all of PATRONES's text messages.

26 53. After some time, Plaintiff asked for an update concerning the text messages, but BASKH
27 said, "I don't have to update you on anything."
28

1 54. Plaintiff felt embarrassed, humiliated, and frustrated because VITA-HERB did not care
2 about her situation.

3 55. Plaintiff made at least five (5) different complaints to her supervisors about inappropriate
4 behavior, and all her complaints were ignored and dismissed.

5 **RETALIATION FOR ENGAGEMENT IN PROTECTED ACTIVITY ALLEGATIONS**

6 56. The room where machine operators worked was quite small and full of large industrial
7 machines that Plaintiff and her coworkers used to heat liquid so they could make vitamin capsules. The
8 room was filled with several heating units that were always in use, and there was no cross-ventilation.
9 Plaintiff and her coworkers were not allowed to bring water bottles into the room in which they made
10 vitamin capsules.

11 57. Defendants required all machine operators, including Plaintiff, but excluding supervisors,
12 to take water and bathroom breaks off the clock.

13 58. In or about May 2020, as a health and safety measure, Plaintiff circulated a petition to
14 allow machine operators to take water and bathroom breaks without having to clock out.

15 59. Plaintiff circulated the petition to prevent heat injury and illness, as the room in which
16 Plaintiff and her coworkers worked was very hot and caused many employees to suffer from heatstroke.

17 60. Plaintiff also circulated the petition because Plaintiff and her coworkers were only allowed
18 to clock out for water and bathroom breaks a certain number of times in one month. VITA-HERB would
19 calculate the amount of time Plaintiff and her coworkers took for their bathroom and water breaks and
20 add them up at the end of the month. If Plaintiff or her coworker's individual break times added up to
21 more than thirty (30) minutes in a month, they would receive a write-up, and risk suspension or
22 termination.

23 61. The petition was Plaintiff's last-ditch effort, as she and several coworkers had complained
24 about the room to MERCADO and BAKSH to no avail.

25 62. In fact, BAKSH told Plaintiff that she should not have circulated the petition, called her
26 "dumb" for doing so, and that she could quit if she did not like the working environment.

27 63. Plaintiff realized that BAKSH was not going to do anything to remediate the abusive work
28 environment she worked in.

1 64. Plaintiff, feeling she had no other option except being forced to work in an unsafe
2 environment, then quit her job because she was exhausted dealing with the mental and emotional stress
3 of the position.

4 65. Plaintiff was therefore constructively terminated in or about February 2021.

5 66. Based on the events set forth above, Plaintiff believes Defendants discriminated, harassed,
6 and retaliated against and terminated Plaintiff based upon her sex/gender, engagement in protected
7 activities, and actually or constructively and wrongfully terminated Plaintiff. Defendants failed and
8 refused to stop and prevent discrimination, harassment, and retaliation against Plaintiff, and Plaintiff was
9 actually or constructively wrongfully terminated.

10 67. Defendants' conduct described herein was undertaken, authorized, and/or ratified
11 Defendants' officers, directors and/or managing agents, including, but not limited to Individual
12 Defendants and those identified herein as DOES 1 through 20, who were authorized and empowered to
13 make decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said
14 managing agents and individuals was therefore undertaken on behalf of Defendants who further had
15 advanced knowledge of the actions and conduct of said individuals whose actions and conduct were
16 ratified, authorized, and approved by managing agents whose precise identities are unknown to Plaintiff
17 at this time and are therefore identified and designated herein as DOES 1 through 20, inclusive.

18 68. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer general
19 and special damages, including severe and profound pain and emotional distress, anxiety, depression,
20 headaches, tension, and other physical ailments, as well as medical expenses, expenses for psychological
21 counseling and treatment, and past and future lost wages and benefits.

22 69. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,
23 commissions, benefits and loss or diminution of earning capacity.

24 70. Plaintiff claims general damages for emotional and mental distress and aggravation in a
25 sum in excess of the jurisdictional minimum of this Court.

26 71. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
27 managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard
28 of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages

1 be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this
2 Court.

3
4 **FIRST CAUSE OF ACTION**
5 **FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
6 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

7 72. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
8 though set forth in full herein.

9 73. At all times hereto, the FEHA was in full force and effect and was binding upon
10 Defendants and each of them.

11 74. As such term is used under FEHA, "on the bases enumerated in this part" means or refers
12 to discrimination on the bases of one or more of the protected characteristics under FEHA.

13 75. FEHA requires Defendants to refrain from discriminating against an employee on the basis
14 of gender, sex, and/or engagement in protected activities from occurring, and to prevent from occurring
15 discrimination, harassment, retaliation on the same bases.

16 76. Plaintiff was a member of multiple protected classes as a result of Plaintiff's gender,
17 sex, and/or engagement in protected activities.

18 77. At all times relevant hereto, Plaintiff was performing competently in the position Plaintiff
19 held with Defendants.

20 78. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination,
21 failure to investigate, remedy, and/or prevent discrimination, and termination, and was harmed thereby.

22 79. Plaintiff is informed and believes that Plaintiff's gender, sex, engagement in protected
23 activities and/or some combination of these protected characteristics under Government Code §12926(j)
24 were motivating reasons and/or factors in the decisions to subject Plaintiff to the aforementioned adverse
25 employment actions.

26 80. Said conduct violates the FEHA, and such violations were a proximate cause in Plaintiff's
27 damage as stated below.

1 81. The damage allegations of Paragraphs 68 through 71, inclusive, are herein incorporated
2 by reference.

3 82. The foregoing conduct of Defendants individually, or by and through their officers,
4 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
5 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
6 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights such
7 as to constitute malice, oppression, or fraud under Civil Code section 3294, thereby entitling Plaintiff to
8 punitive damages in an amount appropriate to punish or make an example of Defendants.

9 83. Pursuant to Government Code section 12965, subdivision (b), Plaintiff requests a
10 reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA.

11
12 **SECOND CAUSE OF ACTION**
13 **FOR HARASSMENT IN VIOLATION OF THE FEHA**
14 **GOVERNMENT CODE §§ 12940, ET SEQ.**
15 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

16 84. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
17 though set forth in full herein.

18 85. At all times hereto, the FEHA was in full force and effect and was binding upon
19 Defendants and each of them.

20 86. As such term is used under FEHA, "on the bases enumerated in this part" means or
21 refers to harassment on the bases of one or more of the protected characteristics under FEHA.

22 87. These laws set forth in the preceding paragraph require Defendants to refrain from
23 harassing, or creating, or maintaining a hostile work environment against an employee based upon the
24 employee's sex/gender and engagement in protected activities, as set forth hereinabove.

25 88. Defendants' harassing conduct was severe or pervasive, was unwelcome by Plaintiff,
26 and a reasonable person in Plaintiff's circumstances would have considered the work environment to
27 be hostile or abusive.

1 89. Defendants violated the FEHA and the public policy of the State of California which is
2 embodied in the FEHA by creating a hostile work environment and harassing Plaintiff because of
3 Plaintiff's sex/gender, engagement in protected activities, and/or some combination of these protected
4 characteristics, as set forth hereinabove.

5 90. The harassing conduct was severe or pervasive, and included, but was not limited to:

- 6 • Multiple unwanted and persistent dating invitations.
- 7 • Unwanted text messages with sexual content.
- 8 • Unwanted sexual advances.
- 9 • Unwanted sexual propositioning.
- 10 • Unwanted touching by Defendant PATRONES;
- 11 • PATRONES grabbed, picked up and moved Plaintiff without Plaintiff's consent.

12 91. The above said acts were perpetrated upon Plaintiff by a supervisor, namely the
13 Individual Defendants, and/or Defendants knew or should have known of the conduct but failed to take
14 immediate and appropriate corrective action.

15 92. The above said acts of Defendants constitute violations of the FEHA and violations of
16 the public policy of the State of California. Such violations were a proximate cause in Plaintiff's
17 damage as stated below.

18 93. A reasonable person in Plaintiff's circumstances would have considered the work
19 environment to be hostile, intimidating, offensive, oppressive, or abusive.

20 94. Plaintiff considered the work environment to be hostile, intimidating, offensive,
21 oppressive, or abusive.

22 95. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

23 96. The damage allegations of Paragraphs 68 through 71, inclusive, are herein incorporated
24 by reference.

25 97. The foregoing conduct of Defendants individually, or by and through their officers,
26 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
27 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
28 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights such

1 as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
2 punitive damages in an amount appropriate to punish or make an example of Defendants.

3 98. Pursuant to Government Code § 12965(b), Plaintiff requests a reasonable award of
4 attorneys' fees and costs, including expert fees pursuant to the FEHA.

5
6 **THIRD CAUSE OF ACTION**
7 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
8 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

9 99. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
10 though set forth in full herein.

11 100. At all times hereto, the FEHA was in full force and effect and was binding upon
12 Defendants and each of them.

13 101. These laws set forth in the preceding paragraph require Defendants to refrain from
14 retaliating against an employee for engaging in protected activity.

15 102. Plaintiff engaged in the protected activities of complaining about and protesting
16 Defendants' discriminatory and harassing conduct towards Plaintiff based upon Plaintiff's sex/gender.

17 103. Plaintiff suffered the adverse employment actions of unlawful harassment,
18 discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination,
19 failure to reinstate and/or return to work, and termination, and was harmed thereby.

20 104. Plaintiff is informed and believes that Plaintiff's conduct of complaining about and
21 protesting about Defendants' discriminatory and harassing conduct, and/or some combination of these
22 factors, were motivating reasons and/or factors in the decisions to subject Plaintiff to the
23 aforementioned adverse employment actions.

24 105. Defendants violated the FEHA by retaliating against Plaintiff and terminating Plaintiff
25 for attempting to exercise Plaintiff's protected rights, as set forth hereinabove.

26 106. Plaintiff is informed and believes, and based thereon alleges, that the above acts of
27 retaliation committed by Defendants were done with the knowledge, consent, and/or ratification of, or
28 at the direction of, each other Defendant and the other Managers.

1 107. The above said acts of Defendants constitute violations of the FEHA, and were a
2 proximate cause in Plaintiff's damage as stated below.

3 108. The damage allegations of Paragraphs 68 through 71, inclusive, are herein incorporated
4 by reference.

5 109. The foregoing conduct of Defendants individually, or by and through their officers,
6 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
7 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
8 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
9 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
10 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

11 110. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
12 attorneys' fees and costs, including expert fees pursuant to the FEHA.

13
14 **FOURTH CAUSE OF ACTION**
15 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION IN**
16 **VIOLATION OF GOV'T CODE §12940(k)**
17 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

18 111. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
19 though set forth in full herein.

20 112. At all times hereto, the FEHA, including in particular Government Code §12940(k),
21 was in full force and effect and was binding upon Defendants.

22 113. This subsection imposes a duty on Defendants to take all reasonable steps necessary to
23 prevent discrimination, harassment, and retaliation from occurring. As alleged above, Defendants
24 violated this subsection and breached their duty by failing to take all reasonable steps necessary to
25 prevent discrimination, harassment and retaliation from occurring.

26 114. The above said acts of Defendants constitute violations of the FEHA, and were a
27 proximate cause in Plaintiff's damage as stated below.

1 115. The damage allegations of Paragraphs 68 through 71, inclusive, are herein incorporated
2 by reference.

3 116. The foregoing conduct of Defendants individually, or by and through their officers,
4 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
5 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
6 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
7 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
8 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

9 117. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
10 attorneys' fees and costs, including expert fees pursuant to the FEHA.

11
12 **FIFTH CAUSE OF ACTION**

13 **FOR RETALIATION**

14 **LABOR CODE §§ 98.6**

15 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

16 118. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
17 though set forth in full herein.

18 119. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against an
19 employee for, among other things, complaining that he or she is owed unpaid wages, for whistleblowing;
20 and for exercising "any rights afforded him or her" under the Labor Code. Thus, Section 98.6 prohibits
21 an employer from discharging or in any manner discriminating or retaliating against an employee who,
22 among other things, has exercised her or her rights under that Chapter, including refusing to participate
23 in unlawful conduct, and any conduct described in Chapter 5 (commencing with Section 1101) of the
24 Labor Code.

25 120. An employee who has been discharged or retaliated against in violation of Labor Code
26 §98.6 is entitled to recovery of a civil penalty against the employer in an amount not exceeding ten
27 thousand dollars (\$10,000.00) for each violation of that section.

1 121. Plaintiff is informed and believes, and on that basis alleges, that Plaintiff was treated
2 unequally and constructively terminated and from her employment with Defendants as a result of her
3 complaints that there were unsafe working conditions and complaining about conduct which she believed
4 was illegal.

5 122. The above described conduct by Defendants, violates Labor Code § 98.6 and Plaintiff is
6 entitled to damages and a civil penalty of ten thousand dollars (\$10,000) against Defendants.

7 123. As a result of Plaintiff's exercising her rights under Labor Code § 98.6, Plaintiff is
8 informed and believes and thereon alleges that Defendants retaliated against her via constructive
9 termination among other conduct, by essentially forcing her to quit after complaints about sexual
10 harassment and health and safety conditions in the workplace were ignored by Defendants.

11 124. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
12 Defendants, and Defendants' officers and/or managing agents, including those identified herein as the
13 Individual Defendants and DOES 1-20, who were authorized and empowered to make decisions that
14 reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents and
15 individuals was therefore undertaken on behalf of Defendants. Defendants further had advanced
16 knowledge of the actions and conduct of said individuals whose actions and conduct were ratified,
17 authorized, and approved by managing agents whose precise identities are unknown to Plaintiff at this
18 time and are therefore identified and designated herein as DOES 1-20, inclusive.

19 125. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered
20 special damages including but not limited to past and future loss of income, benefits, and other damages
21 to be proven at time of trial.

22 126. The damage allegations of Paragraphs 68 through 71, inclusive, are herein incorporated
23 by reference.

24 127. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered
25 general damages including, but not limited to, shock, embarrassment, physical distress and injury,
26 humiliation, emotional distress, stress and other damages to be proven at the time of trial.

1 128. Defendants committed the acts alleged herein maliciously, fraudulently and oppressively
2 in conscious disregard for Plaintiff's rights. Plaintiff is, therefore, entitled to recover punitive damages
3 from Defendants in an amount according to proof at trial.

4
5 **SIXTH CAUSE OF ACTION**

6 **FOR RETALIATION**

7 **LABOR CODE §§ 232.5, 1102.5, 1102.6, 6310**

8 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

9 129. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
10 though set forth in full herein.

11 130. At all relevant times, Labor Code §1102.5 was in full force and effect, and was binding
12 on Defendants. This law prohibits an employer, or any person acting on behalf of the employer, from
13 discharging an employee or in any manner discriminating or retaliating against, or taking any adverse
14 action against, an employee because, among other things, the employee disclosed information to a
15 government or law enforcement agency, or to a person with authority over the employee or another
16 employee who has the authority to investigate, discover, or correct the violation or noncompliance, if the
17 employee has reasonable cause to believe that the information discloses a violation of state or federal
18 statute, or violation of or noncompliance with a local, state, or federal rule or regulation, regardless of
19 whether disclosing the information is part of the employee's job duties. This law also prohibits retaliation
20 against an employee for *refusing to participate* in an activity that would result in a violation of state or
21 federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation.

22 131. Pursuant to Labor Code §1102.5(f), in addition to other penalties, an employer that is a
23 corporation or limited liability company is liable for a civil penalty not exceeding ten thousand dollars
24 (\$10,000) for each violation of this section.

25 132. Labor Code §6310 declares, in pertinent part, that no person shall discharge, or in any
26 manner discriminate against an employee, because the employee has made any oral or written complaint
27 to his employer with reference to employee safety or health. The public policy underlying Labor Code
28

1 §6310 is not merely to aid the reporting of actual safety violations; it is to prevent retaliation against those
2 who in good faith report working conditions they believe to be unsafe.

3 133. Labor Code section 232.5, subdivision (c), prohibits employers from discharging,
4 formally disciplining, or otherwise discriminating against employees who disclose information about the
5 employer's working conditions. Indeed, the law in California is that an employee's good faith but
6 mistaken belief in the illegality of his co-workers', supervisor's, and employer's conduct is protected
7 from employer retaliation in the whistle-blowing context.

8 134. Plaintiff is informed and believes, and on that basis alleges, that Plaintiff was subjected to
9 adverse employment actions, not the least of which was being terminated from her employment with
10 Defendants as a result of her complaints that she was being sexually harassed on a consistent basis and
11 that there were unsafe working conditions in the facility. Defendants told Plaintiff that if she didn't like
12 the working conditions, she could quit. Plaintiff was forced to quit to protect her rights, and was therefore
13 constructively terminated.

14 135. Said conduct by Defendants violates Labor Code Labor Code §1102.5 and Labor Code
15 §1102.6, and such violations were a proximate cause in Plaintiff's damages as hereinabove stated.

16 136. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
17 \$10,000.00 for Defendants' violations of Labor Code § 1102.5.

18 137. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered
19 special damages including but not limited to past and future loss of income, benefits, and other damages
20 to be proven at time of trial.

21 138. The damage allegations of Paragraphs 68 through 71, inclusive, are herein incorporated
22 by reference.

23 139. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
24 \$10,000.00 for Defendants' violations of Labor Code § 1102.5.

25 140. The foregoing conduct of Defendants individually, or by and through their managing
26 agents, was intended by Defendants to cause injury to Plaintiff, or was despicable conduct carried on by
27 Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to cruel
28 and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice, oppression,

1 or fraud under Civil Code § 3294, thereby entitling Plaintiff to punitive damages in an amount appropriate
2 to punish or make an example of Defendants.

3
4 **SEVENTH CAUSE OF ACTION**
5 **FOR WRONGFUL CONSTRUCTIVE TERMINATION IN VIOLATION OF**
6 **THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**
7 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

8 141. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
9 though set forth in full herein.

10 142. At all relevant times mentioned in this complaint, the FEHA was in full force and effect
11 and was binding on Defendants. This law requires Defendants to refrain, among other things, from
12 discriminating against any employee on the basis of sex/gender and from retaliating against any
13 employee who engages in protected activity.

14 143. At all times mentioned in this complaint, Article I, Section 8 of the California
15 Constitution was in full force and effect and binding on Defendants. This law requires Defendants to
16 refrain from disqualifying a person from pursuing employment on the basis of race, color, national
17 origin, or sex.

18 144. At all times mentioned in this complaint, it was a fundamental policy of the State of
19 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of
20 sex/gender and/or engagement in protected activity.

21 145. Plaintiff believes and thereon alleges that Plaintiff's sex/gender and engagement in
22 protected activity with respect to these protected classes, and/or some combination thereof, were factors
23 in Defendants' conduct as alleged hereinabove.

24 146. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's
25 employment on the basis of sex/gender, Plaintiff's complaining of harassment and discrimination due
26 to these protected classes, Plaintiff's engagement in protected activity, and/or some combination of
27 these factors, were a proximate cause in Plaintiff's damages as stated below.

1 147. At all relevant times mentioned in this complaint, Labor Code §§923, 6310, and 6400, et
2 seq., were in full force and effect and were binding on Defendants.

3 148. Labor Code §6310 declares, in pertinent part, that no person shall discharge, or in any
4 manner discriminate against an employee, because the employee has made any oral or written complaint
5 to his employer with reference to employee safety or health. The public policy underlying Labor Code
6 §6310 is not merely to aid the reporting of actual safety violations; it is to prevent retaliation against those
7 who in good faith report working conditions they believe to be unsafe.

8 149. Labor Code §§6400, et seq., require that every employer shall furnish employment and a
9 place of employment that is safe and healthful for employees. *City of Palo Alto v. Service Employees*
10 *International Union (SEIU)* (1999) 77 Cal.App.4th 327.

11 a) Labor Code §6401 provides that “Every employer shall . . . adopt and use practices,
12 means, methods, operations and processes which are reasonably adequate to render such employment and
13 place of employment safe and healthful. Every employer shall do every other thing reasonably necessary
14 to protect the life, safety and health of employees.”

15 b) Labor Code §6402 provides that “No employer shall require, or permit any
16 employee to go or be in any employment or place of employment which is not safe and healthful.”

17 150. When read together, the foregoing statutes establish a fundamental public policy of the
18 State of California requiring employers to provide a safe and secure workplace, including a requirement
19 that an employer take reasonable steps to address credible threats of violence in the workplace.

20 151. At all times mentioned herein, Employers controlled various remedies available to
21 counteract the potentially dangerous and/or unsafe work environment, including but not limited to:
22 investigating the complaints reported against the Individual Defendants, providing a temperature-
23 controlled room for employees to work, and investigating and preventing unfair time practices for breaks.

24 152. Plaintiff believes and thereon alleges that her complaints regarding the safety and health
25 of the place of employment furnished by Defendants were factors in Defendants’ decision to retaliate
26 against Plaintiff by essentially forcing Plaintiff to quit, as alleged hereinabove.

27 153. These laws require Defendants to refrain, among other things, from discharging,
28 suspending, or in any other manner discriminating against an employee because the employee has made

1 a bona fide oral or written complaint to his or her employer and disclosed the employer's working
2 conditions, or the employer believes that the employee disclosed or may disclose information to a
3 government or law enforcement agency, and the employee shall be entitled to reinstatement and
4 reimbursement for lost wages and work benefits caused by the acts of the employer. The Labor Code
5 further states that any employer who willfully refuses to rehire, promote, or otherwise restore an employee
6 is guilty of a misdemeanor.

7 154. The above said acts of Defendants constitute violations of the Government Code, Labor
8 Code, and the public policy of the State of California embodied therein as set forth above. Defendants
9 violated these laws by discriminating and retaliating against Plaintiff and terminating Plaintiff's
10 employment in retaliation for exercise of protected rights.

11 155. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's protected
12 status as a protected member of the class under FEHA, engagement in protected activities under Labor
13 Code sections 98.6, 1102.5, 6310, and/or 232.5, was a proximate cause in Plaintiff's damages as stated
14 below.

15 156. Such discrimination and retaliation against Plaintiff who, in good faith, reported working
16 conditions she believed to be unsafe were a proximate cause in Plaintiff's damages as stated below.

17 157. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has suffered
18 special damages including but not limited to past and future loss of income, benefits, and other damages
19 to be proven at time of trial.

20 158. The damage allegations of Paragraphs 68 through 71, inclusive, are herein incorporated
21 by reference.

22 159. The foregoing conduct of Defendants individually, or by and through their officers,
23 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
24 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
25 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights such
26 as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive
27 damages in an amount appropriate to punish or make an example of Defendants.
28

EIGHTH CAUSE OF ACTION
FOR DECLARATORY JUDGMENT
AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE

160. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 159, inclusive, as though set forth in full herein.

161. Government Code §12920 sets forth the public policy of the State of California as follows:

It is hereby declared as the public policy of this state that it is necessary to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation.

It is recognized that the practice of denying employment opportunity and discriminating in the terms of employment for these reasons foments domestic strife and unrest, deprives the state of the fullest utilization of its capacities for development and advancement, and substantially and adversely affects the interests of employees, employers, and the public in general.

Further, the practice of discrimination because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, or genetic information in housing accommodations is declared to be against public policy.

It is the purpose of this part to provide effective remedies that will eliminate these discriminatory practices.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

162. Government Code §12920.5 embodies the intent of the California legislature and states:

In order to eliminate discrimination, it is necessary to provide effective remedies that will both prevent and deter unlawful employment practices and redress the adverse effects of those practices on aggrieved persons. To that end, this part shall be deemed an exercise of the Legislature's authority pursuant to Section 1 of Article XIV of the California Constitution.

163. Moreover, Government Code §12921, subdivision (a) says in pertinent part:

1 The opportunity to seek, obtain, and hold employment without
2 discrimination because of race, religious creed, color, national origin,
3 ancestry, physical disability, mental disability, medical condition, genetic
4 information, marital status, sex, gender, gender identity, gender
5 expression, age, or sexual orientation is hereby recognized as and
6 declared to be a civil right.

7 164. An actual controversy has arisen and now exists between Plaintiff and Defendants
8 concerning their respective rights and duties as it is believed that Defendants may allege that they did
9 not discriminate and retaliate against Plaintiff; that Plaintiff was not terminated as a result of Plaintiff's
10 gender, sex, engagement in protected activities, and/or some combination of these protected
11 characteristics. Plaintiff contends that Defendants did discriminate and retaliate against Plaintiff on
12 the basis of Plaintiff's gender, sex, engagement in protected activities, and/or some combination of
13 these protected characteristics; and that Plaintiff was retaliated against and, ultimately wrongfully
14 terminated as a result of Plaintiff's gender, sex, engagement in protected activities, and/or some
15 combination of these protected characteristics. Plaintiff is informed and believes, and on that basis
16 alleges, that Defendants shall dispute Plaintiff's contentions.

17 165. Pursuant to Code of Civil Procedure §1060, Plaintiff desires a judicial determination of
18 Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the basis of
19 Plaintiff's gender, sex, engagement in protected activities, and/or some combination of these protected
20 characteristics

21 166. Pursuant to Code of Civil Procedure §1060, Plaintiff seeks a judicial determination of
22 Plaintiff's rights and duties, and a declaration that Plaintiff's gender, sex, engagement in protected
23 activities, and/or some combination of these protected characteristics was a substantial motivating
24 factor in the decision to subject Plaintiff to the aforementioned adverse employment actions.

25 167. A judicial declaration is necessary and appropriate at this time under the circumstances
26 in order that Plaintiff, for Plaintiff and on behalf of employees in the State of California and in
27 conformity with the public policy of the State, obtain a judicial declaration of the wrongdoing of
28 Defendants and to condemn such discriminatory employment policies or practices prospectively.
Harris v. City of Santa Monica (2013) 56 Cal.4th 203.

1 168. A judicial declaration is necessary and appropriate at this time such that Defendants
2 may also be aware of their obligations under the law to not engage in discriminatory practices and to
3 not violate the law in the future.

4 169. Government Code §12965(b) provides that an aggrieved party, such as the Plaintiff
5 herein, may be awarded reasonable attorney's fees and costs: "In civil actions brought under this
6 section, the court, in its discretion, may award to the prevailing party, including the department,
7 reasonable attorney's fees and costs, including expert witness fees." Such fees and costs expended by
8 an aggrieved party may be awarded for the purpose of redressing, preventing, or deterring
9 discrimination and harassment.

10
11 **NINTH CAUSE OF ACTION**
12 **FOR FAILURE TO PAY ALL WAGES DUE AND IMPROPER DEDUCTIONS**
13 **LABOR CODE §§ 200, 201, 204, 221**
14 **AGAINST EMPLOYERS AND DOES 1 THROUGH 20, INCLUSIVE**

15 170. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
16 though set forth in full herein.

17 171. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
18 required by 8 Code of Regulations §11010, as set forth hereinabove. As alleged herein, Defendants
19 routinely failed to pay all wages due.

20 172. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
21 Code of Regulations §11010, and Industrial Welfare Commission Order No. 1-2001.

22 173. California Labor Code § 200 defines wages as "all amounts for labor performed by
23 employees of every description, whether the amount is fixed or ascertained by the standard of time, task,
24 piece, commission basis or other method of calculation." Moreover, "an employee's 'wages' or
25 'earnings' are the amount the employer has *offered or promised to pay*, or has paid pursuant to such offer
26 or promise, as compensation for that employee's labor." See *Prachasaisoradej v. Ralphs Grocery Co.,*
27 *Inc.* (2007) 42 Cal.4th 217, 228 (emphasis original).

1 174. California Labor Code § 201 provides that if an employer discharges an employee, “the
2 wages earned and unpaid at the time of discharge are due and payable immediately.” Labor Code § 202
3 provides that if an employee quits their job, “his or her wages shall be come due and payable not later
4 than 72 hours thereafter...”

5 175. During Plaintiff’s employment, Defendants violated Labor Code §221 by collecting
6 and/or receiving from Plaintiff, and other aggrieved employees, part of their wages paid by Defendants
7 to said employees.

8 176. Defendants violated Labor Code §§ 204 and 223 because Defendants failed to pay wages
9 for all hours worked paid at least twice during each calendar month to employees as required “by
10 contract” under Labor Code section 223, as well as an improper collection of wages paid to an employee
11 under Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist.
12 Mar. 6, 2013). Defendants also failed to pay wage premiums for missed meal and rest breaks. *Naranjo*
13 *v. Spectrum Security Services, Inc.*, (2022) 2022 Cal. LEXIS 2878.

14 177. During the relevant time period, Defendants failed to pay Plaintiff the earned and unpaid
15 wages set forth above, including but not limited to rest period premium wages within seventy-two (72)
16 hours of their leaving Defendants’ employ.

17 178. Defendants’ have committed these acts knowingly and willfully, with the wrongful and
18 deliberate intention of withholding, deducting and reducing wages owed to Plaintiff for time spent on
19 compensable work activities. As a proximate result of these violations, Defendants have damaged
20 Plaintiff in the amounts set forth herein, and according to proof at trial.

21 179. Plaintiff has been deprived of his rightfully earned compensation as a direct and proximate
22 result of Defendants’ failure and refusal to pay said compensation. Plaintiff is entitled to recover such
23 amounts, plus interest thereon, attorneys’ fees and costs, pursuant to Labor Code §§ 218.6, 1194(a), and
24 Civil Code § 3287, and any other applicable law.

TENTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE MEAL AND REST BREAKS
LABOR CODE §§ 226.7, 512
AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE

180. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as though set forth in full herein.

181. Labor Code §512 requires employers to provide every employee with an uninterrupted meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

182. Labor Code §226.7 requires an employer to provide every employee with an uninterrupted rest period of not less than 10 minutes, for every period worked of four hours, or substantial portion thereof.

183. In the four years last past , Plaintiff worked at least one and a half, eleven-hour workdays per week, and was thereby entitled to take two (2) uninterrupted 30-minute meal periods on those days. Plaintiff was also entitled to take two (2) 10-minute, uninterrupted rest breaks on each day she worked.

184. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed to compensate Plaintiff for missed meal and periods, as required by Labor Code §§226.7 and the applicable sections of 8 Code of Regulations §11010 and Industrial Welfare Commission Order No. 1-2001.

185. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8 Code of Regulations §11010 and Industrial Welfare Commission Order No. 1. Consequently, Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage, whichever is greater, for each day that Plaintiff was denied such meal and rest periods, calculated as follows:

(a) From approximately June 8, 2018 through February 15, 2021 (140 weeks), Defendants failed to provide Plaintiff with an uninterrupted statutory rest period each day Plaintiff worked. Consequently, Plaintiff is owed one hour of pay at \$14.95 for each day, or \$10,465.00, plus interest thereon, for unpaid rest periods. During this same time period, Plaintiff's 30-minute meal periods were missed, interrupted or cut short no less than one and a half days per week for 140 weeks, or on approximately 210 days. Consequently, Plaintiff is owed one hour of pay at \$14.95 for each day, or

1 \$3,139.50 plus interest thereon, for unpaid missed or interrupted meal periods. Thus, Plaintiff is owed a
2 total of \$13,604.50, plus interest thereon, for unpaid meal and rest periods for this time period.

3 186. Plaintiff has been deprived of Plaintiff's rightfully earned compensation for meal and rest
4 breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

5 187. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
6 such amounts in the combined amount of \$13,604.50, pursuant to Labor Code §226.7(b), plus interest
7 thereon and costs of suit.

8
9 **ELEVENTH CAUSE OF ACTION**
10 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
11 **LABOR CODE §§226 ET SEQ.**
12 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

13 188. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
14 though set forth in full herein.

15 189. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
16 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,
17 total deductions and net wages earned. An employer who violates these code sections is liable to its
18 employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the
19 initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay
20 period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is
21 deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement
22 at all.

23 190. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates
24 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation
25 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

26 191. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate
27 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net
28 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and

1 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate
2 by Plaintiff.

3 192. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

4 193. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
5 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
6 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
7 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
8 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
9 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
10 meal period, and rest period wages.

11 194. Plaintiff was paid on a weekly basis, and therefore Defendants violated Labor Code §226
12 approximately fifty-two (52) times during the one (1) year preceding the filing of this complaint.
13 Consequently, Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory
14 maximum amount of \$4,000.00, whichever is greater.

15 195. In addition thereto, for Defendant's fifty-two (52) violations, Defendants are penalized
16 \$50.00 for the first violation, and the remainder of which Defendants are penalized \$1000.00 each, for a
17 total due in Labor Code §226.3 penalties of \$51,250.

18 196. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
19 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other
20 applicable provisions, as well as attorneys' fees and costs.

21
22 **TWELFTH CAUSE OF ACTION**
23 **FOR WAITING TIME PENALTIES**
24 **LABOR CODE §§ 201-203; 1197.1**

25 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

26 197. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 67, inclusive, as
27 though set forth in full herein.
28

1 198. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
2 other compensation due immediately upon termination or within 72 hours of resignation, as required.
3 These wages refer to, at a minimum, unpaid minimum wages, overtime compensation, and meal and rest
4 period compensation that Defendants should have paid but did not pay to Plaintiff during the term of
5 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-
6 203.

7 199. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
8 203.

9 200. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
10 is entitled to payment of Plaintiff's regular time, meal and rest periods as previously pleaded herein, and
11 approximately \$4,081.35 in wait time penalties, calculated based on a daily average wage of \$136.05,
12 times 30 days (i.e., \$14.95 reg. hourly rate $\times$ 8 hours, the sum of which was multiplied by 30 days =
13 \$4,081.35).

14 201. Based on Defendants' conduct as alleged herein, Defendants are liable for \$4,081.35 in
15 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
16 fees and costs.

17
18 **THIRTEENTH CAUSE OF ACTION**
19 **FOR PENALTIES PURSUANT TO THE PRIVATE ATTORNEY GENERAL ACT**
20 **LABOR CODE §§ 2699, ET SEQ.**
21 **ON BEHALF OF ALL AGGRIEVED EMPLOYEES**
22 **AGAINST VITA-HERB AND DOES 1-20, INCLUSIVE**

23 202. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 201, inclusive, as
24 though set forth in full herein.

25 203. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action
26 against Defendants, on behalf of himself and other current or former employees, seeking statutory civil
27 penalties for Defendants' violations of the California Labor Code.
28

204. Plaintiff, and other employees, are aggrieved employees within the meaning of Labor Code §§2699(c) and 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff and other employees, as previously pleaded in this Complaint.

205. On August 3, 2021, and more than 65 calendar days before filing this Complaint, Plaintiff provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code §2699.3(a) by citing the specific provision of the Labor Code alleged to have been violated, including the facts and theories sufficient to support the alleged violations.

206. Here, Plaintiff's civil action alleges violations of provisions listed in Labor Code §2699.5 and violations of provisions other than those listed in Labor Code §2699.5. As such, Labor Code §2699.3(a) and §2699.3(c) apply to this action.

207. As of the filing of this Complaint, Plaintiff has not received any response from the Labor and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently, Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

208. Further, as of the filing of this Complaint, Plaintiff has not received from Defendants written notice by certified mail that the alleged violations have been cured, including a description of the actions taken. As such, Plaintiff has complied with Labor Code §2699.3(c) and has been given authorization therefrom to commence a civil action which includes a cause of action pursuant to Labor Code §2699.

PENALTIES

209. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) (or any of its departments, divisions, commissions, board agency or employees), such civil penalties may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees) and Labor Code §2699(f) (which establishes a civil penalty for violations of all Labor Code provisions except those which

1 a civil penalty is specifically provided), the aggrieved employees seek recovery of all applicable civil
2 penalties, as follows:

3 a. As applicable, civil penalties under Labor Code §2699(f), for all violations of the
4 Labor Code except for those for which a civil penalty is specifically provided, in the amount of one
5 hundred dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two
6 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation;

7 b. As applicable, civil penalties under Labor Code §558 (in addition to and entirely
8 independent and apart from any other penalty provided for in the Labor Code), for violations of Labor
9 Code §§1-556, in the amount of \$50 for each underpaid aggrieved employee for each pay period the
10 aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid wages, and
11 \$100 for each subsequent violation for each underpaid employee for each pay period for which the
12 employee was underpaid; and also an additional amount sufficient to recover under paid wages as
13 penalties, with all wages recovered pursuant to Labor Code §557 paid to the aggrieved employees;

14 c. As applicable, Labor Code §98.6 (in addition to and entirely independent and apart
15 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants
16 retaliated against for complaining of activity which any aggrieved employee believed to be illegal and
17 in violation of California law, in the amount of a civil penalty not exceeding \$10,000 for each aggrieved
18 employee;

19 d. As applicable, civil penalties under Labor Code §203 (in addition to and entirely
20 independent and apart from any other penalty provided in the Labor Code), for any aggrieved employee
21 who was discharged or quit, and was not paid all earned wages at termination in accordance with Labor
22 Code §§201, 201.1, 201.5, 202, and 205, in the amount of a civil penalty of one day of pay, at the same
23 rate, for each day that he or she was paid late, until payment was/is made, up to a maximum of thirty
24 (30) days;

25 e. As applicable, Labor Code §204 (in addition to an entirely independent and apart
26 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
27 to pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial
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1 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25
2 percent of the amount unlawfully withheld;

3 f. As applicable, civil penalties under Labor Code §225.5 (in addition to and entirely
4 independent and apart from any other penalty provided in the Labor Code), for each violation of Labor
5 Code §§221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
6 violation; and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25
7 percent of the amount unlawfully withheld;

8 g. As applicable, civil penalties under Labor Code §226.3 (in addition to and entirely
9 independent and apart from any other civil penalty provided in the Labor Code), for each violation of
10 Labor Code §226(a), in the amount of \$250 for each aggrieved employee per pay period for each
11 violation and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

12 h. As applicable, Labor Code §226.7 (in addition to an entirely independent and apart
13 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
14 to pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial
15 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

16 i. As applicable, civil penalties under Labor Code §248.5 (in addition to and entirely
17 independent and apart from any other penalty provided for in the Labor Code), for violations of Labor
18 Code §§246, in the amount of \$250 if paid sick days were unlawfully held or the dollar amount of paid
19 sick days withheld from the employee multiplied by three, whichever is greater, nut not to exceed the
20 aggregate of \$4,000.00.

21 j. As applicable, Labor Code §512 (in addition to an entirely independent and apart
22 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
23 to pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial
24 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25;

25 k. As applicable, Labor Code §1102.5 (in addition to and entirely independent and
26 apart from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants
27 retaliated against for complaining of activity which any aggrieved employee believed to be illegal and
28

1 in violation of California law, in the amount of a civil penalty not exceeding \$10,000 for each aggrieved
2 employee;

3 1. As applicable, civil penalties under Labor Code §§203 and/or 256 (in addition to
4 and entirely independent and apart from any other penalty provided in the Labor Code), for any aggrieved
5 employee who was discharged or quit, and was not paid all earned wages at termination in accordance
6 with Labor Code §§201, 201.1, 201.5, 202, and 203, in the amount of a civil penalty of one day of pay,
7 at the same rate, for each day that he or she was paid late, until payment was/is made, up to a maximum
8 of thirty (30) days; and

9 m. As applicable, any and all additional applicable civil penalties and sums as
10 provided by the Labor Code and/or other relevant statutes.

11 210. In addition, Plaintiff and the aggrieved employees seek and are entitled to seventy-five
12 percent (75%) of all penalties obtained under Labor Code §2699 to be allocated to the LWDA, for
13 education of employers and employees about their rights and responsibilities under the Labor Code, and
14 twenty-five percent (25%) to the aggrieved employees.

15 211. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
16 recovery of pre-judgment interest on all amounts recovered herein.

17 212. Further, Plaintiff is entitled; to recover reasonable attorneys' fees and costs pursuant to
18 Labor Code §§2699(g)(1) and any other applicable statute.

19
20 **FOURTEENTH CAUSE OF ACTION**

21 **FOR UNFAIR COMPETITION**

22 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**

23 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

24 213. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 212, inclusive, as
25 though set forth in full herein.

26 214. The court has jurisdiction over this action pursuant to Business and Professions Code
27 section 17200 et seq., specifically Business and Professions Code section 17203, which provides that
28 any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in

1 any court of competent jurisdiction; and the court may make such orders or judgments, including the
2 appointment of a receiver, as may be necessary to prevent the use or employment by any person of any
3 practice which constitutes unfair competition, or as may be necessary to restore to any person in interest
4 any money or property, real or personal, which may have been acquired by means of such unfair
5 competition; and Business and Professions Code Section 17204, which provides for actions for any
6 relief pursuant to the Unfair Competition Law to be prosecuted exclusively in a court of competent
7 jurisdiction by any board, officer, person, corporation or association or by any person acting for the
8 interests of itself, or its members and that has suffered an injury in fact and lost money or property as
9 a result of Defendants' conduct.

10 215. Defendants have engaged in, and continue to engage in the following unlawful, unfair
11 and/or fraudulent business practices in violation of Section 17200 of the California Business and
12 Professions Code: discrimination, harassment, retaliation and failure to prevent the same under the
13 FEHA, related FEHA causes of action, retaliation under the Labor Code, failure to pay wages, failure
14 to provide and pay wages and premium wages for rest breaks, among other unfair conduct as alleged
15 herein above.

16 216. As a direct, proximate, and foreseeable result of Defendants' wrongful conduct as
17 alleged above, Defendants' business acts or practices have caused injury to the Plaintiff and the public.
18 Plaintiff is entitled to relief, including full restitution and/or disgorgement of all revenues, earnings,
19 profits, compensation and benefits that may have been obtained by Defendants as a result of such
20 business acts or practices.

21 217. Plaintiff is informed and believes and based thereon alleges that Defendants' illegal acts
22 as described above are a serious and continuing threat to Plaintiff and the public. If Defendants are
23 allowed to continue their unfair and unlawful acts, Plaintiff and the public will suffer further immediate
24 and irreparable injury, loss and damage. Plaintiff is further informed and believes, and based thereon
25 alleges, that, in the absence of a temporary restraining order and preliminary and permanent injunctions
26 as prayed for below, Defendants will continue to unfairly and unlawfully compete.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendants and each of them, in an amount according to proof but estimated to be no less than \$500,000 as follows:

218. For a money judgment representing compensatory damages including lost wages, earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money, together with interest on these amounts; for other special damages; and for general damages for mental pain and anguish and emotional distress and loss of earning capacity;

219. For payment failure to pay wages due pursuant to Labor Code §§201, 204, 221, 226.7, 227.3, 512, and Industrial Welfare Commission Order No. 1-2001, and 8 Code of Regulations §11010, in the amount according to proof;

220. For a civil penalty of \$10,000 pursuant to Labor Code § 98.6(b)(3), and any other remedies under this section;

221. For a civil penalty of \$10,000 pursuant to Labor Code § 1102.5(f), and any other remedies under this section;

222. For payment of meal and rest break compensation pursuant to Labor Code §§226.7, 512 and Industrial Welfare Commission Wage Order No. 1-2001, section 12 (D), and Code of Regulations, title 8, section 11010 in the amount of no less than \$13,604.50;

223. For statutory penalties or damages pursuant to Labor Code §558 in the amount of no less than \$5,150;

224. For payment of meal period compensation pursuant to Labor Code §§ 226.7, 512, in the amount of no less than \$7,987.50;

225. For damages pursuant to Labor Code §226 in the amount of \$4,000.00;

226. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount according to proof;

227. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less than \$4,081.35;

228. For damages pursuant to Labor Code §221 in the amount according to proof;

1 229. For prejudgment interest on each of the foregoing at the legal rate from the date the
2 obligation became due through the date of judgment in this matter;

3 230. For civil penalties pursuant to Labor Code § 2699(f), in addition to and entirely
4 independent and apart from other penalties in the Labor Code and for Labor Code violations without a
5 specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each
6 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

7 231. For civil penalties under Labor Code §226.7, in addition to and entirely independent and
8 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
9 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
10 each subsequent violation;

11 232. For civil penalties under Labor Code §512, in addition to and entirely independent and
12 apart from any other penalty provided in the Labor Code, for each violation of Labor Code §221, in the
13 amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each
14 aggrieved employee per pay period for each subsequent violation;

15 233. For civil penalties under Labor Code §§203 and/or 256, in addition to and entirely
16 independent and apart from any other penalty provided in the Labor Code, in the amount of one day of
17 pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination,
18 until payment was/is made, up to a maximum of thirty (30) days;

19 234. In addition, Plaintiff and the aggrieved employees seek and are entitled to seventy-five
20 (75%) of all penalties obtained under Labor Code § 2699 to be allocated to the LWDA, for education of
21 employers and employees about their rights and responsibilities under the Labor Code, and twenty-five
22 percent (25%) to the aggrieved employees;

23 235. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
24 Labor Code §1194(a), and/or Civil Code §3287;

25 236. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
26 any other applicable statute; and

27 237. For civil penalties under Labor Code §210, in addition to and entirely independent and
28 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved

1 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
2 each subsequent violation, plus 25 percent of the amount unlawfully withheld;

3 238. For civil penalties under Labor Code §§ 210 and 225.5, in addition to and entirely
4 independent and apart from any other penalty provided in the Labor Code, for each violation of Labor
5 Code §§204, 221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
6 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation or for each
7 willful or intentional violation, in addition to 25 percent of the amount unlawfully withheld;

8 239. For civil penalties under Labor Code §226.3, in addition to and entirely independent and
9 apart from any other penalty provided in the Labor Code, in the amount of \$250 for each aggrieved
10 employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for
11 each subsequent violation;

12 240. For civil penalties under Labor Code §§226.7 and 512, in addition to and entirely
13 independent and apart from any other penalty provided in the Labor Code, in the amount of \$250 for each
14 aggrieved employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay
15 period for each subsequent violation;

16 241. For civil penalties under Labor Code §§203 and/or 256, in addition to and entirely
17 independent and apart from any other penalty provided in the Labor Code, in the amount of one day of
18 pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination,
19 until payment was/is made, up to a maximum of thirty (30) days;

20 242. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
21 any other applicable statute; and

22 243. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
23 Labor Code §1194(a), and/or Civil Code §3287;

24 244. Pursuant to Government Code section 12965, subdivision (b), Plaintiff requests a
25 reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA, the Labor
26 Code, Civil Code section 1021.5, and/or any other applicable law;

27 245. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
28 Labor Code §1194(a), and/or Civil Code §3287;

1 246. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
2 any other applicable statute; and

3 247. Treble exemplary and punitive damages according to proof;

4 248. For prejudgment interest on each of the foregoing at the legal rate from the date the
5 obligation became due through the date of judgment in this matter.

6 **WHEREFORE**, Plaintiff further seeks judgment against Defendants, and each of them, in an
7 amount according to proof, as follows:

8 249. For an Order requiring Defendants to make full restitution and payment pursuant to
9 California law;

10 250. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
11 condemning Defendants' discriminatory practices;

12 251. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
13 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

14 252. For interest to the extent permitted by law;

15 253. For an award of attorneys' fees and costs incurred in this action pursuant to CCP §1021.5,
16 B&PC §17200, et seq., Labor Code §1194, L.A.M.C. § 188.07, and/or any other applicable provision of
17 law;

18 254. For post-judgment interest; and

19 255. For any other relief that is just and proper.

20
21 DATED: June 8, 2022

GUERRA & CASILLAS LLP

22
23 By: 

24 Ruben Guerra, Esq.
25 Tizoc Perez-Casillas, Esq.
26 Attorneys for Plaintiff
27 VIOLETA MUNOZ MEDINA
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JURY TRIAL DEMANDED

Plaintiff demands trial of all issues by jury.

DATED: June 8, 2022

GUERRA & CASILLAS LLP

By:



Ruben Guerra Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
VIOLETA MUNOZ MEDINA