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County of Sonoma
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SONOMA

RAQUEL LOPEZ,

Plaintiff,

vs.

SONOMA VALLEY HEALTH CARE
DISTRICT dba SONOMA VALLEY
HOSPITAL; and DOES 1 to 25, inclusive,

Defendants.

) CASE NO.: SCV-270909

) **COMPLAINT FOR DAMAGES FOR:**

) **1) FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**

) **2) FAILURE TO PAY MINIMUM**
) **WAGES;**

) **3) FAILURE TO PROVIDE**
) **ACCURATE ITEMIZED WAGE**
) **STATEMENTS;**

) **4) FAILURE TO REIMBURSE**
) **BUSINESS EXPENSES;**

) **5) PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA");**

) **6) DISCRIMINATION ON THE BASIS**
) **OF PHYSICAL DISABILITY IN**
) **VIOLATION OF THE FAIR**
) **EMPLOYMENT AND HOUSING**
) **ACT ("FEHA");**

) **7) HARASSMENT ON THE BASIS OF**
) **PHYSICAL DISABILITY IN**
) **VIOLATION OF FEHA;**

) **8) RETALIATION IN VIOLATION OF**
) **FEHA;**

) **9) FAILURE TO PREVENT**
) **DISCRIMINATION, HARASSMENT,**
) **AND RETALIATION IN**
) **VIOLATION OF FEHA;**

) **10) FAILURE TO PROVIDE**
) **PERSONNEL RECORDS**

) **11) RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 1102.5;**

) **12) RETALIATION IN VIOLATION OF**

1) **LABOR CODE SECTION 98.6**

2) **DEMAND FOR JURY TRIAL**

3)
4)
5)
6 **COMES NOW** Plaintiff, RAQUEL LOPEZ (hereinafter “Plaintiff”), and alleges as
7 follows:

8 **PARTIES, JURISDICTION, VENUE**

9 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the
10 County of Sonoma in this judicial district because Defendants, SONOMA VALLEY HEALTH
11 CARE DISTRICT dba SONOMA VALLEY HOSPITAL, and DOES 1 to 25, inclusive do
12 business in the County of Sonoma and because Defendants’ obligations and liabilities arise
13 therein, and because the work that was performed by Plaintiff in the County of Sonoma is the
14 subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

15 2. Plaintiff is a female resident of the State of California.

16 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
17 SONOMA VALLEY HEALTH CARE DISTRICT dba SONOMA VALLEY HOSPITAL
18 (hereinafter “SVH”) is a health care district, which is a special district and considered a public
19 entity. SVH employed Plaintiff during the relevant time period.

20 4. The “aggrieved employees” are all current and former hourly, non-exempt employees
21 who worked for SVH in the state of California during the relevant time period pursuant to
22 California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of
23 2004 (“PAGA”).

24 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
25 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
26 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
27 defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible
28 for the conduct alleged herein. Upon discovering the true names and capacities of these

1 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and
2 capacities of these fictitiously named defendants.

3 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that
4 information and belief, alleges that at all times herein mentioned, each of the remaining
5 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
6 under the authority of their agency, employment, or representative capacity, with the consent of
7 his/her codefendants.

8 **GENERAL ALLEGATIONS**

9 7. Plaintiff started working for SVH in or around June of 2021. Her employment with
10 SVH ended on or around October 22, 2021. Plaintiff was classified as an hourly, non-exempt
11 employee and worked as a supervisor in the Sterile Processing Department. Plaintiff's ending
12 hourly rate was \$45.90/hour.

13 8. It is Plaintiff's position that SVH has violated numerous Labor Code Sections against
14 Plaintiff and other similarly situated aggrieved employees.

15 9. SVH did not provide Plaintiff and other similarly situated aggrieved employees with the
16 minimum wages to which they were entitled for all work performed and did not compensate her
17 and others for all hours worked pursuant to California Labor Code sections 1194, 1197 and
18 1197.1. Plaintiff and others were not paid for all hours worked and consistently worked "off the
19 clock". This is so because Plaintiff would receive work-related calls after hours which she would
20 have to answer. Moreover, on occasion, Plaintiff was asked to be on "standby" and essentially
21 "on call" but was not compensated for that time. Furthermore, Plaintiff consistently worked
22 through meal periods without being compensated for that time which is akin to a minimum wage
23 violation. Finally, SVH had a rounding policy to the detriment of employees such as Plaintiff,
24 which resulted in Plaintiff and others not receiving compensation for all hours worked, including
25 the minimum wage.

26 10. Furthermore, during the relevant time period and due to the labor code violations as
27 discussed above, SVH was also in violation of California Labor Code section 226(a), by failing
28 to include accurate, pertinent information on the wage statements, including but not limited to,
all hours worked, overtime hours worked, all applicable hourly rates, the correct legal name and

1 correct address of the employer, gross wages earned, all deductions, net wages earned,
2 reimbursement for business expenses, the correct start and end of the applicable pay period, all
3 employee identifying information, among other items. In fact, Plaintiff's pay stubs indicate that
4 her hourly rate was not even included on the pay stub itself, which is a facial violation and makes
5 it difficult for employees to keep track of their pay and make sure it is accurate. As such, SVH
6 did not provide Plaintiff and other similarly situated aggrieved employees with complete,
7 accurate itemized wage statements.

8 11. During the relevant time period, SVH also failed to keep accurate and complete payroll
9 records showing the actual hours worked per day and the wages paid to Plaintiff and other
10 aggrieved employees pursuant to California Labor Code sections 1174(d).

11 12. During the relevant time period, Plaintiff incurred necessary, business-related expenses
12 and costs that were not reimbursed by SVH. These costs include, but are not limited to, the use
13 of personal cell phones for work purposes. Different departments would consistently call and
14 text Plaintiff on her personal cell phone. Plaintiff asked Human Resources if she was going to
15 be reimbursed for that to which Human Resources responded that they don't provide a phone
16 allowance. Accordingly, SVH was in violation of California Labor Code sections 2800 and 2802.

17 13. During her employment, Plaintiff developed shingles and informed the HR department.
18 The HR department shared this information about Plaintiff's shingles with the CNO, who then
19 shared this information with the OR staff, all in an effort to mock and harass Plaintiff and make
20 her work environment more difficult. Upon Plaintiff's return to work, Plaintiff was harassed for
21 having had Shingles. Plaintiff complained to HR about the workplace harassment she was
22 experiencing. Furthermore, SVH and staff had also received other information relating to
23 Plaintiff's disabilities, including her issue with migraines. Instead of investigating Plaintiff's
24 complaints regarding workplace harassment, SVH retaliated against Plaintiff and suspended and
25 ultimately terminated her employment on October 22, 2021 in violation of the Fair Employment
26 and Housing Act ("FEHA").

26 14. Moreover, throughout her employment tenure at SVH, Plaintiff complained about
27 illegal conduct at the workplace. For instance, Plaintiff consistently complained to
28

1 management about wage and hour violations, including issues with payment and not being able
2 to take meal and rest breaks. Furthermore, there was an incident wherein Plaintiff acquired
3 Shingles. Human Resources ended up leaking Plaintiff's medical diagnosis of Shingles to the
4 CNO and others, which is an obvious serious HIPAA violation and was also meant to harass
5 and discriminate against Plaintiff as alluded to above. Plaintiff complained about the latter to
6 Human Resources. In addition, Plaintiff also brought up safety concerns to management,
7 including the endoscopy scope going in the wrong places and specialized technicians not
8 engaging in particular tasks as a result of which patients would get hurt. Due to Plaintiff's
9 consistent complaints about illegal conduct in the workplace, the company flipped the table
10 and instead of fully and thoroughly investigating Plaintiff's complaints, the company decided
11 to start investigating Plaintiff. SVH wrongfully suspended Plaintiff and eventually wrongfully
12 terminated her on or around October 22, 2021 in contravention of California's laws. It is
13 important to note that Plaintiff never received a single disciplinary write-up during her
14 employment tenure at SVH. In its termination letter, SVH sets forth vague and ambiguous
15 general statements about Plaintiff violating the Code of Conduct and Hospital values, without
16 setting forth any actual, detailed reasoning for Plaintiff's unlawful termination.

17 15. Pursuant to California Government Code section 12960, Claimant has exhausted her
18 administrative remedies. Claimant filed a complaint with the Department of Fair Employment
19 and Housing ("DFEH"), alleging claims in this Complaint. The DFEH immediately issued to
20 Plaintiff a right to sue letter. Moreover, pursuant to Government Code Section 910 et seq.,
21 Plaintiff served SVH with a written claim dated October 27, 2021, setting forth specific facts
22 and legal theories regarding Plaintiff's individual claims under Labor Code Sections 1102.5 and
23 98.6. SVH signed for receipt of the correspondence on or around November 1, 2021. SVH
24 rejected Plaintiff's claims for violations of Labor Code Sections 1102.5 and 98.6 by not
25 responding to Plaintiff's individual claims within 45 days, or anytime to date.

26 **FIRST CAUSE OF ACTION**

27 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

28 **(California Industrial Welfare Commission Order 5-2001, California Code of**

1 **Regulations Title 8 Section 11050, and California Labor Code Section 1198)**

2 **(Plaintiff against all named defendants and all DOE defendants)**

3 16. Plaintiff re-alleges and incorporates by reference each and every allegation in
4 paragraphs 1 through 15, inclusive, of this Complaint as though fully set forth herein.

5 17. At all times relevant herein, Defendants were required to compensate their employees
6 for all hours worked upon reporting for work at the appointed time stated by the employer
7 pursuant to Industrial Welfare Commission Order 5-2001, California Code of Regulations,
8 Title 8, Section 11050.

9 18. For the three (3) years preceding filing of this action, Defendants failed to compensate
10 Plaintiff for all hours worked.

11 19. Under the aforementioned wage order and regulations, Plaintiff is to recover
12 compensation for all hours worked but not paid by Defendants for the three (3) years preceding
13 the filing of this Complaint.

14 20. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
15 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
16 this Court.

17 21. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194,
18 and 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
19 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
20 reasonable attorney's fees and costs of suit.

21 22. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
22 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
23 amount known to Plaintiff once she has obtained all of her payroll records from Defendants.

24 **SECOND CAUSE OF ACTION**

25 **FAILURE TO PAY MINIMUM WAGES**

26 **(California Labor Code Sections 1194, 1194.2, 1197)**

27 **(Plaintiff against all named defendants and all DOE defendants)**

28 23. Plaintiff re-alleges and incorporates by reference each and every allegation in
paragraphs 1 through 22, inclusive, of this Complaint as though fully set forth herein.

1 24. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an
2 employer to suffer or permit a California employee to work without paying wages at the
3 minimum wage rate for all hours worked as required by the applicable Industrial Welfare
4 Commission Wage Order No. 5-2001, codified at California Code of Regulations,
5 Title 8, Section 11050, subdivision 4.

6 25. Pursuant to IWC Wage Order No. 5-2001, subdivision 2(K), at all relevant times,
7 “hours worked” included “the time during which an employee is subject to the control of an
8 employer, and includes all the time the employee is suffered or permitted to work, whether or
9 not required to do so, and in the case of an employee who is required to reside on the
10 employment premises, that time spent carrying out assigned duties shall be counted as hours
11 worked...”

12 26. During her employment, Plaintiff was regularly required as a matter of uniform
13 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
14 was paid less than the minimum wage rate by Defendants for hours worked in violation of
15 California Labor Code Section 1197 and the applicable California Industrial Wage
16 Commission wage order(s).

17 27. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
18 permitted to work by Defendants. Defendants’ acts or omissions in failing to adequately
19 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
20 to believe that their acts or omissions were not contrary to California law.

21 28. For all hours worked by Plaintiff for which she was paid less than the minimum wage
22 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
23 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
24 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
25 Plaintiff is also entitled to attorney’s fees, costs and interests according to proof.

26 29. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
27 along with any allowable interest, penalties, attorney’s fees, and costs according to proof at
28 trial.

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1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 **(California Labor Code Section 226)**

4 **(Plaintiff against all named defendants and all DOE defendants)**

5 30. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 29, inclusive, of this Complaint as though fully set forth herein.

7 31. Pursuant to California Labor Code Section 226, every employer must furnish each
8 employee an itemized statement of wages and deductions at the time of payment of wages.

9 32. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
10 accurately reflected all information required by Labor Code Section 226, including but not
11 limited to, gross wages earned, including overtime, net wages earned, total hours worked by
12 the employee, all deductions, and premium pay for missed meal breaks and rest breaks.
13 Therefore, Defendants failed to maintain and provide accurate itemized wage statements to
14 Plaintiff in accordance with California Labor Code Section 226(a).

15 33. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
16 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
17 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
18 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
19 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
20 the 3-year period immediately preceding the date this lawsuit was filed.

21 34. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
22 sustained damages, including loss of earnings, in an amount to be established at trial. As a
23 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
24 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
25 and attorney's fees pursuant to statute.

26 35. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
27 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
28 trial.

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1 **FOURTH CAUSE OF ACTION**

2 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

3 **(Plaintiff against all named defendants and all DOE defendants)**

4 36. Plaintiff re-alleges and incorporates by reference each and every allegation in
5 paragraphs 1 through 35, inclusive, of this Complaint as though fully set forth herein.

6 37. Labor Code section 2802 provides that “[a]n employer shall indemnify his or her
7 employee for all necessary expenditures or losses incurred by the employee in direct
8 consequence of the discharge of his or her duties.”

9 38. Beginning at least 3 years prior to the filing of this complaint, in order to discharge her
10 duties for Defendants, Plaintiff incurred reasonable and necessary expenses in the course of
11 completing her job duties, which were not reimbursed by Defendant. These expenses include,
12 but are not limited to, use of personal cell phones for work purposes.

13 39. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest and
14 attorney’s fees and costs, under Labor Code section 2802.

15 **FIFTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT**

17 **(Individual and Representative Claim for PAGA penalties under California Labor Code**

18 **Sections 98.6, 226, 1102.5, 1174, 1194, 1197, 2802)**

19 **(Against All Named Defendants and all DOE Defendants)**

20 40. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 39, inclusive, of this Complaint as though fully set forth herein.

22 41. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
23 Defendants of the specific violations of the California Labor Code that Defendants and DOE
24 defendants have violated and continue to violate.

25 42. Pursuant to California Labor code section 2699.3, no response was received from the
26 LWDA within 65 days of the postmark date of the above-alleged letter.

27 43. Plaintiff therefore has exhausted all administrative remedies required of her under
28 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
cause of action and pursue penalties in a representative action for Defendants’ violations of the

1 Labor Code.

2 44. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
3 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
4 departments, divisions, commissions, boards, agencies, or employees for violation of the code
5 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
6 on behalf of himself or herself and other current or former employees pursuant to the
7 procedures specified in California Labor Code section 2699.3.

8 45. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
9 violator and had one or more of the alleged violations committed against her, and therefore is
10 properly suited to represent the interests of other current and former employees, including all
11 current and former hourly, non-exempt employees who worked for SVH in the State of
12 California during the applicable PAGA Period.

13 46. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
14 penalties under California Labor Code sections 2698 and 2699 because of Defendants’
15 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

16 47. Plaintiff therefore has exhausted all administrative remedies required of her under
17 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
18 cause of action and pursue penalties in a representative action for Defendants’ violations of the
19 Labor Code.

20 48. California Labor Code section 2699 et seq. imposes penalties upon culpable Defendants
21 for violating the Labor Code.

22 49. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by
23 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
24 seeking individual/victim specific relief or underpaid wages for herself or other employees
25 under this specific PAGA cause of action. Plaintiff has separate causes of action in this
26 Complaint for individual wages but is not seeking wages through the PAGA action.

27 50. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted
28 by law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
the following:

Violations of California Labor Code §§ 98.6, 226, 1102.5, 1174, 1194, 1197, 2802 and any other Labor Codes and Industrial Welfare Commission Wage Orders (Order no. 5) violated based on the facts alleged in this Complaint.

51. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees, costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved employees as alleged herein in an amount to be shown according to proof at trial and within the jurisdictional limits of this Court.

SIXTH CAUSE OF ACTION

DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION OF FEHA

(Plaintiff against all named Defendants and all DOE Defendants)

52. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 51, inclusive, of this Complaint as though fully set forth herein.

53. Defendants and DOES 1 to 25, inclusive, are covered employers under California's Fair Employment and Housing Act.

54. California Government Code section 12926(m) has established a "broad definition" of physical disability: disability protections under the Fair Employment and Housing Act ("FEHA") even extend to "perceived" physical disabilities. *Id.* Under the law of this state, "working" is a major life activity. *See* section 12926.1(c).

55. Plaintiff's shingles and migraines, which were debilitating, and which limited a major life activity, qualifies as a disability under FEHA, and Plaintiff was entitled to its protection.

56. Defendants knew of Plaintiff's disability and violated California Government Code section 12940 et. seq. by discriminating against Plaintiff on the basis of her disability.

57. As a direct and proximate result of the aforementioned acts and omissions of Defendants, Plaintiff suffered general and compensatory damages, including but not limited to, loss of income (past and future), loss of employment benefits (past and future), general and compensatory damages (past and future), mental pain and anguish and emotional distress (past and future), and will continue to suffer in the future, in an amount to be proved at trial.

58. As a proximate result of the foregoing conduct, which violated the provisions of

1 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
2 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

3 **SEVENTH CAUSE OF ACTION**

4 **HARASSMENT ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION OF**
5 **FEHA**

6 **Violation of FEHA, California Government Code Sections 12900 et seq.**
7 **(Plaintiff against all named defendants and all DOE defendants)**

8 59. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.

10 60. Defendants and DOES 1 to 25, inclusive, are covered employers under California's
11 Fair Employment and Housing Act.

12 61. Defendants' conduct, as alleged, violated the FEHA, California Government Code
13 sections 12900 et seq., and Defendants committed unlawful employment practice(s) by harassing
14 Plaintiff and/or creating a hostile work environment, based in whole or in part, on Plaintiff's
15 physical disability (shingles), in violation of California Government Code section 12940(j).

16 62. In engaging in the aforementioned conduct, Defendants and DOES 1 to 25, inclusive,
17 and each of them, aided, abetted, incited, compelled, and/or coerced unlawful employment
18 practices in violation of the announced policy of this State against such practices. Furthermore,
19 they failed to take immediate and appropriate corrective action to prevent this harassment.

20 63. As a direct and proximate result of the aforementioned acts and omissions of
21 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
22 loss of income (past and future), loss of employment benefits (past and future), general and
23 compensatory damages (past and future), mental pain and anguish and emotional distress (past
24 and future), and will continue to suffer in the future, in an amount to be proved at trial.

25 64. As a proximate result of the foregoing conduct, which violated the provisions of
26 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
27 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

28 **EIGHTH CAUSE OF ACTION**
RETALIATION IN VIOLATION OF FEHA

1 **(Plaintiff against all named Defendants and all DOE Defendants)**

2 65. Plaintiff re-alleges and incorporates by reference each and every allegation in
3 paragraphs 1 through 64, inclusive, of this Complaint as though fully set forth herein.

4 66. At all times herein mentioned, Government Code section 12940 et. seq. was in full
5 force and effect and was binding upon Defendants and each of them. Said statute imposes
6 certain duties upon Defendants concerning discrimination, harassment and retaliation against
7 persons, such as Plaintiff, on the basis of physical disability. Said statutes were intended to
8 prevent the type of injury and damage set forth herein. Plaintiff was, at all times herein
9 mentioned, a member of the class of persons intended to be protected by said statutes. As alleged
10 above, Plaintiff was harassed based on her physical disability and retaliated against for
11 complaining about work place harassment.

12 67. As a direct and proximate result of Defendants' conduct, Plaintiff has been harmed
13 in that Plaintiff has suffered the loss of wages, salary, and benefits, among other things. As a
14 result, Plaintiff has suffered such damages in an amount according to proof.

15 68. As a further direct and proximate result of the conduct of Defendants, and each of
16 them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish and
17 emotional distress, and has been harmed in mind and body. As a result, Plaintiff has suffered
18 such damages in an amount according to proof.

19 69. FEHA provides for an award of reasonable attorneys' fees and costs incurred by a
20 prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
21 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
22 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
23 award of attorneys' fees and costs.

24 **NINTH CAUSE OF ACTION**

25 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION**

26 **IN VIOLATION OF FEHA**

27 **(Plaintiff against all named Defendants and all DOE Defendants)**

28 70. Plaintiff re-alleges and incorporates by reference each and every allegation in
paragraphs 1 through 69, inclusive, of this Complaint as though fully set forth herein.

1 71. At all times herein mentioned, FEHA, California Government Code section 12940(k),
2 was in full force and effect and was binding on Defendants. This statute states that it is an
3 unlawful employment practice in California for an employer to “fail to take all reasonable steps
4 necessary to prevent discrimination and harassment from occurring.”

5 72. During the course of Plaintiff’s employment, Defendants failed to prevent their
6 employees, including management, from engaging in intentional actions that resulted in Plaintiff
7 being treated less favorably and eventually being terminated because of Plaintiff’s protected
8 status (i.e. her physical disability). During the course of Plaintiff’s employment, Defendants
9 failed to prevent their employees from engaging in unjustified employment practices against
10 employees in such protected classes. During the course of Plaintiff’s employment, Defendants
11 failed to prevent a pattern and practice by its employees of intentional discrimination,
12 harassment, and retaliation on the basis of physical disability, and/or other protected status and/or
13 protected activity.

14 73. Plaintiff believes and, on that basis, alleges that her physical disability and other
15 protected status and/or protected activity in complaining about harassment at the workplace was
16 a substantial motivating factor in Defendants’ employees’ harassing her and retaliating against
17 her.

18 74. As a direct and proximate result of the aforementioned acts and omissions of
19 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
20 loss of income (past and future), loss of employment benefits (past and future), general and
21 compensatory damages (past and future), mental pain and anguish and emotional distress (past
22 and future), and will continue to suffer in the future, in an amount to be proved at trial.

23 75. As a proximate result of the foregoing conduct, which violated the provisions of
24 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney’s
25 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

26 **TENTH CAUSE OF ACTION**

27 **FAILURE TO PROVIDE PERSONNEL RECORDS**

28 **(Plaintiff against all named defendants and all DOE defendants)**

76. Plaintiff re-alleges and incorporates by reference each and every allegation in

1 paragraphs 1 through 75, inclusive, of this Complaint as though fully set forth herein.

2 77. Labor Code section 1198.5 dictates “every current and former employee, or his or her
3 representative, has the right to inspect and receive a copy of the personnel records that the
4 employer maintains relating to the employee’s performance or to any grievance concerning the
5 employee.”

6 78. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, “the employer
7 shall make the contents of those personnel records available for inspection to the current or
8 former employee, or his or her representative, at reasonable intervals and at reasonable times...”
9 On information and belief, Defendants intentionally failed to provide Plaintiff with personnel
10 records when requested by Plaintiff via letter on October 27, 2021, as required by law. Plaintiff
11 requested her personnel records in accordance with California Labor Code section 1198.5(k) on
12 October 27, 2021, via U.S. certified mail, return receipt requested.

13 79. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her records
14 within 30 days. As a direct result of Defendants’ violations alleged herein, Plaintiff has
15 suffered and continues to suffer substantial losses related to Defendants’ failure to provide
16 personnel records.

17 80. Plaintiff seeks all available remedies for Defendants’ violations including, but not
18 limited penalties, and costs to the extent permitted by law and according to proof at trial.
19 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants
20 in the amount of \$750.00, along with costs and attorney’s fees.

21 **ELEVENTH CAUSE OF ACTION**

22 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5**

23 **(Plaintiff against All Named Defendants and DOE Defendants, and each of them)**

24 81. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 80, inclusive, of this Complaint as though fully set forth herein.

26 82. At all times material to this Complaint, California Labor Code § 1102.5 was in effect
27 and binding on Defendants. This section requires Defendant to refrain from
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1 retaliating against an employee for refusing to participate in an activity that he/she reasonably
2 believes would result in a violation of state or federal statute, or a violation or
3 noncompliance with a state or federal rule or regulation. California Labor Code section
4 1102.5 also requires Defendants to refrain from retaliating against an employee for disclosing
5 information to a person with authority over the employee if the employee has reasonable cause
6 to believe that the information discloses a violation of state or federal statute, or a violation of
7 or noncompliance with a local, state, or federal rule or regulation, regardless of whether
8 disclosing the information is part of the employee's job duties.

10 83. As discussed fully above, Plaintiff complained to Defendants about the hospital's
11 illegal and unsafe conduct and the labor code violations being committed against Plaintiff.

12 84. Defendants retaliated against Plaintiff for her whistleblowing, as alleged above,
13 all in violation of Labor Code § 1102.5.

15 85. As a direct and proximate result of the aforementioned acts and omissions of
16 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
17 loss of income (past and future), loss of employment benefits (past and future), general and
18 compensatory damages (past and future), mental pain and anguish and emotional distress (past
19 and future), and will continue to suffer in the future, in an amount to be proved at trial.

20 86. Plaintiff requests all available relief under Labor Code § 1102.5 including damages
21 and the imposition of civil penalties for each violation as well as attorney's fees under Labor
22 Code section 1102.6.

24 **TWELFTH CAUSE OF ACTION**

25 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 98.6**

26 **(California Labor Code section 98.6)**

27 **(Plaintiff against all Named Defendants DOE Defendants, and each of them)**
28

1 87. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 86, inclusive, of this Complaint as though fully set forth herein.

3 88. California Labor Code section 98.6 provides, in pertinent part, as follows:

4 “A person shall not discharge an employee or in any manner discriminate, retaliate, or
5 take any adverse action against any employee or applicant for employment because the
6 employee or applicant engaged in any conduct delineated in this chapter...or because
the employee or applicant...made a written or oral complaint that he or she is owed
unpaid wages...

7 89. In doing the things herein alleged, Defendants violated Labor Code section 98.6 in that
8 they retaliated against Plaintiff for complaining about her wages and about the labor code
9 violations that were being committed by Defendants.

10 90. As a direct and proximate result of the aforementioned acts and omissions of
11 Defendants, Plaintiff suffered general and compensatory damages, including but not
12 limited to, loss of income (past and future), loss of employment benefits (past and future),
13 general and compensatory damages (past and future), mental pain and anguish and emotional
14 distress (past and future), and will continue to suffer in the future, in an amount to be proved at
15 trial. Moreover, pursuant to Labor Code section 98.6, an employer who violates this section is
16 liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee for each
17 violation of this section.

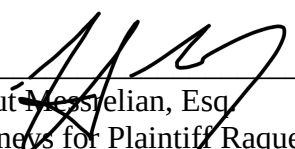
18 WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as
19 follows:

- 20 1. For compensatory damages including lost past and future wages, regular wages,
21 overtime, and all other sums of money, including employment benefits, together with
22 interest on said amounts, and any other economic injury to Plaintiff, according to proof;
- 23 2. For general damages according to proof;
- 24 3. For special and consequential damages to Plaintiff in an amount subject to proof at
25 trial;
- 26 4. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
27 subject to proof at trial;
- 28

5. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendant as described more particularly in the Complaint and Representative PAGA claim/action;
6. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of attorney's fees, costs, interest, and penalties according to proof to the extent permitted by law;
7. For the imposition of civil penalties and/or statutory penalties;
8. For all interest as allowed by law;
9. For all costs and disbursements incurred in this suit;
10. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5, the California Labor Code; and/or other applicable laws; and
11. For such other and further relief as this Court may deem proper.

DATED: May 29, 2022

MESSRELIAN LAW INC.

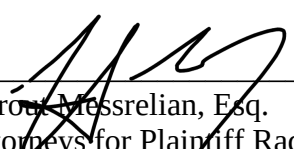
By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Raquel Lopez

DEMAND FOR JURY TRIAL

Plaintiff hereby demands, as a matter of right, a trial by jury in this case.

DATED: May 29, 2022

MESSRELIAN LAW INC.

By 
Harout Messrelian, Esq.
Attorneys for Plaintiff Raquel Lopez