

FILED
Superior Court Of California,
Sacramento
11/30/2021
tcrowther
By _____, Deputy
Case Number:
34-2021-00311953

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MARIA PEREZ, individually and on behalf of other aggrieved employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

MARIA PEREZ, individually and on behalf
of other aggrieved employees.

Plaintiff,

vs.

BRUSH RESEARCH MANUFACTURING
CO., INC., a California Corporation;
SAMUEL HALE EXCHANGE, LLC, a
California Limited Liability Company; TARA
RANDS, an Individual; MICHAEL
DIMANNO, an Individual; and DOES 1
through 100, inclusive,

Defendants.

) CASE NO.
) [Unlimited Civil Jurisdiction]
)

) **COMPLAINT FOR:**
)

-) 1. Discrimination (Gov't C. §§12900 *et seq.*);
)
) 2. Retaliation (Gov't C. §§ 12900 *et seq.*);
)
) 3. Failure to Take Reasonable Steps to Prevent
) Discrimination (Gov't C. §12900, *et seq.*);
) 4. Failure to Accommodate (Gov't C. §§ 12900,
) *et seq.*);
) 5. Failure to Engage in the Interactive Process
) (Gov't C. §§ 12940 *et seq.*);
) 6. Failure to Timely Pay Wages Upon
) Termination (Cal. Lab. C. §§ 201-203);
) 7. Failure to Pay Overtime Wages (Cal. Lab. C.
) §§ 510, *et seq.*);
) 8. Failure to Provide Meal Periods (Cal. Lab. C.
) §§ 226.7, 512, *et seq.*);
) 9. Failure to Provide Accurate Wage Statements
) (Cal. Lab. C §§ 226, *et seq.*);
) 10. Unfair Competition (Cal. Bus. & Prof.
) C. §17200, *et seq.*);
) 11. Retaliation in Violation of CFRA (Gov't.
) C. §§ 12945.2, *et seq.*); and
) 12. Private Attorney General's Act (Cal. Lab. C.
) § 2698, *et seq.*

) **DEMAND FOR JURY TRIAL**

COMES NOW Plaintiff MARIA PEREZ, individually and on behalf of other aggrieved employees for causes of action against Defendants BRUSH RESEARCH MANUFACTURING CO., INC., SAMUEL HALE ECHANGE, LLC, TARA RANDS, MICHAEL DIMANNO, and DOES 1 through 100, inclusive and complains and alleges upon information and belief as follows:

PARTIES

1. Plaintiff MARIA PEREZ (“Plaintiff”) at all times relevant to this action, resided in the County of Los Angeles, State of California.

2. Plaintiff is informed and believes, and based thereon alleges, that Defendant BRUSH RESEARCH MANUFACTURING CO., INC. (“BRUSH”) is a California Corporation with its principal place of business in the County of Los Angeles, State of California. At all times mentioned herein, Defendant BRUSH employed five or more persons.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendant TARA RINDS (“RINDS”) is an owner, director, officer, or managing agent of Defendant BRUSH and/or DOES 26-50 and is liable to the Plaintiff under Cal. Lab. C. Sec. 558.1 for the wage and hour causes of action asserted herein.

4. Plaintiff is informed and believes, and based thereon alleges, that Defendant SAMUEL HALE EXCHANGE, LLC (“HALE”) is a California limited liability company with its principal place of business in the County of Sacramento, State of California. At all times mentioned herein, Defendant HALE employed five or more persons. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant hereto, HALE was in the business of providing staffing solutions for business entities and staffing agencies in the State of California.

5. Plaintiff is informed and believes, and based thereon alleges, that Defendant MICHAEL DIMANNO (“DIMANNO”) is an owner, director, officer, or managing agent of Defendant HALE and/or DOES 26-50 and is liable to the Plaintiff under Cal. Lab. C. Sec. 558.1 for the wage and hour causes of action asserted herein.

6. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, associate or otherwise, of the Defendants sued herein under fictitious names Does 1 through 100, inclusive, and for that reason sues said Defendants, and each of them, by such fictitious names.

1 Plaintiff is informed, believes, and thereupon alleges that each of the Defendants Does 1 through
2 100, inclusive, is and was in some manner responsible for, participated in, or contributed to the
3 matters and things of which Plaintiff complains herein, and in some fashion has legal responsibility,
4 therefore. When Plaintiff ascertains the names and capacities of the fictitiously named Defendants
5 Does 1 through 100, inclusive, Plaintiff will seek leave to amend this Complaint to set forth such
6 facts.

7 7. Plaintiff is informed, believes, and there upon alleges that each Defendants is, and at
8 all times relevant herein was, the agent of his, her, or its co-Defendants, and in committing the acts
9 alleged herein, was acting within the scope of his, her, or its authority as such agent, and with the
10 knowledge, permission, and consent of his, her, or its co-Defendants.

11 8. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, nonexempt
12 employee in the State of California. Defendants had the authority to hire and terminate Plaintiff, to
13 set work rules and conditions governing Plaintiff's employment, and to supervise Plaintiff's daily
14 employment activities. Defendants directly hired and paid wages and benefits to Plaintiff.
15 Defendants exercised sufficient authority over the terms and conditions of Plaintiff's employment
16 for them to be Plaintiff's joint employer.

17 9. Defendant and DOES 1 through 100, shall collectively be referred to in this
18 Complaint as "Defendants" when applicable.

19 **JURISDICTION & VENUE**

20 10. This action is brought pursuant to the California Private Attorneys General Act
21 ("PAGA"), California *Labor Code* sections 2698, *et seq.* The penalties and other remedies sought
22 by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established
23 according to proof at trial. It is believed that the total sum owed to Plaintiff and other Aggrieved
24 Employees ("Aggrieved Employees" is defined for all purposes herein as all current and/or former
25 hourly paid or non-exempt employees of Defendant BRUSH RESEARCH MANUFACTURING
26 CO., INC.) alleged herein is less than \$5,000,000.00, based upon the anticipated number of
27 Aggrieved Employees and the amount in controversy for each member of the Aggrieved
28 Employees.

11. This Court has jurisdiction over this action and the matters alleged herein pursuant to the grant of original jurisdiction set forth in Article VI, Section 10 of the California Constitution. The statutes under which this action is brought do not specify any other basis for jurisdiction.

12. Additionally, this Court has jurisdiction over Defendants because, upon information and belief, Defendants are either citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by this Court consistent with traditional notions of fair play and substantial justice.

13. Venue is proper in this Court because, upon information and belief, the named Defendants reside, transact business, and/or have offices in this county, and/or the acts or omissions alleged herein took place in this county.

GENERAL ALLEGATIONS

14. Plaintiff is informed and believes, and based thereon alleges, that Defendant BRUSH is in the business of manufacturing finishing tools, including but not limited to custom and standard industrial brushes. Defendant BRUSH's main operations facility is located in Los Angeles County, State of California. At all times relevant hereto, Plaintiff worked at BRUSH's store, which is located at 4642 Floral Drive, Los Angeles, CA 90022. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant hereto, HALE was in the business of providing staffing solutions for business entities and staffing agencies in the State of California.

15. Beginning in or around September 2018, Plaintiff worked for Defendants. Plaintiff's duties included, but were not limited to, assembling Defendants' brush products and working from the beginning to the end of the production and assembly line.

16. On or around September 18, 2019, Plaintiff called off work due to chronic and debilitating back pain. Plaintiff's pain was so severe that she could not walk or move. In harassment and discrimination based on disability and/or medical condition, or based on her perceived disability or medical condition, and in retaliation for taking time off to treat her medical condition/disability, Plaintiff received a written warning for failing to call BRUSH's "direct line" instead of Human Resources to report that she would not be able to come to work. In further

1 discrimination and harassment based on disability or medical condition, or perceived disability or
2 medical condition, and in retaliation for taking time of work to treat her medical condition, Plaintiff
3 was suspended without pay for allegedly calling BRUSH's Human Resources department, instead
4 of BRUSH's direct line, to report her absence. Plaintiff's suspension lasted from October 8, 2019,
5 until October 9, 2019. Prior to this instance, Plaintiff had not had any issues with her employer, nor
6 had she ever before received any written or oral warnings or discipline for her work performance.

7 17. On or around September 20, 2019, Plaintiff was diagnosed as suffering from
8 cumulative trauma injury to her back, right hand, and fingers. This medical condition caused her
9 severe pain to her back, right hand, and fingers, and limited her ability to participate in major life
10 activities including caring for oneself, performing intensive manual tasks, standing for extended
11 periods of time, sitting for extended periods of time, concentrating, working, and/or engaging in
12 interpersonal interactions.

13 18. On or around October 18, 2019, Plaintiff visited her physician, who placed Plaintiff
14 off work from October 18, 2019, until October 28, 2019. Plaintiff informed Defendant BRUSH of
15 her medical condition and need for time off. Further, on or around October 21, 2019, Plaintiff
16 requested FMLA/CFRA leave from Defendant BRUSH such that she could treat and care for her
17 disability. At this time, Plaintiff's medical restrictions included, but were not expressly limited to,
18 no sitting, standing, or walking for over 20 minutes and no lifting, pulling, or pushing items over 10
19 pounds.

20 19. When her pain had not subsided, Plaintiff returned to her physician's clinic on
21 October 25, 2019. Plaintiff's physician extended her medical leave and placed her off work from
22 October 25, 2019, until December 9, 2019.

23 20. Eventually, Plaintiff's medical leave was approved by BUSH's Human Resources
24 employee, Nora Navarro. Plaintiff was out of work for a majority of the 2020 year due to her
25 disability/medical condition.

26 21. On or about October 26, 2020, Plaintiff was released by her doctor to return to work
27 with minor medical restrictions. Plaintiff informed her employer (specifically, Ms. Navarro from
28 human resources) that she had been cleared to return to work with medical restrictions and

1 requested to return to work. Plaintiff's medical restrictions included the following: must be able to
2 sit/stand as needed; precluded from extensive squatting forward or lateral bending; and minimal
3 gripping and grasping. Plaintiff provided Defendant BRUSH with a letter from her physician
4 outlining these restrictions.

5 22. In harassment and discrimination based on her disability and/or medical condition,
6 and in retaliation for seeking a reasonable accommodation for that disability and/or taking leave to
7 treat that disability, Defendant BRUSH did not respond to Plaintiff's communication and request
8 for a reasonable accommodation until December 2020.

9 23. Additionally, around this same time, and in further discrimination based on disability
10 and in retaliation for requesting a reasonable accommodation, Ms. Navarro told Plaintiff that she
11 would need to be seen by BRUSH's "company doctor" in order to return to work. This was a
12 blatant attempt by BRUSH to sidestep the restrictions put in place by Plaintiff's physician and a
13 continued effort to harass and discriminate against Plaintiff based on her disability/medical
14 condition.

15 24. BRUSH's "company doctor" also released Plaintiff to return to work, but without
16 any work restrictions. This finding was in complete opposition to Plaintiff's physician's orders
17 which required her to be able to sit/stand as needed; not engage in excessive squatting forward or
18 lateral bending; and engage only in minimal gripping and grasping. Plaintiff is informed and
19 believes that BRUSH's doctor sent a copy of his findings to Ms. Navarro.

20 25. Following Plaintiff's visit to BRUSH's doctor, Plaintiff was never contacted by
21 anyone at BRUSH about Plaintiff returning to work or being accommodated for her work
22 restrictions. After months of not being placed back to work, Plaintiff attempted to obtain benefits
23 from California's Employment Development Department.

24 26. In further retaliation for engaging in protected activity, Defendant BRUSH interfered
25 with Plaintiff's ability to obtain state benefits by informing the EDD that Plaintiff had not been
26 terminated and was "still on medical leave." This is patently untrue—Plaintiff had been cleared to
27 return to work by two physicians and had provided evidence that she could return to work, but
28 BRUSH simply disregard Plaintiff, ignored her attempts to return to work and by failing to place

1 her back to work for month after she had been cleared to return to work, effectively terminated
2 Plaintiff's employment.

3 27. Plaintiff's health and career has been materially and adversely affected
4 and irreparably harmed and damaged by the conduct of Defendants. Defendants, and each of
5 them, discriminated and harassed Plaintiff because of her disability and/or medical condition
6 and retaliated against Plaintiff for engaging in protected activity by reporting and/or opposing
7 such discrimination and harassment and for requesting a reasonable accommodation as set forth
8 herein. Plaintiff was discriminated, harassed, and retaliated against for exercising her rights as
9 alleged herein.

10 28. As a direct and proximate consequence of exercising such rights—which
11 constitutes protected activity under state and federal law—Defendants, and each of them, retaliated
12 against, discriminated against, and harassed Plaintiff and subjected Plaintiff to adverse employment
13 actions. Those adverse employment actions include but are not limited to failing to accommodate
14 Plaintiff and terminating Plaintiff.

15 29. Plaintiff has suffered both general and special damages in the past and present
16 and will continue to suffer such damages in the future for an unknown period of time. Plaintiff has
17 also suffered and continues to suffer losses in earnings and other employment benefits, as well as
18 past and future non-economic injury. Moreover, Defendants' unlawful conduct has adversely
19 affected Plaintiff's personal health and well-being. Plaintiff has also suffered extensive general
20 damages in the form of anxiety, anguish, and mental suffering. Plaintiff's damages are continuing
21 and in an amount not yet determined, but in excess of the jurisdictional minimum of this Court.

22 30. The conduct of Defendants, and each of them, was a violation of Plaintiff's rights,
23 as described above, as well as his rights under both state and federal law, including the
24 Fair Employment and Housing Act (Cal. Gov't C. §§ 12940, etseq.). Therefore, Defendants, and
25 each of them, are liable under the FEHA as well as for retaliation and wrongful termination in
26 violation of public policy.

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WAGE AND HOUR ALLEGATIONS

31. Plaintiff is informed and believes, and based thereon alleges, that at all times relevant to this action, Defendants implemented a series of willful, systematic, and deliberate policies and practices that suppressed operating costs at the expense of employee rights set forth under the California Labor Code and the Industrial Welfare Commission (hereinafter “IWC”) Wage Orders including but not limited to:

- a. **Rounding:** Throughout the relevant time, Defendants maintained a policy and practice of regularly rounding down employee work time to the closest quarter hour, to the overall detriment of employees, thereby unlawfully failing to pay employees for all hours worked.
- b. **Failure to Pay Overtime:** Plaintiff alleges that several of Defendants’ practices resulted in the failure to pay all overtime compensation owed. Plaintiff regularly worked in excess of forty (40) hours in a week and on the seventh consecutive day of the week without receiving mandatory overtime pay. Plaintiff alleges that Defendants required Plaintiff and other Aggrieved Employees. Defendants’ unlawful practices and failure to account for time spent on work related tasks resulted in failure to pay overtime wages. Defendants did not pay double time.
- c. **Failure to Timely Pay Wages Upon Termination:** Defendants’ failure to timely pay all wages including overtime compensation to Plaintiff and other Aggrieved Employees upon termination in accordance with *Labor Code* sections 201 and 202 constitutes unlawful and/or unfair activity.
- d. **Inaccurate Wage Statements:** Defendants’ unlawful failure to pay regular, minimum, and/or overtime wages has also resulted in its non-exempt employees receiving inaccurate wage statements. Defendants’ failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California *Labor Code* section 1174(d) constitutes unlawful and/or unfair activity.

1 e. **Meal Breaks Violations:** employees were required **to** work in excess of five (5)
2 and/or ten (10) hours per day without being provided a first and/or second meal
3 period and not being compensated one (1) hour of pay at her regular rate of
4 compensation for each workday that a meal period was not provided, all in violation
5 of California labor laws, regulations, and Industrial Welfare Commission Wage
6 Orders.

7 f. **Rest Breaks Violations:** employees were required **to** work without being provided
8 a minimum ten (10) minute rest period for every four (4) hours or major fraction
9 thereof worked and not being compensated one (1) hour of pay or other
10 compensation at his regular rate of compensation for each workday that a rest period
11 was not provided

12 32. At all material times set forth herein, Defendants failed to provide Plaintiff the
13 required rest and meal periods during the relevant time period as required under the Labor Code
14 and Industrial Welfare Commission (“IWC”) Wage Orders.

15 33. At all material times set forth herein, Defendants failed to compensate Plaintiff for
16 all hours worked, missed meal periods, or rest breaks.

17 34. At all material times set forth herein, Defendants failed to pay Plaintiff all wages
18 owed to Plaintiff upon discharge or resignation.

19 35. At all material times set forth herein, Defendants failed to maintain and provide
20 complete and accurate wage statements to Plaintiff. The wage statements provided to Plaintiff were
21 deficient in that they lacked, among other things, the actual hours worked by Plaintiff. Defendants’
22 wage and hour violations are ongoing.

23 36. Defendants’ conduct described herein was undertaken, authorized, and/or ratified
24 Defendants’ officers, directors and/or managing agents who were authorized and empowered to make
25 decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said
26 managing agents and individuals was therefore undertaken on behalf of Defendants who further had
27 advanced knowledge of the actions and conduct of said individuals whose actions and conduct were
28 ratified, authorized, and approved by managing agents whose precise identities are unknown to

1 Plaintiff at this time and are therefore identified and designated herein as DOES 25 through 50,
2 inclusive.

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

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

9 39. Plaintiff claims general damages for emotional and mental distress and aggravation in
10 a sum in excess of the jurisdictional minimum of this Court.

11 40. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
12 managing agents acting in a deliberate, cold, callous, cruel, and intentional manner, in conscious
13 disregard of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that
14 punitive damages be levied against Defendants and each of them, in sums in excess of the
15 jurisdictional minimum of this Court.

16 **PAGA ALLEGATIONS**

17 41. At all times relevant hereto, PAGA was applicable to Plaintiff and other Aggrieved
18 Employees' employment with Defendant BRUSH.

19 42. PAGA provides that any provision of law under the California *Labor Code* that
20 provides for a civil penalty to be assessed and collected by the California Labor & Workforce
21 Development Agency ("LWDA") for Labor Code violations may, as an alternative, be recovered
22 through a civil action brought by an aggrieved employee on behalf of himself or herself and other
23 current or former employees pursuant to procedures outlined in California *Labor Code* section
24 2699.3.

25 43. Pursuant to PAGA, a civil action may be brought by an "aggrieved employee," who
26 is any person that was employed by the alleged violator and against whom one or more of the
27 alleged violations was committed.
28

1 44. Plaintiff was employed by Defendants, and the alleged violation was committed
2 against Plaintiff during her time of employment. Plaintiff is therefore an aggrieved employee.
3 Plaintiff and other employees of Defendant BRUSH are “aggrieved employees” as defined by
4 California *Labor Code* section 2699(c) in that they are all current or former employees of
5 Defendants, and one or more of the alleged violations were committed against them.

6 45. Pursuant to California *Labor Code* sections 2699.3 and 2699.5, an aggrieved
7 employee, including Plaintiff, may pursue a civil action arising under PAGA after the following
8 requirements have been met:

9 g. The aggrieved employee shall give written notice by online submission (hereinafter
10 “Employee’s Notice”) to the Labor & Workforce Development Agency (hereinafter
11 “LWDA”) and by U.S. Certified Mail to the employer of the specific provisions of
12 the California Labor Code alleged to have been violated, including the facts and
13 theories to support the alleged violations.

14 h. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and
15 the aggrieved employee by certified mail that it does not intend to investigate the
16 alleged violation within sixty (60) calendar days of the postmark date of the
17 Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is
18 not provided within sixty-five (65) calendar days of the postmark date of the
19 Employee’s Notice, the aggrieved employee may commence a civil action pursuant
20 to California *Labor Code* section 2699 to recover civil penalties in addition to any
21 other penalties to which the employee may be entitled.

22 46. Based on the facts alleged above and such other facts that Plaintiff and other
23 Aggrieved Employees might determine through the discovery process, Plaintiff and other aggrieved
24 employees allege that Defendants’ consistent unlawful policies and practices have resulted in the
25 systematic violation of the California *Labor Code* sections as alleged:

26 (a) **California Labor Code § 510:** Plaintiff alleges that several of Defendants’ practices
27 resulted in the failure to pay all overtime compensation owed. Plaintiff regularly
28

1 worked in excess of forty (40) hours in a week and on the seventh consecutive day
2 of the week without receiving mandatory overtime pay.

3 (b) **California Labor Code § 512:** Plaintiff alleges that she and other Aggrieved
4 Employees were required to work in excess of five (5) and/or ten (10) hours per day
5 without being provided a first and/or second meal period and not being compensated
6 one (1) hour of pay at her regular rate of compensation for each workday that a meal
7 period was not provided, all in violation of California labor laws, regulations, and
8 Industrial Welfare Commission Wage Orders.

9 (c) **California Labor Code § 226(a):** Plaintiff and other Aggrieved Employees allege
10 that, to their detriment, Defendants knowingly and intentionally failed to provide
11 them with accurate itemized wage statements in accordance with California law.

12 (d) **California Labor Code §§ 201- 203:** Plaintiff and other Aggrieved Employees
13 allege that Defendants violated these sections of the California Labor Code by
14 willfully failing to pay employees for all time worked. Violations of these statutes
15 occurred both at the time the wages in question were earned and payable and at the
16 termination or separation of employment.

17 (e) **California Labor Code § 204:** Plaintiff and other Aggrieved Employees were not
18 timely paid wages that they were owed for all hours worked.

19 47. On September 22, 2021, Plaintiff provided written notice by online submission to
20 the LWDA and by U.S. Certified Mail to Defendant of the specific provisions of the California
21 *Labor Code* alleged to have been violated, including the facts and theories to support the alleged
22 violations. Plaintiff has not received an LWDA Notice within sixty-five (65) calendar days of the
23 date of Plaintiff's notice.

24 48. Therefore, Plaintiff has satisfied the administrative prerequisites under California
25 *Labor Code* section 2699.3(a) to recover civil penalties against Defendants, in addition to other
26 remedies, for violations of California Labor Code sections 201, 202, 203, 204, 226, 510, 512, and
27 IWC Order No. 1.
28

1 49. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew
2 or should have known that Plaintiff and the other aggrieved employees were entitled to receive
3 certain wages for overtime compensation and that they were not receiving wages for overtime
4 compensation.

5 50. Defendants' conduct described herein was undertaken, authorized, and/or ratified
6 Defendants' officers, directors and/or managing agents who were authorized and empowered to make
7 decisions that reflect and/or create policy for Defendants. The aforementioned conduct of said
8 managing agents and individuals was therefore undertaken on behalf of Defendants who further had
9 advanced knowledge of the actions and conduct of said individuals whose actions and conduct were
10 ratified, authorized, and approved by managing agents whose precise identities are unknown to
11 Plaintiff at this time and are therefore identified and designated herein as DOES 1 through 20,
12 inclusive.

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

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

19 53. Plaintiff claims general damages for emotional and mental distress and aggravation in a
20 sum in excess of the jurisdictional minimum of this Court.

21 54. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
22 managing agents acting in a deliberate, cold, callous, cruel, and intentional manner, in conscious
23 disregard of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that
24 punitive damages be levied against Defendants and each of them, in sums in excess of the jurisdictional
25 minimum of this Court.

26 ///

1 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

2 55. On or about October 28, 2021, the Department of Fair Employment and Housing
3 issued a Notice of Case Closure and Right-to-Sue letter to Plaintiff, authorizing the filing of a
4 private lawsuit in order to enforce rights under the Fair Employment and Housing Act (“FEHA”).
5 Plaintiff has timely exhausted all administrative remedies required by FEHA as a prerequisite to
6 filing this action.

7 **FIRST CAUSE OF ACTION**

8 **Discrimination in Violation of Gov’t Code §§ 12900, *et seq.***

9 **(Against Defendants BRUSH and DOES 26 - 50)**

10 56. Plaintiff refers to and incorporates by reference each and every paragraph above as
11 though fully set forth herein.

12 57. Defendants are subject to suit under the Fair Employment and Housing Act,
13 Government Code section 12940, *et seq.* (“FEHA”), in that they regularly employ five or more
14 persons. (Gov. Code § 12926, *et seq.*)

15 58. California Government Code section 12940(a) prohibits discrimination on the basis
16 of an employee’s disability or medical condition. This prohibition encompasses a proscription
17 against an employer discharging an employee because of his or her disability or medical condition.
18 (Gov. Code § 12940(a)).

19 59. At all times relevant hereto, Plaintiff was employed by Defendant BRUSH.
20 Defendant was at all times aware of Plaintiff’s disability and/or medical condition because Plaintiff
21 informed her employer of her condition. Nevertheless, Defendant discriminated against Plaintiff on
22 the basis of her disability and/or medical condition.

23 60. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff’s disability
24 and/or medical condition was a substantial motivating factor in Plaintiff’s termination.

25 61. As a result of Defendant's discriminatory conduct, Plaintiff has suffered and
26 continues to suffer substantial losses in earnings and other employment benefits, has incurred
27 attorneys’ fees and costs and medical bills, all to Plaintiff’s damage and in excess of the minimum
28 jurisdiction of this court, the precise amount of which will be proven at the time of trial.

1 Plaintiff claims such amount as damages together with prejudgment interest pursuant to Civil Code
2 Section 3287 and/or any other provision of law providing for pre-judgment interest.

3 62. As a result of Defendant's discriminatory conduct, Plaintiff has suffered and
4 continues to suffer severe anxiety, humiliation, mental anguish, embarrassment, worry,
5 sleeplessness, mental and emotional distress, loss of reputation, and other incidental damages and
6 out-of-pocket expenses, all to Plaintiff's general damage and in excess of the minimum jurisdiction
7 of this court, the precise amount of which will be proven at the time of trial.

8 63. Defendant, in engaging in the unlawful conduct alleged above, acted with a conscious
9 disregard of Plaintiff's rights, and with the intent to vex, injure, and annoy Plaintiff, such as to
10 constitute oppression, fraud, or malice under California Civil Code § 3294, thereby entitling Plaintiff
11 to exemplary or punitive damages.

12 **SECOND CAUSE OF ACTION**

13 **Retaliation in Violation of Gov't Code §§ 12900, *et seq.***

14 **(Against Defendants BRUSH and DOES 26 - 50)**

15 64. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
16 though fully set forth herein.

17 65. At all times mentioned herein, Government Code §§ 12940, *et seq.*, was in full force
18 and effect and was binding upon Defendants, and each of them. Said sections required Defendant to
19 refrain from retaliating against an employee for his or her opposition to employment practices
20 prohibited under the FEHA and for otherwise engaging in protected activity, including requesting a
21 reasonable accommodation.

22 66. At all times herein mentioned, Plaintiff was in the protected class of persons based
23 on her disability and/or medical condition, and was an individual who engaged in protected
24 activities contemplated by Government Code §§ 12940, *et seq.* Plaintiff is informed and believes
25 and based thereon alleges that Defendant retaliated against her based on disability and/or medical
26 condition, and for generally attempting to protect and secure her rights and the rights of others
27 under the FEHA.
28

67. Commencing before and during September 2018, and continuing to the present, Defendant retaliated against Plaintiff for engaging in protected activity as alleged herein. Such retaliation was in violation of Government Code §§ 12940, *et seq.* and the public policy embodied therein.

68. At all times relevant hereto, Defendant had actual and/or constructive knowledge of the retaliatory conduct levied against Plaintiff by Defendant, fellow employees, and superiors. Moreover, such retaliation and discriminatory conduct was also conducted and/or condoned by Defendant.

69. As a direct, foreseeable, and proximate result of Defendant's retaliatory conduct, Plaintiff suffered and continues to suffer humiliation, embarrassment, anxiety, mental anguish, and emotional distress. Plaintiff was required to and did employ, and will in the future employ, physicians and health care providers to examine, treat and care for Plaintiff, and did, and will in the future, incur medical and incidental expenses. The exact amount of such expenses is unknown to Plaintiff at this time.

70. As a direct, foreseeable, and proximate result of Defendants' retaliatory conduct, Plaintiff suffered and continues to suffer losses in earnings and other employment benefits all to Plaintiff's damage in an amount in excess of the minimum jurisdictional limits of this court, the precise amount of which will be proven at trial.

71. As a further legal result of the above-described conduct of Defendant, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to proof.

THIRD CAUSE OF ACTION

Failure to Prevent Discrimination in Violation of Gov't Code §§ 12900, *et seq.*

(Against Defendants BRUSH and DOES 26 - 50)

72. Plaintiff refers to and incorporates herein by reference all of the above paragraphs as though fully set forth herein.

73. At all times mentioned herein, Government Code section 12900, *et seq.*, was in full force and effect and was fully binding upon Defendant. Specifically, section 12940(k) makes it an unlawful employment practice for an employer to fail to take all reasonable steps necessary

1 to prevent discrimination, retaliation, and/or harassment based on an employee's disability and/or
2 medical condition.

3 74. Plaintiff was subject to discrimination, retaliation, and/or harassment in the
4 workplace, and Defendant, having knowledge of same, failed to take all reasonable steps to prevent
5 discrimination, harassment, and/or retaliation by subjecting Plaintiff to adverse employment
6 actions, including but not limited to terminating Plaintiff.

7 75. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
8 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
9 benefits and has incurred other economic losses.

10 76. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
11 Plaintiff has suffered emotional distress, humiliation, shame, and embarrassment, all to Plaintiff's
12 damage and in an amount to be proven at the time of trial.

13 77. Defendant, in engaging in the unlawful conduct alleged above, acted with a
14 conscious disregard of Plaintiff's rights, and with the intent to vex, injure, and annoy Plaintiff, such
15 as to constitute oppression, fraud, or malice under California Civil Code § 3294, thereby entitling
16 Plaintiff to exemplary or punitive damages, or in the alternative under California Civil Code § 3333
17 for breach of an obligation not arising out of contract to "compensate for all the detriment proximately
18 caused thereby, whether it could have been anticipated or not."

19 **FOURTH BASIS FOR RELIEF**

20 **Failure to Accommodate in Violation of Gov't Code §§ 12900 *et seq.***

21 **(Against Defendants BRUSH and DOES 26 - 50)**

22 78. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
23 though fully set forth herein.

24 79. At all times herein mentioned, Government Code § 12940(m) was in full force and
25 effect and was binding upon Defendants, and each of them. Defendants were aware of Plaintiff's
26 disability and/or medical condition and failed to reasonably accommodate Plaintiff.

27 80. At all times herein mentioned, Plaintiff was in the protected class of persons, *i.e.*,
28 one who had a disability or medical condition or a perceived disability or medical condition,

1 and one who engaged in protected activities contemplated by Government Code §§ 12940, *et*
2 *seq.* Plaintiff is informed and believes and based thereon alleges that Defendants, and each of them,
3 discriminated against her based on her disability, medical condition, perceived disability, and/or
4 perceived medical condition, and for generally attempting to protect and secure her rights and the
5 rights of others under the FEHA. Defendants, and each of them, knew of Plaintiff's disabling
6 physical condition, and failed to provide Plaintiff with a reasonable accommodation for her medical
7 condition.

8 81. Defendants knew of Plaintiff's actual or perceived medical condition and failed to
9 provide Plaintiff with a reasonable accommodation. *Hernandez v. Rancho Santiago Comm. College*
10 *Dist.* (2018) 22 Cal.App.5th 1187, 1194 (finding "the accommodation can hardly be considered
11 reasonable when it included the consequence that she would lose her job if she took the time
12 off ..."].

13 82. As a further legal result of the above-described conduct of Defendants, and each of
14 them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to
15 proof.

16 83. As a direct, foreseeable, and proximate result of Defendants' discriminatory conduct
17 and failure to act, Plaintiff suffered and continues to suffer humiliation, embarrassment, anxiety,
18 mental anguish, and emotional distress. Plaintiff was required to and did employ and will in the
19 future employ physicians and health care providers to examine, treat and care for Plaintiff, and did,
20 and will in the future, incur medical and incidental expenses. The exact amount of such expenses is
21 unknown to Plaintiff at this time.

22 84. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff
23 suffered and continues to suffer losses in earnings and other employment benefits all to her damage
24 and in an amount in excess of the jurisdictional minimum, the precise amount of which will be
25 proven at trial.

26 ///

1 **FIFTH BASIS FOR RELIEF**

2 **Failure to Engage in the Interactive Process in Violation of Gov't Code §§ 12940 *et seq.***
3 **(Against Defendants BRUSH and DOES 26 - 50)**

4 85. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
5 though fully set forth herein.

6 86. At all times herein mentioned, Government Code § 12940(n) was in full force and
7 effect and was binding upon Defendants, and each of them. Defendants were aware of Plaintiff's
8 disability and/or medical condition and yet failed to engage in a timely, good faith interactive
9 process with Plaintiff to reasonably accommodate Plaintiff.

10 87. At all times herein mentioned, Plaintiff was in the protected class of persons, *i.e.*,
11 one who had a disability or medical condition or a perceived disability or medical condition,
12 and one who engaged in protected activities contemplated by Government Code §§ 12940, *et*
13 *seq.* Plaintiff is informed and believes and based thereon alleges that Defendants, and each of them,
14 discriminated against her based on her disability, medical condition, perceived disability, and/or
15 perceived medical condition, and for generally attempting to protect and secure her rights and the
16 rights of others under the FEHA. Defendants and each of them, knew of Plaintiff's physical
17 condition, failed to engage in a timely, good faith interactive process with Plaintiff to reasonably
18 accommodate Plaintiff, and failed to provide Plaintiff with a reasonable accommodation for his
19 physical condition.

20 88. As a further legal result of the above-described conduct of Defendants, and each of
21 them, Plaintiff has and will continue to incur attorneys' fees and costs in an amount according to
22 proof.

23 89. As a direct, foreseeable, and proximate result of Defendants' discriminatory conduct
24 and failure to act, Plaintiff suffered and continues to suffer humiliation, embarrassment, anxiety,
25 mental anguish, and emotional distress. Plaintiff was required to and did employ and will in the
26 future employ physicians and health care providers to examine, treat and care for Plaintiff, and did,
27 and will in the future, incur medical and incidental expenses. The exact amount of such expenses is
28 unknown to Plaintiff at this time.

90. As a direct, foreseeable, and proximate result of Defendants' conduct, Plaintiff suffered and continues to suffer losses in earnings and other employment benefits all to his damage in an amount in excess of the jurisdictional minimum of this court, the precise amount of which will be proven at trial.

SIXTH CAUSE OF ACTION

Failure to Timely Pay Wages Upon Termination in Violation of Cal. Lab. C. §§ 201-203

(Against all Defendants)

91. Plaintiff refers to and incorporates herein by reference the previous paragraphs as though fully set forth herein.

92. Pursuant to California *Labor Code* §§ 201, 202, and 203, Defendants are required to pay all earned and unpaid wages to discharged employees and employees who resign from employment with Defendants.

93. California *Labor Code* § 201 mandates that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of discharge are due and payable immediately.

94. Pursuant to California *Labor Code* § 202, Defendants are required to pay all accrued wages due to an employee no later than 72 hours after the employee quits his or her employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

95. California *Labor Code* § 203 provides that if an employer willfully fails to pay, in accordance with California *Labor Code* §§ 201 and 202, any wages of an employee who discharged or who quits, the employer is liable for waiting time penalties in the form of continued compensation to the employee at the same rate for up to 30 workdays.

96. Defendants have willfully failed, and continue to willfully fail, to pay accrued wages and other compensation to Plaintiff following her termination in accordance with California *Labor Code* §§ 201 and 202.

97. As a result, Plaintiff is entitled to all available statutory penalties, including the waiting time penalties provided in California *Labor Code* § 203, together with interest thereon, as well as other available remedies.

SEVENTH CAUSE OF ACTION

Failure to Pay Overtime Wages in Violation of Cal. Lab. C. §§ 510, *et seq.*

(Against all Defendants)

98. Plaintiff incorporates by reference and re-alleges paragraphs set forth above as though set forth fully herein.

99. California *Labor Code* § 510, IWC Wage Order No. 5-2001, §3, and other applicable laws and regulations, provide that an employer must timely pay its employees for all hours worked.

100. California *Labor Code* § 510 provides that employees in California shall not be employed more than eight (8) hours per workday or forty (40) hours per workweek unless they receive additional compensation beyond their regular wages in amounts specified by law. All hours must be paid at the statutory or agreed rate, and no part of the rate may be used as a credit against a minimum wage obligation. California Labor Code § 510 further provides that employees in California shall not be employed more than twelve (12) hours per workday unless they receive wages at double their regular rate of pay.

101. California *Labor Code* § 1194 establishes an employee’s right to recover unpaid wages, including overtime compensation and interest, and the cost of suit. California *Labor Code* § 1198 further provides that the employment of an employee for longer than those fixed by the IWC Wage Orders is unlawful.

102. Plaintiff is entitled to the protections of California *Labor Code* §§ 510 and 1194, and IWC Wage Order No. 5-2001.

103. Defendants maintained and enforced policies and practices of refusing to pay Plaintiff for all hours worked. Defendants employed Plaintiff for more than eight (8) hours per day and/or more than forty (40) hours per workweek during Plaintiff's employment with Defendants, but Defendants failed to pay Plaintiff the correct applicable overtime rate for the number of

1 overtime hours he worked as required by the California *Labor Code* and the applicable IWC Wage
2 Order.

3 104. Defendants thus required Plaintiff to work under conditions prohibited by order of
4 the IWC, in violation of those orders.

5 105. Defendants owe Plaintiff overtime wages, have failed and refused to pay overtime
6 wages, and continue to fail and refuse to pay the overtime wages owed. Additionally, Defendants
7 did not include all the required compensation in calculating the overtime rate of Plaintiff.

8 106. Defendants' conduct described herein violated, and continues to violate, California
9 *Labor Code* §§ 510, 1194, and 1198 and IWC WAGE ORDER NO. 5-2001, §3. Therefore,
10 pursuant to California Labor Code §§ 200, 203, 226, 558, 1194, and 1197.1 and other applicable
11 provisions under the Labor Code and IWC WAGE ORDER NO. 5-2001, Plaintiff is entitled to
12 recover the unpaid balance of wages owed to him by Defendants, plus interest, penalties, attorneys'
13 fees, expenses, and costs of suit.

14 **EIGHTH CAUSE OF ACTION**

15 **Failure to Provide Meal Periods in Violation of Cal. Lab. C. §§ 226.7, 512, *et seq.***

16 **(Against all Defendants)**

17 107. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
18 though fully set forth herein.

19 108. California *Labor Code* §§ 512 and 226.7(a) prohibit an employer from requiring an
20 employee to work more than five hours per day without providing the employee with a meal period
21 of not less than 30 minutes; further, an employer is prohibited from requiring an employee to work
22 more than ten hours without providing the employee with a second meal period of not less than 30
23 minutes.

24 109. Defendants intentionally and consistently required Plaintiff to work for extended
25 periods of time—well over five hours—without providing the meal periods required by law, thus
26 violating California *Labor Code* §§ 512 and 226.7.

27 110. Pursuant to *Labor Code* § 226.7, Plaintiff has sustained economic damages,
28 including but not limited to unpaid wages and lost interest, in an amount according to proof at trial,

1 and Plaintiff is entitled to recover one-hour of premium pay for each day in which a lawful meal
2 period was not provided. Plaintiff is further entitled to attorneys' fees pursuant to Code of Civil
3 Procedure § 1021.5. Further, pursuant to *Labor Code* section 2699(g)(1), Plaintiff is entitled to an
4 award of reasonable attorneys' fees and costs relating to her claims for civil penalties due to
5 Defendants' violation of the California *Labor Code* and the applicable IWC Wage Order.

6 **NINTH CAUSE OF ACTION**

7 **Failure to Provide Accurate Wage Statements in Violation of Cal. Lab. C. §§ 226, *et seq.***
8 **(Against all Defendants)**

9 111. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
10 though fully set forth herein.

11 112. During Plaintiff's employment with Defendants, Defendants intentionally and
12 knowingly failed to provide Plaintiff with timely and accurate wage and hour statements showing
13 gross hours earned, total hours worked, all deductions made, net wages earned, and all applicable
14 hourly rates in effect during each pay period and the corresponding number of hours worked at each
15 hourly rate.

16 113. Defendants systematically failed to provide such wage statements with accurate
17 information and engaged in a policy of under-reporting and failing to pay for all hours actually
18 worked, all in violation of California *Labor Code* § 226 and related statutes.

19 114. As a result of Defendants' violation of California *Labor Code* § 226 and related
20 statutes, Plaintiff has suffered injuries and damages, including, but not limited to: Plaintiff was not
21 paid proper wages due, and the absence of actual hours worked makes it difficult for Plaintiff to
22 collect any overtime wages due.

23 115. As a result of Defendants' intentional failure to provide Plaintiff with accurate and
24 itemized wage statements, Plaintiff is entitled to all available statutory penalties, costs, and
25 attorneys' fees, including those provided in California *Labor Code* § 226(e), as well as all other
26 available remedies.

1 **TENTH CAUSE OF ACTION**

2 **Unfair Competition in Violation of Cal. Bus. & Prof. C. §§ 17200, *et seq.***

3 **(Against Defendants BRUSH and DOES 26 - 50)**

4 116. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
5 though fully set forth herein.

6 117. California Business and Professions Code §17200 provides, in relevant part: “As
7 used in this chapter, unfair competition shall mean and include any unlawful or fraudulent business
8 act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by
9 Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and
10 Professions Code.”

11 118. Through the conduct alleged herein, Defendants have acted contrary to these public
12 policies, have violated specific provisions of the FEHA, have violated specific provisions of the
13 California *Labor Code*, and have engaged in other unlawful and unfair business practices in
14 violation of California Business and Professions Code §17200, *et seq.*, thus depriving Plaintiff of
15 rights, benefits, and privileges guaranteed to all employees in California. Defendants’ conduct as
16 alleged herein constitutes unfair competition in violation of §17200 *et seq.* of the California
17 Business and Professions Code.

18 119. The acts of Defendants as alleged herein were unfair, unlawful, and fraudulent as
19 defined in California Business and Professions Code §17200. Such acts constitute an unfair
20 business practice and unfair competition, thus violating California Business and Professions
21 Code § 17200, *et seq.* As a result, Defendants obtained valuable property, money, and/or services
22 from Plaintiff, including earned wages for all hours worked, and have deprived Plaintiff of valuable
23 rights and benefits guaranteed by law, all to the detriment of Plaintiff and to the benefit of
24 Defendants so as to allow Defendants to unfairly compete against competitors who comply with the
25 law.

26 120. As a result of the foregoing conduct, Plaintiff is entitled to recover restitution
27 damages. Plaintiff is also entitled to recover reasonable attorneys’ fees pursuant to Code of Civil
28 Procedure §1021.5.

1 **TWELVTH CAUSE OF ACTION**

2 **CLRA Retaliation in Violation of Gov't C. §§ 12945.2, *et seq.***

3 **(Against Defendants BRUSH and DOES 26 – 50)**

4 121. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
5 though fully set forth herein.

6 122. At all times herein mentioned, Government Code §§ 12945.2, *et seq.* was in full
7 force and effect and was binding upon Defendants, and each of them. At all times relevant hereto,
8 Defendants employed 25 or more employees.

9 123. The California Family Rights Act ("CFRA") provides that, "[i]t shall be an unlawful
10 employment practice for an employer to refuse to hire, or to discharge, fine, suspend, expel, or
11 discriminate against, any individual because of...An individual's exercise of the right to family care
12 and medical leave..." for a serious health condition. (Gov't C. § 12945.2(k).)

13 124. Defendants were and are covered employers under CFRA. At all times relevant
14 hereto, Plaintiff was an employee eligible for CFRA leave for a serious health condition, and
15 Plaintiff did in fact avail herself to the benefits of CFRA leave.

16 125. Plaintiff's physician placed Plaintiff off work for complications resulting for a
17 serious health condition. Plaintiff timely provided Defendants with a doctor's note.

18 126. Defendants violated the CFRA by, *inter alia*, discharging, suspending, expelling,
19 and/or discriminating against Plaintiff and by substantially changing the terms and conditions of her
20 employment.

21 127. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
22 special damages in the form of lost earnings, benefits, and/or out of pocket expenses in an amount
23 according to proof at the time of trial. As a further direct and proximate result of these Defendants'
24 conduct, Plaintiff will suffer additional special damages in the form of lost future earnings, benefits,
25 and/or other prospective damages in an amount according to proof at the time of trial.

26 128. As a further direct and proximate result of Defendants' conduct, Plaintiff has
27 suffered mental and emotional pain, distress, and discomfort, all to her detriment, and damages in
28

1 an amount not fully ascertained but within the jurisdiction of this court and subject to proof at the
2 time of trial.

3 129. In engaging in the conduct alleged herein, these Defendants, and each of them, acted
4 oppressively, maliciously, fraudulently, and/or outrageously towards Plaintiff, with conscious
5 disregard for her known rights and with the intention of causing, and/or willfully disregarding the
6 probability of causing, unjust and cruel hardship to Plaintiff. In so acting, these Defendants
7 intended to and did vex, injury, and annoy Plaintiff. Therefore, an assessment of punitive damages
8 should be made against Defendants in an amount sufficient to punish them and to prevent them
9 from willfully engaging in future discriminatory and/or retaliatory conduct.

10 130. Finally, Plaintiff is entitled to costs and reasonable attorneys' fees pursuant to
11 California Government Code § 12965(b), et seq. and appropriate and effective equitable or
12 injunctive relief pursuant to California Government Code §§ 12965(c) *et seq.*

13 **ELEVENTH CAUSE OF ACTION**

14 **Private Attorney General Act, §§ 2698, *et seq.***

15 **(Against Defendants BRUSH and DOES 26 - 50)**

16 131. Plaintiff refers to and incorporates herein by reference the previous paragraphs as
17 though fully set forth herein.

18 132. Under the Private Attorneys General Act of 2004, Cal. Labor Code §§ 2698-2699.5,
19 an aggrieved employee, on behalf of himself or herself and other current or former employees, may
20 recover penalties under any provision of the Cal. Labor Code that provides for civil penalties. These
21 penalties are in addition to any other relief available under the California *Labor Code*.

22 133. As set forth above, Defendant has committed numerous violations for which the *Labor*
23 *Code* provides for penalties, including violations of California *Labor Code* §§ 201, 202, 203, 221-
24 224, 226, and 2802.

25 134. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved
26 employees” as defined by California *Labor Code* section 2699(c) in that they are all current or former
27 employees of Defendants, and one or more of the alleged violations was committed against them.
28

1 135. Plaintiff has provided written notice by certified mail to the LWDA and to Defendant
2 of the legal claims and theories of this case. Sixty-five days have passed since the postmark date of
3 the written notice to the LWDA, and Plaintiff has not received notification from the LWDA that it
4 intends to investigate the alleged violations. Accordingly, Plaintiff has exhausted administrative
5 remedies as required by California *Labor Code* § 2699.3.

6 136. As a direct result of Defendant's conduct as described, Plaintiff is entitled to recover,
7 on his own behalf and on behalf of others similarly situated, the maximum civil penalties permitted
8 by the Private Attorneys General Act from Defendants for all violations of *Labor Code* §§ 201, 202,
9 203, 221-224, 226, and 2802, as well as reasonable attorney's fees and costs.

10 137. Defendant's conduct of violating the California *Labor Code* constitutes violations of
11 the PAGA. Therefore, Plaintiff requests penalties against Defendant under the provisions of PAGA
12 section 2699(f).

13 138. The proper measure of damages and penalties under the PAGA is to be calculated
14 based on the total number of all aggrieved employees, whether they are a party to this action or not.
15 Further, this claim needs no certification to proceed with class-wide recovery. *See Arias v. Superior*
16 *Court* (2009) 46 Cal. 4th 969, 970-975.

17 139. Further, as a direct and proximate result of the conduct of Defendant, as set forth
18 above, Plaintiff was forced to incur substantial attorney's fees and costs which are recoverable under
19 California Labor Code Section 2699(g)(1).

20 ///

PRAYER FOR RELIEF

Wherefore, Plaintiff, individually, and on behalf of aggrieved employees, pray for an award and judgment against Defendants, jointly and severally, as follows:

1. For such general, special, and liquidated damages in amounts to be proven at the time of trial;
2. For restitution of all monies due to Plaintiff, as well as disgorged profits from defendants' unfair and unlawful business practices;
3. For punitive damages on applicable causes of action;
4. For payment of unpaid overtime compensation pursuant to Labor Code §§ 201, 510, 1194, the applicable IWC Order, and the applicable 8 Code of Regulation sections;
5. For damages pursuant to Labor Code § 226;
6. For waiting time penalties pursuant to Labor Code §§ 201-203;
7. For interest on the unpaid wages at 10% per annum pursuant to California Labor Code §§ 218.6, 1194, and 2802, California Civil Code §§ 3287 and 3288, and/or any other applicable provision providing for pre-judgment interest;
8. For declaratory relief;
9. For statutory and civil penalties according to proof, including but not limited to all penalties authorized by the California Labor Code § 2699;
10. For preliminary and permanent injunctive relief enjoining Defendants from violating the relevant provisions of the California Labor Code and IWC Wage Order No. 1-2001 and from engaging in the unlawful business practices complained of herein;
11. For an award of interest, including prejudgment interest, at the legal rate;
12. For an award of reasonable attorneys' fees and costs on the applicable causes of action pursuant to California Labor Code §§ 226, 1194, 2699, and 2802, California Civil Code 1021.5, and any other applicable provisions providing for attorneys' fees and costs;
13. For costs of suit incurred; and
14. For such other and further relief as the Court may deem just and appropriate.

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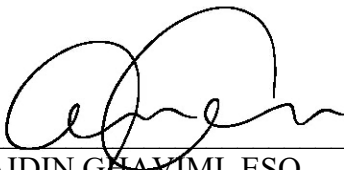
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

DATED: November 23, 2021

STARPOINT, LC

By: 
AIDIN GHAVIMI, ESQ.
JOHN VAFA, ESQ.
Attorneys for Plaintiff,
MARIA PEREZ