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11 DOLORES DECORSE

12
13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

15 DOLORES DECORSE, an individual,

16 Plaintiff,

17 v.

18 CALIFORNIA SUNRISE, INC., a California
19 corporation; JACK IN THE BOX, INC., a
20 Delaware corporation; YUNUEN ROLDAN, an
21 individual; JOSE SANTIAGO, an individual;
22 JOEL VASQUEZ, an individual; JUDITH
23 BANUELOS, an individual; and DOES 1
24 through 20, inclusive,

25 Defendants.

Case No.

22STCV24103

COMPLAINT FOR DAMAGES FOR:

1. **DISCRIMINATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.;**
2. **HARASSMENT IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.;**
3. **RETALIATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.;**
4. **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT AND RETALIATION IN VIOLATION OF GOV'T CODE § 12940(k);**
5. **RETALIATION IN VIOLATION OF GOV'T CODE §§12945.2 ET. SEQ.;**
6. **FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.;**
7. **FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.;**

8. VIOLATION OF THE PREGNANCY
DISABILITY LEAVE LAW (GOV'T
CODE §12945(a));
9. NEGLIGENT SUPERVISION AND
RETENTION;
10. RETALIATION (LAB. CODE §98.6);
11. RETALIATION IN VIOLATION OF
LABOR CODE § 232.5, 1102.5, ET SEQ.;
12. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;
13. FOR DECLARATORY JUDGMENT;
14. FAILURE TO PAY ALL WAGES DUE
AND IMPROPER DEDUCTIONS (CAL.
LABOR CODE §§ 200, 201, 204, 221, 351);
15. FAILURE TO PAY MINIMUM WAGES
(CAL. LABOR CODE §§1182.12, 1194,
1194.2, 1197);
16. FAILURE TO PAY OVERTIME
COMPENSATION (CAL. LABOR CODE
§§510, 1194);
17. FAILURE TO PROVIDE MEAL AND
REST PERIODS (CAL. LABOR CODE §§
226.7, 512);
18. FAILURE TO INDEMNIFY FOR
NECESSARY BUSINESS EXPENSES
(CAL. LABOR CODE § 2802);
19. FAILURE TO PROVIDE ITEMIZED
WAGE AND HOUR STATEMENTS (CAL.
LABOR CODE §§ 226, ET SEQ.);
20. WAITING TIME PENALTIES (CAL.
LABOR CODE §§ 201-203); AND
21. PRIVATE ATTORNEY GENERAL ACT
(CAL. LABOR CODE § 2699, ET SEQ.);
22. FAILURE TO PERMIT INSPECTION OF
PERSONNEL AND PAYROLL RECORDS
(CAL. LABOR CODE §§226, 1198.5); AND
23. UNFAIR COMPETITION (BUS. & PROF.
CODE § 17200 ET SEQ.).

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

COMES NOW PLAINTIFF, DOLORES DECORSE, and for causes of action against the Defendants and each of them, alleges as follows:

JURISDICTION

1. This Court is the proper court, and this action is properly filed in Los Angeles County, because Defendants' obligations and liability arise therein, because Defendants maintain offices and transact business within Los Angeles County, and because the work that is the subject of this action was performed by Plaintiff in Los Angeles County.

THE PARTIES

2. Plaintiff, DOLORES DECORSE, is and at all times relevant hereto was a resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant CALIFORNIA SUNRISE, INC., was and is a California corporation doing business at 683 Cliffside Drive, San Dimas, CA 91773, in Los Angeles County, California.

4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant JACK IN THE BOX, INC., was and is a Delaware corporation doing business and operating locations throughout Los Angeles County, California.

5. CALIFORNIA SUNRISE, INC. and JACK IN THE BOX, INC. are collectively hereinafter referred to as "EMPLOYERS."

6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, EMPLOYERS owned and operated a fast food restaurant company.

7. Plaintiff is informed and believes, and based thereupon alleges, that all times relevant hereto, Defendant YUNUEN ROLDAN (hereinafter referred to as "ROLDAN") was and is an individual residing in the County of Los Angeles, State of California.

1 8. Plaintiff is informed and believes, and based thereupon alleges, that all times relevant
2 hereto, Defendant JOSE SANTIAGO (hereinafter referred to as “SANTIAGO”) was and is an individual
3 residing in the County of Los Angeles, State of California.

4 9. Plaintiff is informed and believes, and based thereupon alleges, that all times relevant
5 hereto, Defendant JOEL VASQUEZ (hereinafter referred to as “VASQUEZ”) was and is an individual
6 residing in the County of Los Angeles, State of California.

7 10. Plaintiff is informed and believes, and based thereupon alleges, that all times relevant
8 hereto, Defendant JUDITH BANUELOS (hereinafter referred to as “BANUELOS”) was and is an
9 individual residing in the County of Los Angeles, State of California.

10 11. ROLDAN, SANTIAGO, VASQUEZ, and BANUELOS are collectively referred to as
11 “INDIVIDUAL DEFENDANTS.”

12 12. At all times relevant herein, INDIVIDUAL DEFENDANTS were each “supervisors”
13 within the meaning of Government Code section 12926, subdivision (t). Plaintiff is informed and
14 believes, and thereon alleges that at all time relevant to this action, INDIVIDUAL DEFENDANTS and
15 DOES 1-20 were managers and/or supervisors of EMPLOYERS, acting as managing agents for
16 EMPLOYERS; INDIVIDUAL DEFENDANTS and DOES 1-20 were each acting within the course and
17 scope of his or her employment and on behalf of Defendant such that his or her acts or omissions are
18 imputed to EMPLOYERS under the doctrine of *respondeat superior*; or, alternatively, at all times
19 relevant to this action, EMPLOYERS cloaked INDIVIDUAL DEFENDANTS and DOES 1-20 with the
20 appearance of actual authority, such that Plaintiff was justified in relying thereon, and therefore his or her
21 acts or omissions are imputed to EMPLOYERS under the doctrine of *respondeat superior*.

22 13. EMPLOYERS and INDIVIDUAL DEFENDANTS are collectively hereinafter referred to
23 as “DEFENDANTS.”

24 14. At all times relevant herein, EMPLOYERS and DOES 1-20 were Plaintiff’s employers,
25 joint employers and/or special employers within the meaning of Government Code §§ 12926, subdivision
26 (d), 12940, subdivisions (a), (h), (1), (h)(3)(A), and (a), and 12950, and regularly employ five (5) or more
27 persons and are therefore subject to the jurisdiction of this Court.

1 15. At all times relevant herein, EMPLOYERS and DOES 1-20 were Plaintiff's employers,
2 joint employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
3 Commission Order No. 5-2001 and are each an "employer or other person acting on behalf of an
4 employer" as such term is used in Labor Code sections 558, 558.1 and/or 1197.1, and liable to Plaintiff
5 on that basis.

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

13 17. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
14 of them, including those defendants named as INDIVIDUAL DEFENDANTS and DOES 1-20, acted in
15 concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited,
16 compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so,
17 including pursuant to Government Code section 12940, subdivision (i). Plaintiff is further informed and
18 believes, and based thereupon alleges, that Defendants, and each of them, including INDIVIDUAL
19 DEFENDANTS and those Defendants named as DOES 1-20, and each of them, formed and executed a
20 conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein, with
21 all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and actually
22 causing Plaintiff harm.

23 18. Whenever and wherever reference is made in this complaint to any act or failure to act by
24 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
25 and/or failures to act by each of the Defendants acting individually, jointly, and severally.

26 19. Plaintiff has filed complaints of retaliation, harassment, and wrongful termination under
27 Government Code sections 12940, et seq., the California Fair Employment and Housing Act ("FEHA")
28

1 with the California Department of Fair Employment and Housing (“DFEH”) and has satisfied Plaintiff’s
2 administrative prerequisites with respect to these and all related filings.

3
4 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

5 20. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
6 of interest and ownership between EMPLOYERS and DOES 1-20 that the individuality and separateness
7 of defendants have ceased to exist.

8 21. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
9 purported corporate existence, EMPLOYERS, and DOES 1-20 are, in reality, one and the same,
10 including, but not limited to because:

11 a. EMPLOYERS are completely dominated and controlled by one another and
12 DOES 1-20, who personally committed the frauds and violated the laws as set forth in this complaint,
13 and who have hidden and currently hide behind EMPLOYERS to perpetrate frauds, circumvent statutes,
14 or accomplish some other wrongful or inequitable purpose.

15 b. EMPLOYERS and DOES 1-20 derive actual and significant monetary benefits by
16 and through one another’s unlawful conduct, and by using one another as the funding source for their
17 own personal expenditures.

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

21 d. EMPLOYERS do not comply with all requisite corporate formalities to maintain
22 a legal and separate corporate existence.

23 e. The business affairs of EMPLOYERS and DOES 1-20 are, and at all times relevant
24 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in
25 inextricable confusion. EMPLOYERS are, and at all times relevant hereto were, used by one another,
26 including by DOES 1-20, as a mere shell and conduit for the conduct of certain of EMPLOYERS’ affairs,
27 and are, and were, the alter ego of one another and DOES 1-20. The recognition of the separate existence
28 of EMPLOYERS would not promote justice, in that it would permit EMPLOYERS to insulate themselves

1 from liability to Plaintiff for violations of the Government Code and other statutory violations. The
2 corporate existence of EMPLOYERS and DOES 1-20 should be disregarded in equity and for the ends
3 of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

4 22. Accordingly, EMPLOYERS constitute the alter ego of one another and DOES 1-20, and
5 the fiction of their separate corporate existence must be disregarded.

6 23. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
7 thereon alleges that EMPLOYERS and DOES 1-20 are Plaintiff's joint employers by virtue of a joint
8 enterprise, and that Plaintiff was an employee of EMPLOYERS and DOES 1-20. Plaintiff performed
9 services for each and every one of EMPLOYERS, and to the mutual benefit of all EMPLOYERS, and all
10 EMPLOYERS shared control of Plaintiff as an employee, either directly or indirectly, and the manner in
11 which EMPLOYERS' business was and is conducted.

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

21
22 **FACTUAL ALLEGATIONS**

23 25. On or around August 18, 2017, EMPLOYERS hired Plaintiff as a Team Member and/or
24 Cashier. On or about November 21, 2017, EMPLOYERS promoted Plaintiff to a Team Leader. At all
25 relevant times, Plaintiff performed all of her job duties satisfactorily before Defendants wrongfully
26 terminated Plaintiff's employment on August 6, 2021.

WAGE AND HOUR ALLEGATIONS

26. At all relevant times, Plaintiff worked approximately five (5) days per week.

27. From on or about August 18, 2017 to on or about November 19, 2017, Plaintiff's hourly rate was \$10.75 per hour; from on or about November 20, 2017 to on or about December 31, 2017, Plaintiff's hourly rate was \$12.00 per hour; from on or about January 1, 2018 to on or about December 30, 2018, Plaintiff's hourly rate was \$12.50 per hour; from on or about January 1, 2019 to on or about January 27, 2019, Plaintiff's hourly rate was \$13.50 per hour; from on or about January 28, 2019 to on or about January 3, 2020, Plaintiff's hourly rate was \$13.80 per hour; from on or about January 4, 2020 to on or about September 6, 2020, Plaintiff's hourly rate was \$14.50 per hour; from on or about September 7, 2020 to on or about December 31, 2020, Plaintiff's hourly rate was \$15.50 per hour; and, from on or about January 1, 2021 to on or about August 6, 2021, Plaintiff's hourly rate was \$16.50 per hour.

28. Throughout Plaintiff's employment, Defendants failed to permit Plaintiff to timely take her paid and uninterrupted 10-minute rest break for every four hours worked. Often times, Defendants made Plaintiff clock out for her 10-minute rest breaks, but due to work responsibilities, Plaintiff was unable to exercise her right to take the full 10 minutes, and Defendants turned a blind eye.

29. Throughout Plaintiff's employment, Plaintiff did not receive uninterrupted statutory 30-minute meal periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff worked. Starting on or about October 2020, EMPLOYERS started paying Plaintiff meal penalties for missed meal breaks; however, EMPLOYERS failed to pay Plaintiff for each missed or interrupted meal break and only provided 30 days of premium wages for missed and interrupted meal breaks from October 2020 through August 2021.

30. Furthermore, Plaintiff worked off the clock on several days, including her days off, and was made to work during her 30-minute meal break, which she was not compensated for, in violation of Labor Code §§ 1194, 1197 and 510.

31. EMPLOYERS required Plaintiff to work seven (7) consecutive days without a day of rest, which is in violation in Labor Code §§ 551 and 552.

32. Furthermore, throughout Plaintiff's employment, Defendants violated Labor Code § 2802 by failing to reimburse for work-related expenses. Plaintiff and other employees were not paid for using

1 his or her personal cell phone for work-related purposes, despite being required to be made available by
2 cell phone. Defendants never bought Plaintiff nor other employees business phones nor reimbursed them
3 for the use of his or her personal phone.

4 33. Throughout Plaintiff's employment, EMPLOYERS violated Labor Code § 221 by
5 collecting and/or receiving from Plaintiff, and other aggrieved employees, part of their wages paid by
6 Defendants to said employees.

7 34. Although Plaintiff was entitled to and did accrue sick time for which he was never paid,
8 Defendants violated Labor Code §§ 233, 245, and 246 because Defendants failed to provide Plaintiff with
9 paid sick leave.

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

15 36. Plaintiff is informed and believes that throughout her employment, EMPLOYERS did not
16 remit tips to staff and intentionally interfered with tips, which is in violation of Labor Code § 351 and
17 UCL § 17200, *et seq.*

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

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

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

1 **FEHA AND RETALIATION UNDER THE LABOR CODE FACTUAL ALLEGATIONS**

2 40. On or around April 28, 2020, Plaintiff suffered a work-related injury when she fell on an
3 uneven floor. Plaintiff's work-related injury caused the major life activity of working to be more difficult,
4 thus constituting a disability.

5 41. When Plaintiff reported this to her supervisor, ROLDAN, she simply told Plaintiff to
6 "suck it up."

7 42. Consequently, ROLDAN and another supervisor, SANTIAGO, failed to make a report or
8 offer Plaintiff workers' compensation benefits or treatment.

9 43. SANTIAGO was present when Plaintiff fell at work, and SANTIAGO recorded camera
10 footage of Plaintiff's fall.

11 44. Thereafter, SANTIAGO posted his recording of Plaintiff's fall on social media, causing
12 Plaintiff was to be recognized and laughed at by others.

13 45. After Plaintiff's fall and subsequent complaints, EMPLOYERS through its agents led a
14 campaign to harass Plaintiff, thereby fostering and creating a hostile work environment.

15 46. For example, on or around December 2020, Plaintiff experienced COVID-19 symptoms.
16 Instead of EMPLOYERS notifying Plaintiff of her right to take a leave of absence to quarantine,
17 EMPLOYERS required Plaintiff to work.

18 47. Also, another supervisor, VASQUEZ and ROLDAN issued Plaintiff several written
19 warnings.

20 48. On or about April 2021 through July 2021, Plaintiff complained to Defendants that she
21 was being underpaid, and Defendants reprimanded Plaintiff and reluctantly paid Plaintiff the late wages
22 she was owed.

23 49. Plaintiff also asked for the contact information of Human Resources to discuss ongoing
24 Labor Code violations and other issues, but ROLAND failed and refused to provide Plaintiff with Human
25 Resources' contact information in order to prevent Plaintiff from complaining to her superiors.

26 50. On or about June 15, 2021, Plaintiff suffered a second work-related injury when boxes fell
27 on her head. Plaintiff's work-related injury caused the major life activity of working to be more difficult,
28 thus constituting a disability.

1 51. EMPLOYERS again failed to offer Plaintiff workers' compensation benefits or treatment.

2 52. On or around June or July 201, the day after Plaintiff received her check, Plaintiff
3 complained to VASQUEZ that she was underpaid, despite VASQUEZ knowing she worked more hours
4 than she was paid for since he called Plaintiff in early to work. In response, Plaintiff threatened to file a
5 claim with the Labor Commissioner, and later that day, VASQUEZ informed Plaintiff that she would be
6 paid.

7 53. Thereafter, Plaintiff advised EMPLOYERS through its agents, including ROLDAN, that
8 she was pregnant.

9 54. In a further effort to retaliate against Plaintiff, ROLDAN and Employers' Director of
10 Operations, BANUELOS, initiated an investigation singling out Plaintiff for customary practices of
11 EMPLOYERS.

12 55. Plaintiff was subsequently terminated for requesting a meeting with Human Resources by
13 BANUELOS on or about August 6, 2021.

14 56. On information and belief, INDIVIDUAL DEFENDANTS engaged in harassing conduct
15 against Plaintiff based on personal gratification, intentional meanness, bigotry, or other personal motives.

16 57. Based on the events set forth above, Plaintiff believes Defendants discriminated, harassed,
17 and retaliated against and terminated Plaintiff based upon her sex, gender, including pregnancy, real or
18 perceived disability and/or medical condition, use of or anticipated use of medical leave, engagement in
19 protected activities, denied Plaintiff accommodations and denied Plaintiff an interactive process.

20 58. Throughout Plaintiff's employment with Defendants, Plaintiff informed Defendants about
21 her medical condition. INDIVIDUAL DEFENDANTS subjected Plaintiff to discriminatory and
22 harassing conduct because of Plaintiff's disability and/or medical condition. Further, INDIVIDUAL
23 DEFENDANTS did not provide any accommodations which exacerbated Plaintiff's injury.

24 59. Defendants' termination of Plaintiff's employment was substantially motivated by
25 Plaintiff's sex, gender, including pregnancy, real or perceived disability and/or medical condition, use of
26 or anticipated use of medical leave, engagement in protected activities, and/or some combination of these
27 protected characteristics. Defendants' discriminatory animus is evidenced by the previously mentioned
28 facts.

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

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

FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.

65. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as though set forth in full herein.

1 66. At all times hereto, the FEHA was in full force and effect and was binding upon
2 Defendants and each of them.

3 67. As such term is used under FEHA, “on the bases enumerated in this part” means or refers
4 to discrimination on the bases of one or more of the protected characteristics under FEHA. FEHA
5 requires Defendants to refrain from discriminating against an employee on the basis of her sex, gender,
6 including pregnancy, real or perceived disability and/or medical condition, use of or anticipated use of
7 medical leave, and/or engagement in protected activities, and to prevent discrimination, harassment, and
8 retaliation from occurring on the same bases.

9 68. Plaintiff was a member of multiple protected classes as a result of Plaintiff’s sex, gender,
10 including pregnancy, real or perceived disability and/or medical condition, use of or anticipated use of
11 medical leave, and/or engagement in protected activities.

12 69. At all times relevant hereto, Plaintiff performed her position competently.

13 70. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination,
14 retaliation, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate and/or return
15 to work, failure to engage in a good faith interactive process, failure to accommodate and termination,
16 and was harmed thereby.

17 71. Plaintiff is informed and believes that Plaintiff’s sex, gender, including pregnancy, real or
18 perceived disability and/or medical condition, use of or anticipated use of medical leave, and/or
19 engagement in protected activities, and/or some combination of these protected characteristics under
20 Government Code section 12926, subdivision (j) were motivating reasons and/or factors in Defendants’
21 decisions to subject Plaintiff to the aforementioned adverse employment actions.

22 72. Said conduct violates the FEHA, and such violations were a proximate cause in Plaintiff’s
23 damage as stated below.

24 73. Defendants discriminated against Plaintiff by, among other things, terminating Plaintiff’s
25 employment because of her sex, gender, including pregnancy, real or perceived disability and/or medical
26 condition, use of or anticipated use of medical leave, and/or engagement in protected activities.

27 74. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
28 by reference.

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

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

SECOND CAUSE OF ACTION

FOR HARASSMENT IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.

AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE

77. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as though set forth in full herein.

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

79. As such term is used under FEHA, “on the bases enumerated in this part” means or refers to harassment on the bases of one or more of the protected characteristics under FEHA.

80. These laws set forth in the preceding paragraph require Defendants to refrain from harassing, or creating, or maintaining a hostile work environment against an employee based upon the employee's sex, gender, including pregnancy, real or perceived disability and/or medical condition, use of or anticipated use of medical leave, and/or engagement in protected activities, as set forth hereinabove.

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

82. Defendants violated the FEHA and the public policy of the State of California which is embodied in the FEHA by creating a hostile work environment and harassed Plaintiff because of Plaintiff's sex, gender, including pregnancy, real or perceived disability and/or medical condition, use of

1 or anticipated use of medical leave, and/or engagement in protected activities, and/or some combination
2 of these protected characteristics, as set forth hereinabove.

3 83. The above said acts were perpetrated upon Plaintiff by a supervisor, and/or Defendants
4 knew or should have known of the conduct but failed to take immediate and appropriate corrective action.

5 84. The above said acts of Defendants constitute violations of the FEHA and violations of the
6 public policy of the State of California. Such violations were a proximate cause in Plaintiff's damage as
7 stated below.

8 85. Defendants harassed Plaintiff by, among other things: (1) giving pretextual written
9 warnings; (2) forcing Plaintiff to work despite visibly being in pain; (3) forcing Plaintiff to work over her
10 objections and despite exhibiting symptoms of COVID-19; (4) posting her injury on social media; (5)
11 giving her a difficult time for requesting the Human Resources contact information.

12 86. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
13 by reference.

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

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

22
23 **THIRD CAUSE OF ACTION**
24 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**
25 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

26 89. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60 inclusive, as
27 though set forth in full herein.
28

1 90. At all times hereto, the FEHA was in full force and effect and was binding upon
2 Defendants and each of them.

3 91. Defendants set in motion, beginning with their harassment of Plaintiff, as set forth
4 hereinabove, a campaign which directly led to Plaintiff's termination after complaining about the
5 discriminatory conduct as alleged hereinabove. Defendants therefore did or attempted to aid, abet, incite,
6 compel, or coerce the retaliation which Plaintiff suffered. Government Code section 12940, subdivision
7 (i).

8 92. The laws set forth in the preceding paragraphs require Defendants to refrain from
9 retaliating against an employee for engaging in protected activity.

10 93. Plaintiff engaged in the protected activities of complaining about and protesting
11 Defendants' discriminatory and harassing conduct based upon her sex, gender, including pregnancy, real
12 or perceived disability and/or medical condition, use of or anticipated use of medical leave, and/or
13 engagement in protected activities, and violation of local, state and federal laws.

14 94. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination,
15 failure to engage in a good faith interactive process, failure to accommodate, failure to investigate,
16 remedy, and/or prevent discrimination, failure to reinstate and/or return to work, termination, and was
17 harmed thereby.

18 95. Plaintiff is informed and believes that Plaintiff's conduct of complaining about and
19 protesting about Defendants' discriminatory and unlawful conduct were motivating reasons and/or
20 factors in the decisions to subject Plaintiff to the aforementioned adverse employment actions.

21 96. Defendants violated the FEHA by retaliating against Plaintiff and terminating Plaintiff's
22 employment for attempting to exercise Plaintiff's protected rights, as set forth hereinabove.

23 97. Plaintiff is informed and believes, and based thereon alleges, that the above acts of
24 retaliation committed by Defendants were done with the knowledge, consent, and/or ratification of, or at
25 the direction of, each other Defendants and the other Managers.

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

1 99. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
2 by reference.

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

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

11
12 **FOURTH CAUSE OF ACTION**
13 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION**
14 **IN VIOLATION OF GOV'T CODE § 12940(k)**
15 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

16 102. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
17 though set forth in full herein.

18 103. At all times hereto, the FEHA, including in particular Government Code section 12940,
19 subdivision (k), was in full force and effect and was binding upon Defendants. This subsection imposes
20 a duty on Defendants to take all reasonable steps necessary to prevent discrimination, harassment, and
21 retaliation from occurring. As alleged above, Defendants violated this subsection and breached their duty
22 by failing to take all reasonable steps necessary to prevent discrimination, harassment and retaliation
23 from occurring.

24 104. Plaintiff is informed and believes Defendants failed to take immediate and appropriate
25 corrective action to end the discrimination, harassment, and retaliation. Plaintiff also believes Defendants
26 failed to take all reasonable steps necessary to prevent the discrimination, harassment, and retaliation
27 from occurring.

105. In failing and/or refusing to take immediate and appropriate corrective action to end the discrimination, harassment, and retaliation and in failing and/or refusing to take all or reasonable steps necessary to prevent discrimination, harassment and retaliation from occurring, Defendants violated Government Code section 1290, subdivision (k).

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

107. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated by reference.

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

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

FIFTH CAUSE OF ACTION
FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12945.2 ET SEQ.
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

110. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as though set forth in full herein.

111. At all times hereto, the California Family Rights Act, codified by Government Code §§12945.2, et al. (“CFRA”) was in full force and effect and was binding upon Defendants and each of them. Under the CFRA, it shall be an unlawful employment practice for any covered employer to refuse to grant a request by any qualified employee to take up to a total of 12 workweeks in any 12-month period for family care and medical leave for the employee’s own serious medical condition. Under the CFRA, it is also an unlawful employment practice for a covered employer to refuse to hire,

1 or to discharge, fine, suspend, expel, or discriminate against, any individual because the individual has
2 exercised or attempted to exercise his or her right to take protected family care and medical leave under
3 the CFRA. Under the CFRA, it is also an unlawful employment practice for an employer to interfere
4 with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under the CFRA.

5 112. At all times hereto, Plaintiff was an employee eligible for CFRA leave. At all times
6 hereto, Plaintiff had been employed by Defendants for more than 12 months, and had worked at least
7 1250 hours during the previous 12 months. Further, Defendants employed at least 5 employees within
8 75 miles of the worksite at which Plaintiff worked.

9 113. Defendants violated the CFRA by failing and/or refusing to provide Plaintiff with the
10 family care and medical leave that Plaintiff requested.

11 114. Defendants violated the CFRA by retaliating against Plaintiff for exercising or
12 attempting to exercise Plaintiff's right to protected medical leave under the CFRA.

13 115. Defendants violated the CFRA by interfering with or restraining Plaintiff from
14 exercising or attempting to exercise Plaintiff's right to protected medical leave under the CFRA, by
15 failing to give Plaintiff notice of Plaintiff's rights under the CFRA, including the right to take protected
16 leave.

17 116. Plaintiff suffered the adverse employment actions of unlawful harassment,
18 discrimination and termination.

19 117. Plaintiff is informed and believes that exercising or attempting to exercise Plaintiff's
20 right to medical leave was a motivating reason and/or factor in the decisions to subject Plaintiff to the
21 aforementioned adverse employment actions.

22 118. The above said acts of Defendants constitute violations of the CFRA, and were a
23 proximate cause in Plaintiff's damage as stated below.

24 119. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
25 by reference.

26 120. The foregoing conduct of Defendants individually, or by and through their officers,
27 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
28 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the

1 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
2 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
3 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.
4 Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of attorneys' fees and
5 costs, including expert fees pursuant to the FEHA.

6
7 **SIXTH CAUSE OF ACTION**
8 **FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**
9 **IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**
10 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

11 121. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
12 though set forth in full herein.

13 122. At all times hereto, the FEHA, including in particular Government Code section 12940,
14 subdivision (m), was in full force and effect and was binding upon Defendants. This subsection imposes
15 an ongoing duty on Defendants to make reasonable accommodation for the known physical disability
16 and/or medical condition of an employee.

17 123. At all relevant times, Plaintiff was a member of a protected class within the meaning of,
18 in particular, Government Code section 12940, subdivision (a), and sections 12986, subdivision (1) et
19 seq. because Plaintiff had a disability, a physical condition that affected Plaintiff's major life activities,
20 and medical condition of which Defendants had both actual and constructive knowledge.

21 124. At all times herein, Plaintiff was willing and able to perform the duties and functions of
22 the position in which Plaintiff was employed or could have performed the duties and functions of that
23 position with reasonable accommodations. At no time would the performance of the functions of the
24 employment position, with a reasonable accommodation for Plaintiff's disability or medical condition,
25 actual or as it was perceived by Defendants, have been a danger to Plaintiff's or any other person's health
26 or safety. Accommodation of Plaintiff's disability or disability or medical condition, real or perceived
27 by Defendants, would not have imposed an undue hardship on Defendants. Defendants failed and refused
28 to accommodate Plaintiff's disability, failed to engage in the interactive process with Plaintiff and

1 continue to violate this obligation, up to and including the date of Plaintiff's termination or, if Defendants
2 contend Plaintiff was never terminated, through the present and ongoing.

3 125. The above said acts of Defendants constitute violations of the FEHA and were a proximate
4 cause in Plaintiff's damage as stated below.

5 126. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
6 by reference.

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

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

15
16 **SEVENTH CAUSE OF ACTION**

17 **FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS**

18 **IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**

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

20 129. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
21 though set forth in full herein.

22 130. At all times hereto, the FEHA, including in particular Government Code section 12940,
23 subdivision (n), was in full force and effect and was binding upon Defendants. This subsection imposes
24 an ongoing duty on Defendants to engage in a timely, good faith, interactive process with the employee
25 to determine effective reasonable accommodations, if any, in response to a request for reasonable
26 accommodation by an employee with a known physical disability or known medical condition and/or
27 becoming aware of the employee's need for accommodation.

1 131. At all relevant times, Plaintiff was a member of a protected class within the meaning of,
2 in particular, Government Code section 12940, subdivision (a) and sections 12986, subdivision (1) et
3 seq. because Plaintiff had a physical disability that affected Plaintiff's major life activities, and medical
4 condition of which Defendants had both actual and constructive knowledge.

5 132. Plaintiff reported the disability to Defendants and requested accommodation, which
6 triggered Defendants' obligation to engage in the interactive process with Plaintiff, but at all times herein,
7 Defendants failed and refused to do so. Thereafter, despite Defendants continuing obligation to engage
8 in the interactive process with Plaintiff, despite Plaintiff's submission of a doctors' notes identifying
9 Plaintiff's condition and Plaintiff's desire to continue working in some capacity, Defendants failed and
10 refused to have any dialogue with Plaintiff whatsoever, on any of these occasions, and Defendants
11 violated, and continued to violate this obligation up to and including the date of Plaintiff's termination
12 or, if Defendants contends Plaintiff was never terminated, through the present and ongoing.

13 133. The above said acts of Defendants constitute violations of the FEHA and were a proximate
14 cause in Plaintiff's damage as stated below.

15 134. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
16 by reference.

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

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

EIGHTH CAUSE OF ACTION
FOR COMMON LAW NEGLIGENT SUPERVISION AND RETENTION
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

137. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as though set forth in full herein.

138. An employer is liable for negligent supervision or retention of an employee if the employer knew or should have known that the employee created a particular risk to others; that the employee harmed the plaintiff, and that the employer's negligence in supervising or retaining the employee was a substantial factor in causing the plaintiff's harm.

139. Employers owed Plaintiff a duty of reasonable care to supervise their employees and to take reasonable steps to prevent them from harassing, threatening or injuring Plaintiff.

140. Employers further owed Plaintiff a duty of reasonable care to discharge from employment employees who had harassed, threatened or injured or were reasonably likely to harass, threaten or injure others with whom they came into contact at work, including Plaintiff.

141. Employers had reason to know that the INDIVIDUAL DEFENDANTS created a risk or threat of injury to Plaintiff, as alleged herein, due to Plaintiff's complaints of INDIVIDUAL DEFENDANTS' behavior, including but not limited to INDIVIDUAL DEFENDANTS' harassment of Plaintiff, and ratification by Employers.

142. Employers breached its duties by failing to properly supervise or control INDIVIDUAL DEFENDANTS; and by failing to terminate the employment of the INDIVIDUAL DEFENDANTS so that Plaintiff could work in a reasonably safe environment free from discrimination, hostility, intimidation, and harassment.

143. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated by reference.

144. Pursuant to this Court's statutory authority, Plaintiff requests an award of punitive damages, in addition to general and special damages, and other relief the court deems proper.

1 145. Pursuant to this Court’s statutory authority, Plaintiff requests an award of attorneys’
2 fees, and costs in prosecuting this action, including expert fees and any other relief the court deems
3 proper.

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

10
11 **NINTH CAUSE OF ACTION**
12 **VIOLATION OF CALIFORNIA PREGNANCY DISABILITY LEAVE LAW**
13 **GOV’T CODE §12945**
14 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

15 147. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
16 though set forth in full herein.

17 148. At all times hereto, the California Pregnancy Disability Leave Law (“PDLL”), codified
18 by Government Code §12945 Cal. Code Regs., tit. 2, § 11035, et seq, was in full force and effect and was
19 binding upon Defendants. Under the PDLL, all employers must provide a leave of up to four months, as
20 needed, for the period(s) of time an employee is actually disabled because of pregnancy, even if an
21 employer has a policy or practice that provides less than four months of leave for other similarly situated,
22 temporarily disabled employees. Pregnancy disability leave does not need to be taken in one continuous
23 period of time. An employer is required to give its employees reasonable advance notice of employees’
24 FEHA rights and obligations regarding pregnancy, childbirth, or related medical conditions, including
25 the right to intermittent leave. An employer is also required to give an employee a copy of the appropriate
26 notice as soon as practicable after the employee tells the employer of her pregnancy or sooner if the
27 employee inquires about reasonable accommodation, transfer, or pregnancy disability leaves.

28 149. The PDLL makes it an unlawful employment practice for an employer:

1 a. to refuse to provide reasonable accommodation for an employee for a condition
2 related to pregnancy, childbirth, or a related medical condition, if the employee so requests, with the
3 advice of the employee's health care provider;

4 b. to refuse to temporarily transfer a pregnant employee to a less strenuous or
5 hazardous position for the duration of the pregnancy if the employee so requests, with the advice of the
6 employee's physician, where that transfer can be reasonably accommodated;

7 c. to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any
8 right provided under the PDLL.

9 150. Further, because the PDLL is part of the FEHA, Government Code §12940(h) makes it
10 unlawful for an employer to refuse to hire, select for a training program or promote, and may not
11 discharge, discriminate or retaliate against, an employee because of pregnancy (or perceived pregnancy,
12 breastfeeding or related medical conditions).

13 151. Defendants violated the PDLL by interfering with or restraining Plaintiff from exercising
14 or attempting to exercise Plaintiff's right to protected leave, including intermittent leave, under the PDLL,
15 by failing to give Plaintiff notice of Plaintiff's rights under the PDLL, including the right to take protected
16 leave and/or intermittent leave.

17 152. Defendants violated the PDLL by refusing to provide accommodation to Plaintiff for her
18 pregnancy-related condition, made at the request of her health care provider, refused to temporarily
19 transfer Plaintiff to a less strenuous position, with the advice of her physician, and instead terminated
20 Plaintiff's employment.

21 153. Defendants violated the PDLL by terminating Plaintiff's employment for having exercised
22 the right to take protected PDLL leave.

23 154. The above said acts of Defendants' constitute violations of PDLL, and were a proximate
24 cause in Plaintiff's damage as stated below.

25 155. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
26 by reference.

27 156. The foregoing conduct of Defendants individually, or by and through their managing
28 agents, was intended by the Defendants to cause injury to the Plaintiff or was despicable conduct carried

1 on by the Defendants with a willful and conscious disregard of the right of Plaintiff or subjected Plaintiff
2 to cruel and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice,
3 oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an amount
4 appropriate to punish or make an example of Defendants.

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

7
8 **TENTH CAUSE OF ACTION**

9 **RETALIATION**

10 **LABOR CODE §98.6**

11 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

12 158. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
13 though set forth in full herein.

14 159. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against
15 an employee for political activities; for complaining that he or she is owed unpaid wages, for
16 whistleblowing; for assigning wage claims to the Labor Commissioner resulting from demotion,
17 suspension, or discharge for lawful conduct occurring during nonworking hours away from employer's
18 premises; for filing a complaint with the Labor Commissioner or testifying in such proceedings; for
19 initiating proceedings against the employer to collect civil penalties under the "Labor Code Private
20 Attorneys General Act;" and for exercising "any rights afforded him or her" under the Labor Code.
21 Thus, Section 98.6 prohibits an employer from discharging or in any manner discriminating or
22 retaliating against an employee who, among other things, has exercised his or her rights under that
23 Chapter (Chapter 5 of the Labor Code, which encompasses §1102.5), including the right to take meal
24 breaks, and/or made a written or oral complaint that he or she is owed unpaid wages. An employee
25 who has been discharged or retaliated against in violation of Labor Code §98.6 is entitled to recovery of
26 a civil penalty against the employer in an amount not exceeding ten thousand dollars (\$10,000.00) for
27 each violation of that section.

28 160. Plaintiff is informed and believe, and based thereupon alleges, that Plaintiff was

1 terminated from Plaintiff's employment with Defendants as a result of Plaintiff's complaints about not
2 being paid all wages she is owed, including working off the clock and working through rest and meal
3 breaks, and about conduct he believed to be illegal, including INDIVIDUAL DEFENDANTS' tortious
4 conduct. Defendants' retaliatory animus is evidenced by, among other things, the following facts: (1)
5 INDIVIDUAL DEFENDANTS issued written warnings after Plaintiff's complaints; (2) Plaintiff's
6 termination occurred following Plaintiff's complaints regarding the aforementioned complaints; (3)
7 There were no performance issues or any other legitimate reason for Plaintiff's termination; and (4)
8 Plaintiff was wrongfully terminated.

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

17 162. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
18 by reference.

19 163. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
20 \$10,000.00 for Defendants' violations of Labor Code § 98.6.

21 164. Because the acts taken toward Plaintiff were carried out by managerial employees acting
22 in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights
23 and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against
24 Defendants and each of them, in sums in excess of the jurisdictional minimum of this court.

ELEVENTH CAUSE OF ACTION
FOR RETALIATION IN VIOLATION OF LABOR CODE §§ 232.5, 1102.5, ET SEQ.
AGAINST DEFENDANTS AND DOES 1-20, INCLUSIVE

165. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as though set forth in full herein.

166. At all relevant times, Labor Code section 232.5 was in full force and effect and binding on Defendants. Labor Code section 232.5, subdivision (b) prohibits an employer from discharging, formally disciplining, or otherwise discriminating against an employee who discloses information about the employer's working conditions.

167. At all relevant times, Labor Code section 1102.5 was in full force and effect and was binding on Defendants. Labor Code section 1102.5, subdivision (b), prohibits an employer, or any person acting on behalf of the employer, from discharging an employee or in any manner discriminating or retaliating against, or taking any adverse action against, an employee because, among other things, the employee disclosed, or because the employer believes that the employee disclosed or may disclose, information to a government or law enforcement agency, or to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties. Labor Code section 1102.5, subdivision (c), also prohibits an employer, or any person acting on behalf of the employer, from retaliating against an employee for refusing to participate in an activity that would result in a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation. Sections 98.6, 232.5, and 1102.5 create an entitlement to recovery by Plaintiff in a civil action for the unlawful actions by Defendants. Pursuant to Labor Code §1102.5(f), in addition to other penalties, an employer that is a corporation or limited liability company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of this section.

168. Plaintiff reported suspected violations of California Law and the Labor Code to Plaintiff's supervisors at Employers.

1 169. Plaintiff was terminated from her employment with Defendants as a result of her exercise
2 of her rights under Labor Code sections 98.6 and 1102.5, et seq. Defendants' retaliatory animus is
3 evidenced by, among other things, the following facts: (1) Plaintiff's termination occurred following
4 Plaintiff making complaints about conduct she believed was illegal, including requesting to speak to
5 Human Resources and to file a claim with the Labor Commissioner; and (2) there were no performance
6 issues or any other reason, nor even offered, for Plaintiff's termination.

7 170. Plaintiff's reports of these violations were a motivating and contributing factor for the
8 adverse employment actions by Defendants against Plaintiff.

9 171. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
10 by reference.

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

19 173. Because the acts taken toward Plaintiff were carried out by managerial employees acting
20 in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and
21 in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against
22 Defendants and each of them, in sums in excess of the jurisdictional minimum of this court.

23 174. Plaintiff is also entitled to reasonable attorneys' fees and costs, pursuant to Labor Code
24 section 98.7, subdivision (e), and Civil Code section 1021.5.

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

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

3
4 **TWELFTH CAUSE OF ACTION**
5 **FOR WRONGFUL TERMINATION**
6 **IN VIOLATION OF PUBLIC POLICY**
7 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

8 176. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
9 though set forth in full herein.

10 177. At all relevant times mentioned in this complaint, the FEHA was in full force and effect
11 and was binding on Defendants. This law requires Defendants to refrain from, among other things, from
12 discriminating against any employee on the basis of age, actual or perceived disability, actual or
13 perceived medical condition, and use of or anticipated use of medical leave and from retaliating against,
14 or firing an employee who opposes engages in protected activity. At all times mentioned in this
15 complaint, Article I, Section 8 of the California Constitution was in full force and effect and binding on
16 Defendants. This law requires Defendants to refrain from disqualifying a person from pursuing
17 employment on the basis of sex.

18 178. At all times mentioned in this complaint, it was a fundamental policy of the State of
19 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of sex,
20 gender, including pregnancy, real or perceived disability and/or medical condition, use of or anticipated
21 use of medical leave, and/or engagement in protected activities, opposing workplace harassment and
22 violation of the wage and hour laws.

23 179. At all times mentioned in this complaint, Labor Code §§ 98.6, 232.5, and 1102.5 were in
24 full force and effect and binding on Defendants. Labor Code § 98.6 reflects the State's broad public
25 policy interest in protecting the rights of individual employees and job applicants who could not otherwise
26 afford to protect themselves from violations of the Labor Code. Labor Code § 1102.5 reflects the State's
27 broad public policy interest in encouraging workplace "whistleblowers," who may without fear of
28 retaliation report concerns regarding an employer's suspected illegal conduct, irrespective of whether the

1 reporting is made to governmental agencies or to the employer itself, and irrespective of whether the
2 employee's suspicions are correct that the challenged conduct actually violates some law. Indeed, the
3 law in California is that an employee's good faith but mistaken belief in the illegality of his or her co-
4 workers', supervisor's, and employer's conduct is protected from employer retaliation in the whistle-
5 blowing context. These laws require Defendants to refrain, among other things, from discharging,
6 suspending, or in any other manner discriminating against an employee because the employee has made
7 a bona fide oral or written complaint to his or her employer and disclosed the employer's working
8 conditions, or the employer believes that the employee disclosed or may disclose information to a
9 government or law enforcement agency, and the employee shall be entitled to reinstatement and
10 reimbursement for lost wages and work benefits caused by the acts of the employer. The Labor code
11 furthers that any employer who willfully refuses to rehire, promote, or otherwise restore an employee is
12 guilty of a misdemeanor.

13 180. At all times mentioned in this complaint, it was a fundamental policy of the State of
14 California that Defendants cannot retaliate against any employee on the basis of engagement in protected
15 activity.

16 181. Plaintiff believes and thereon alleges that Plaintiff's sex, gender, including pregnancy,
17 real or perceived disability and/or medical condition, use of or anticipated use of medical leave, and/or
18 engagement in protected activities, including complaints that Defendants were violating the Labor Code,
19 were factors in Defendants' conduct as alleged hereinabove.

20 182. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's
21 employment on the basis of her sex, gender, including pregnancy, real or perceived disability and/or
22 medical condition, use of or anticipated use of medical leave, and/or engagement in protected activities
23 were a proximate cause in Plaintiff's damages as stated below.

24 183. The above said acts of Defendants constitute violations of the Government Code, Labor
25 Code, and the public policy of the State of California embodied therein as set forth above. Defendants
26 violated these laws by retaliating against Plaintiff and terminating Plaintiff's employment in retaliation
27 for exercise of protected rights.

1 184. At all times mentioned in this complaint, it was a fundamental policy of the State of
2 California that Defendants cannot discriminate and/or retaliate against any employee who is a member
3 of protected class under FEHA.

4 185. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's use of
5 medical leave, complaints about Labor Code violations, and/or Plaintiff's status of a protected member
6 of class under the FEHA was a proximate cause in Plaintiff's damages as stated below.

7 186. Plaintiff believes and thereon alleges that Defendants violated Labor Code sections 98.6
8 and/or 1102.5 after discharging and retaliating against her after she exercised her rights under the Labor
9 Code.

10 187. The damage allegations of Paragraphs 61 through 64, inclusive, are herein incorporated
11 by reference.

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

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

20
21 **THIRTEENTH CAUSE OF ACTION**
22 **FOR DECLARATORY JUDGMENT**
23 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

24 190. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 189, inclusive, as
25 though set forth in full herein.

26 191. Government Code section 12920 sets forth the public policy of the State of California as
27 follows:

28 It is hereby declared as the public policy of this state that it is necessary to
 protect and safeguard the right and opportunity of all persons to seek,

1 obtain, and hold employment without discrimination or abridgment on
2 account of race, religious creed, color, national origin, ancestry, physical
3 disability, mental disability, medical condition, genetic information, marital
4 status, sex, gender, gender identity, gender expression, age, or sexual
5 orientation.

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

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

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

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

21 192. Government Code section 12920.5 embodies the intent of the California legislature and
22 states:

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

28 193. Moreover, Government Code section 12921, subdivision (a) says in pertinent part:

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

194. An actual controversy has arisen and now exists between Plaintiff and Defendants
concerning their respective rights and duties as it is believed that Defendants may allege that they did not
discriminate and retaliate against Plaintiff; that Plaintiff was not terminated as a result of Plaintiff's sex,
gender, including pregnancy, real or perceived disability and/or medical condition, use of or anticipated
use of medical leave, and/or engagement in protected activities, and/or some combination of these

1 protected characteristics. Plaintiff contends that Defendants did discriminate and retaliate against
2 Plaintiff on the basis of Plaintiff's sex, gender, including pregnancy, real or perceived disability and/or
3 medical condition, use of or anticipated use of medical leave, and/or engagement in protected activities,
4 and/or some combination of these protected characteristics; and that Plaintiff was retaliated against and,
5 ultimately wrongfully terminated as a result of Plaintiff's sex, gender, including pregnancy, real or
6 perceived disability and/or medical condition, use of or anticipated use of medical leave, and/or
7 engagement in protected activities, and/or some combination of these protected characteristics. Plaintiff
8 is informed and believes, and on that basis alleges, that Defendants shall dispute Plaintiff's contentions.

9 195. Pursuant to Code of Civil Procedure section 1060, Plaintiff desires a judicial
10 determination of Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the
11 basis of Plaintiff's sex, gender, including pregnancy, real or perceived disability and/or medical
12 condition, use of or anticipated use of medical leave, and/or engagement in protected activities, and/or
13 some combination of these protected characteristics.

14 196. Pursuant to Code of Civil Procedure section 1060, Plaintiff seeks a judicial determination
15 of Plaintiff's rights and duties, and a declaration that Plaintiff's sex, gender, including pregnancy, real or
16 perceived disability and/or medical condition, use of or anticipated use of medical leave, and/or
17 engagement in protected activities, and/or some combination of these protected characteristics was a
18 substantial motivating factor in the decision to subject Plaintiff to the aforementioned adverse
19 employment actions.

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

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

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

7
8 **FOURTEENTH CAUSE OF ACTION**
9 **FOR FAILURE TO PAY ALL WAGES DUE AND IMPROPER DEDUCTIONS**
10 **LABOR CODE §§ 200, 201, 204, 221, 351**

11 **AGAINST EMPLOYERS AND DOES 1 THROUGH 20, INCLUSIVE**

12 200. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
13 though set forth in full herein.

14 201. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and
15 required by 8 Code of Regulations §11050, as set forth hereinabove. As alleged herein, Defendants
16 routinely failed to pay all wages due.

17 202. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
18 Code of Regulations §11050, and Industrial Welfare Commission Order No. 5-2001.

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

25 204. California Labor Code § 201 provides that if an employer discharges an employee, "the
26 wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code § 202
27 provides that if an employee quits their job, "his or her wages shall be come due and payable not later
28 than 72 hours thereafter..."

1 205. Plaintiff is informed and believes that throughout her employment, EMPLOYERS did not
2 remit tips to servers and intentionally interfered with tips, which is in violation of Labor Code § 351 and
3 UCL § 17200, *et seq.*, in an amount according to proof.

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

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

12 208. Plaintiff accrued approximately 72 hours of sick time pursuant to Labor Code §246, and
13 Defendant failed to pay these wages, totaling an amount according to proof.

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

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

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

FIFTEENTH CAUSE OF ACTION
FOR FAILURE TO PAY MINIMUM WAGES
LABOR CODE §§1182.12, 1194, 1194.2, 1197
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

212. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

213. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed by law is unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid hours exceeded the minimum wage. Under California law, Plaintiff is entitled to at least the minimum wage for every hour worked.

214. The historical minimum wage requirements in California are as follows:

Effective	26+ employees	1-25 employees
1/1/21	\$13.00	\$14.00
1/1/20	\$12.00	\$13.00
1/1/19	\$12.00	\$11.00
1/1/18	\$11.00	\$10.50
1/1/17	\$10.50	\$10.00

Effective	New wage	Old Wage
1/1/16	\$10.00	\$9.00
7/1/14	\$9.00	\$8.00
1/1/08	\$8.00	\$7.50
1/1/07	\$7.50	\$6.75

215. In the four years immediately preceding the filing of this complaint, Employers failed and refused to pay Plaintiff the legal minimum wage in the State of California, as set forth in Labor Code §1182.12, in each of the following ways:

a. Employers frequently required Plaintiff to work on her days off under the direction and control of some or all of the INDIVIDUAL DEFENDANTS;

b. Employers frequently made Plaintiff clock out during her meal breaks but was required to continue working without payment; and

c. Employers required Plaintiff to clock out and continue working so as to avoid having to pay overtime or double-time wages.

1 216. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum
2 wages in the amount according to proof.

3 217. Defendants' failure to pay the legal minimum wage to Plaintiff as alleged herein is
4 unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by Plaintiff in a civil action
5 for the unpaid balance of the full amount of the unpaid wages owed, calculated as the difference between
6 the straight time compensation paid and applicable minimum wage, including interest thereon.

7 218. Pursuant to Labor Code §1194, Plaintiff requests that the court award reasonable
8 attorneys' fees and costs incurred by Plaintiff in this action.

9 219. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
10 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an
11 additional amount according to proof, plus interest thereon.

12
13 **SIXTEENTH CAUSE OF ACTION**

14 **FOR FAILURE TO PAY OVERTIME COMPENSATION**

15 **LABOR CODE §§510, 1194**

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

17 220. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
18 though set forth in full herein.

19 221. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
20 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
21 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
22 hours in a single day. It also requires employers to pay their non-exempt employees overtime
23 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
24 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
25 consecutive day of work.

26 222. At all relevant times, Defendants required Plaintiff to work more than eight hours per
27 day and/or more than 40 hours per workweek.

1 223. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
2 compensation required by Labor Code §510, 8 Code of Regulations §11050, and Industrial Welfare
3 Commission Order No. 5-2001.

4 224. In the four years last past, Plaintiff worked multiple hours of overtime each week, all of
5 which should have been paid at 1.5 or 2.0 times Plaintiff's regular hourly wage rate at that time.
6 Defendants failed to pay Plaintiff the requisite overtime wages by allowing her to work off the clock,
7 all of which should have been paid at a premium wage in an amount according to proof.

8 225. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
9 Code §510, 8 Code Regulations §11050, and Industrial Welfare Commission Order No. 5-2001.

10 226. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
11 in the amount according to proof, above and beyond the minimum wages sought in the preceding cause
12 of action for these same hours.

13 227. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation as a
14 direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is
15 entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

16
17 **SEVENTEENTH CAUSE OF ACTION**

18 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS**

19 **LABOR CODE §§226.7, 512**

20 **AGAINST EMPLOYERS AND DOES 1 THROUGH 20, INCLUSIVE**

21 228. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
22 though set forth in full herein.

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

25 230. Labor Code section 226.7 and Industrial Welfare Commission Wage Order No. 5-2001,
26 section 12, subdivision D, requires an employer to provide employees with an uninterrupted rest period
27 of not less than 10 minutes, for every period worked of four hours, or substantial portion thereof.
28

1 231. Defendants failed and refused to provide Plaintiff with uninterrupted rest periods.
2 Defendants also failed to compensate Plaintiff for missed or uninterrupted rest periods, as required by
3 Labor Code section 226.7 and the applicable sections of title 8 of the Code of Regulations, section
4 11050 and Industrial Welfare Commission Order No. 5-2001.

5 232. Throughout Plaintiff's employment, Plaintiff was not permitted and not advised of her
6 right to take one or more of her paid statutory 10-minute rest periods on which Plaintiff worked for at
7 least five hours, which was each day she worked. Rather, Defendants required Plaintiff clock out
8 whenever she took her statutory 10-minute break, but due to work constraints and requirements,
9 Plaintiff was not able to take the complete 10-minute break, and Defendants knew and encouraged the
10 same. Similarly, throughout Plaintiff's employment, Defendants required Plaintiff to work through her
11 meal breaks.

12 233. Throughout her employment, Plaintiff regularly worked in excess of 7 hours per day,
13 five days a week and was thereby entitled to take an uninterrupted 30-minute meal period and two 10-
14 minute rest periods on each day of work.

15 234. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
16 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and 512
17 and the applicable sections of 8 Code of Regulations §11050 and Industrial Welfare Commission Order
18 No. 5-2001, as follows:

19 a. From approximately August 18, 2017 to on or about November 19, 2017, Plaintiff's
20 statutory 30-minute meal periods were missed, interrupted or cut short approximately 5 times per week
21 for 16 weeks, or on approximately 80 days. Consequently, EMPLOYERS owe Plaintiff one hour of pay
22 at \$10.75 for each day, or approximately \$860.00 plus interest thereon, for unpaid meal periods. During
23 this same time period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods
24 on approximately 80 days, and thus, Plaintiff is owed \$860.00 plus interest thereon, for unpaid rest
25 periods. Thus, Plaintiff is owed a total of \$1,720.00, plus interest thereon, for unpaid meal and rest
26 periods for this time period;

27 b. From approximately November 20, 2017 to on or about December 31, 2017, Plaintiff's
28 statutory 30-minute meal periods were missed, interrupted or cut short approximately 5 times per week

1 for 6 weeks, or on approximately 30 days. Consequently, EMPLOYERS owe Plaintiff one hour of pay at
2 \$12.00 for each day, or approximately \$360.00 plus interest thereon, for unpaid meal periods. During this
3 same time period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods on
4 approximately 30 days, and thus, Plaintiff is owed \$360.00 plus interest thereon, for unpaid rest periods.
5 Thus, Plaintiff is owed a total of \$720.00, plus interest thereon, for unpaid meal and rest periods for this
6 time period;

7 c. From approximately January 1, 2018 to on or about December 30, 2018, Plaintiff's
8 statutory 30-minute meal periods were missed, interrupted or cut short approximately 5 times per week
9 for 52 weeks, or on approximately 260 days. Consequently, EMPLOYERS owe Plaintiff one hour of pay
10 at \$12.50 for each day, or approximately \$3,250.00 plus interest thereon, for unpaid meal periods. During
11 this same time period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods
12 on approximately 260 days, and thus, Plaintiff is owed \$3,250.00 plus interest thereon, for unpaid rest
13 periods. Thus, Plaintiff is owed a total of \$6,500.00, plus interest thereon, for unpaid meal and rest
14 periods for this time period;

15 d. From approximately January 1, 2019 to on or about January 27, 2019, Plaintiff's statutory
16 30-minute meal periods were missed, interrupted or cut short approximately 5 times per week for 4 weeks,
17 or on approximately 20 days. Consequently, EMPLOYERS owe Plaintiff one hour of pay at \$13.50 for
18 each day, or approximately \$270.00 plus interest thereon, for unpaid meal periods. During this same time
19 period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods on
20 approximately 20 days, and thus, Plaintiff is owed \$270.00 plus interest thereon, for unpaid rest periods.
21 Thus, Plaintiff is owed a total of \$540.00, plus interest thereon, for unpaid meal and rest periods for this
22 time period;

23 e. From approximately January 28, 2019 to on or about January 3, 2020, Plaintiff's statutory
24 30-minute meal periods were missed, interrupted or cut short approximately 5 times per week for 48.5
25 weeks, or on approximately 242.5 days. Consequently, EMPLOYERS owe Plaintiff one hour of pay at
26 \$13.80 for each day, or approximately \$3,346.50 plus interest thereon, for unpaid meal periods. During
27 this same time period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods
28 on approximately 242.5 days, and thus, Plaintiff is owed \$3,346.50 plus interest thereon, for unpaid rest

1 periods. Thus, Plaintiff is owed a total of \$6,693.00, plus interest thereon, for unpaid meal and rest
2 periods for this time period;

3 f. From approximately January 4, 2020 to on or about September 6, 2020, Plaintiff's
4 statutory 30-minute meal periods were missed, interrupted or cut short approximately 5 times per week
5 for 35 weeks, or on approximately 175 days. Consequently, EMPLOYERS owe Plaintiff one hour of pay
6 at \$14.50 for each day, or approximately \$2,537.50 plus interest thereon, for unpaid meal periods. During
7 this same time period, Plaintiff was deprived of one or more of Plaintiff's statutory 10-minute rest periods
8 on approximately 242.5 days, and thus, Plaintiff is owed \$2,537.50 plus interest thereon, for unpaid rest
9 periods. Thus, Plaintiff is owed a total of \$5,075.00, plus interest thereon, for unpaid meal and rest
10 periods for this time period;

11 g. From approximately September 7, 2020 to on or about December 31, 2020, Plaintiff's
12 statutory 30-minute meal periods were missed, interrupted or cut short approximately 5 times per week
13 for 16.5 weeks, or on approximately 73.5 (82.5 days – 9 meal penalties) days. Consequently,
14 EMPLOYERS owe Plaintiff one hour of pay at \$15.50 for each day, or approximately \$1,139.25 plus
15 interest thereon, for unpaid meal periods. During this same time period, Plaintiff was deprived of one or
16 more of Plaintiff's statutory 10-minute rest periods on approximately 82.5 days, and thus, Plaintiff is
17 owed \$1,278.75 plus interest thereon, for unpaid rest periods. Thus, Plaintiff is owed a total of \$2,418.00,
18 plus interest thereon, for unpaid meal and rest periods for this time period; and,

19 h. From approximately January 1, 2021 to on or about August 6, 2021, Plaintiff's statutory
20 30-minute meal periods were missed, interrupted or cut short approximately 5 times per week for 31
21 weeks, or on approximately 134 (155 days – 21 meal penalties) days. Consequently, EMPLOYERS owe
22 Plaintiff one hour of pay at \$16.50 for each day, or approximately \$2,211.00 plus interest thereon, for
23 unpaid meal periods. During this same time period, Plaintiff was deprived of one or more of Plaintiff's
24 statutory 10-minute rest periods on approximately 155 days, and thus, Plaintiff is owed \$2,557.50 plus
25 interest thereon, for unpaid rest periods. Thus, Plaintiff is owed a total of \$4,768.50, plus interest thereon,
26 for unpaid meal and rest periods for this time period.

27 235. Thus, EMPLOYERS owe Plaintiff a total missed rest and meal period compensation for
28 approximately \$28,434.50.

236. Plaintiff was deprived of her rightfully earned compensation for meal and rest breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

237. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover such amounts in the amount of \$28,434.50, pursuant to Labor Code sections 226.7 and 512, subdivision (b) and Industrial Welfare Commission wage order No. 5-2001, section 12(D), plus interest thereon and costs of suit.

EIGHTEENTH CAUSE OF ACTION

FOR FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES

LABOR CODE §2802

AGAINST EMPLOYERS AND DOES 1 THROUGH 20, INCLUSIVE

238. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as though set forth in full herein.

239. Pursuant to Labor Code §450(a), “no employer...may compel or coerce any employee...to patronize his or her employer, or any other person, in the purchase of anything of value.”

240. Pursuant to Labor Code §2802(a), “an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

241. Plaintiff was required by Defendants to expend Plaintiff's personal funds because of the duties required by Defendants, as alleged hereinabove, including but not limited to Plaintiff's cell phone expenses for EMPLOYERS's business purposes.

242. Pursuant to Labor Code §2802(a), Defendants are legally required to reimburse Plaintiff for all necessary expenditures incurred in the performance of Plaintiff's duties.

243. EMPLOYERS did not provide Plaintiff a business cellphone in the field to use, making Plaintiff have to use her own personal cell phone which she was never reimbursed for in violation of Labor Code §§ 2802 and 2804.

244. Plaintiff is therefore entitled to reimbursement for usage of her cell phone.

1 245. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
2 2502(a), Plaintiff is entitled to recover from Defendants the unpaid balance of all of the necessary
3 aforementioned expenditures.

4 246. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
5 2502(a), Plaintiff has been damaged in an amount according to proof at the time of trial.

6 247. Pursuant to Labor Code §2802(b), Plaintiff requests that the Court award interest at the
7 same rate as judgments in civil actions, accruing from the date on which Plaintiff incurred the necessary
8 expenditure or loss.

9 248. Pursuant to Labor Code §2802(c), Plaintiff requests that the Court award Plaintiff
10 reasonable attorneys' fees and costs incurred in this action.

11
12 **NINETEENTH CAUSE OF ACTION**
13 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
14 **LABOR CODE §§226 ET SEQ.**
15 **AGAINST EMPLOYERS AND DOES 1 THROUGH 20, INCLUSIVE**

16 249. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
17 though set forth in full herein.

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

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

1 252. At all relevant times, EMPLOYERS failed to provide the Plaintiff with timely and
2 accurate wage and hour statements showing gross wages earned, total hours worked, all deductions made,
3 net wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours
4 and rates in effect during each pay period and the corresponding number of hours worked at each hourly
5 rate by Plaintiff.

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

7 254. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
8 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
9 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
10 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
11 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
12 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
13 meal period, and rest period wages. For the time periods that Plaintiff was not provided with paystubs at
14 all, Plaintiff's aforementioned injuries are presumed as a matter of law. Because EMPLOYERS failed
15 to accurately report Plaintiffs and the Class's correct compensation for rest and meal period premium
16 wages, they violated §226 by failing to accurately report gross and net wages earned and total hours
17 worked by Plaintiff.

18 255. Plaintiff was paid on a bi-weekly basis, and therefore EMPLOYERS violated Labor Code
19 §226 several times during the last year that Plaintiff worked for EMPLOYERS . Consequently,
20 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum
21 amount of \$4,000.00, whichever is greater.

22 256. In addition thereto, for EMPLOYERS's violations, EMPLOYERS are penalized \$50.00
23 for the first violation, and the remainder of which Defendants are penalized \$100.00 each, for a total due
24 in Labor Code §226.3 penalties of an amount according to proof.

25 257. Based on EMPLOYERS's conduct as alleged herein, EMPLOYERS are liable for
26 damages and statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code
27 §226.3, and other applicable provisions, as well as attorneys' fees and costs.

28

1 **TWENTIETH CAUSE OF ACTION**

2 **FOR WAITING TIME PENALTIES**

3 **LABOR CODE §§201-203**

4 **AGAINST EMPLOYERS AND DOES 1 THROUGH 20, INCLUSIVE**

5 258. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 60, inclusive, as
6 though set forth in full herein.

7 259. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
8 other compensation due immediately upon termination or within 72 hours of resignation, as required.
9 These wages refer to, at a minimum, reimbursement for business expenses and compensation that
10 Defendants should have paid but did not pay to Plaintiff during the term of Plaintiff's employment and
11 which were, at the latest, due within the time restraints of Labor Code §§201-203.

12 260. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
13 203.

14 261. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
15 is entitled to payment of Plaintiff's retroactive pay, minimum wages, overtime wages, meal and rest
16 periods as previously pleaded herein, and more than \$3,577.50 in wait time penalties, calculated based
17 on a daily average wage of \$4,950.00, times 30 days (i.e., \$165 x 30 days).

18 262. Based on Defendants' conduct as alleged herein, Defendants are liable for \$4,950.00 in
19 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
20 fees and costs.

21
22 **TWENTY-FIRST CAUSE OF ACTION**

23 **FOR PRIVATE ATTORNEY GENERAL ACT**

24 **LABOR CODE §2699**

25 **AGAINST ALL DEFENDANTS AND DOES 1 THROUGH 20, INCLUSIVE**

26 263. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 262, inclusive, as
27 though set forth in full herein.

264. Under Labor Code section 2699, Plaintiff, as an aggrieved employee, may bring an action against Defendants, on behalf of herself and other current or former employees, seeking statutory civil penalties for Defendants' violations of the California Labor Code.

265. Plaintiff was an aggrieved employee within the meaning of Labor Code sections 2699, subdivision (c) and 2699.3, subdivision (a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as previously pleaded in this Complaint.

266. On October 19, 2021, more than 63 calendar days before filing this Complaint, Plaintiff provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code section 2699.3, subdivision (a) by citing the specific provisions of the Labor Code alleged to have been violated, including the facts and theories sufficient to support the alleged violations.

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

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

PENALTIES

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

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

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

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

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

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

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

1 f. As applicable, civil penalties under Labor Code §221 (in addition to an entirely
2 independent and apart from any other penalty provided in the Labor Code), for any aggrieved employee
3 who Defendants failed to pay all earned wages during employment, in the amount of a civil penalty of
4 \$100 for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent
5 violation;

6 g. As applicable, Labor Code §510 (in addition to and entirely independent and apart
7 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
8 to pay overtime wages during employment, in the amount of a civil penalty of \$100 for the initial
9 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25
10 percent of the amount unlawfully withheld;

11 h. As applicable, Labor Code §§551 and 552 (in addition to an entirely independent
12 and apart from any other penalty provided in the Labor Code), for any aggrieved employee who
13 Defendants failed to pay all earned wages during employment, in the amount of a civil penalty of \$100
14 for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent
15 violation plus 25 percent of the amount unlawfully withheld;

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

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

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

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

5 m. As applicable, Labor Code §227.3(in addition to and entirely independent and
6 apart from any other penalty provided in the Labor Code), for any aggrieved employee who did not
7 receive unused vested vacation in their final check, in the amount of a civil penalty not exceeding
8 \$10,000 for each aggrieved employee;

9 n. As applicable, Labor Code §246 (in addition to an entirely independent and apart
10 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
11 to provide paid sick leave, in the amount of a civil penalty of \$100 for the initial violation, and \$200
12 for each aggrieved employee per pay period for each subsequent violation plus 25 percent of the amount
13 unlawfully withheld;

14 o. As applicable, Labor Code §351 (in addition to an entirely independent and apart
15 from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed
16 to provide paid sick leave, in the amount of a civil penalty of \$100 for the initial violation, and \$200
17 for each aggrieved employee per pay period for each subsequent violation plus 25 percent of the amount
18 unlawfully withheld;

19 p. As applicable, civil penalties under Labor Code §1197.1 (in addition to and
20 entirely independent and apart from any other penalty provided in the Labor Code) for violations of
21 Labor Code §§ 1194 and 1197, in the amount of \$100 for each underpaid aggrieved employee for each
22 pay period the aggrieved employee was intentionally underpaid in addition to an amount sufficient to
23 recover underpaid wages, and \$250 for each subsequent violation for each underpaid aggrieved
24 employees regardless of whether the initial violation was intentionally committed in addition to an
25 amount sufficient to recover underpaid wages, with all wages recovered pursuant to Labor Code
26 §§1197.1;

27 q. As applicable, civil penalties under Labor Code §2802 (in addition to and entirely
28 independent and apart from any other penalty provided in the Labor Code), for each violation of Labor

1 Code §2802, in the amount of \$100 for each aggrieved employee per pay period for each violation; and
2 \$200 for each aggrieved employee per pay period for each subsequent violation;

3 r. As applicable, Labor Code §1102.5 (in addition to and entirely independent and
4 apart from any other penalty provided in the Labor Code), for any aggrieved employee who Defendants
5 retaliated against for complaining of activity which any aggrieved employee believed to be illegal and
6 in violation of California law, in the amount of a civil penalty not exceeding \$10,000 for each aggrieved
7 employee;

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

10 270. As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor
11 Code except for those for which a civil penalty is specifically provided, in the amount of one hundred
12 dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two hundred dollars
13 (\$200.00) for each aggrieved employee per pay period for each subsequent violation; and

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

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

20 273. As a direct and proximate result of Defendants ' California Labor Code violations as set
21 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
22 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each
23 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
24 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
25 provide for a penalty, §§203, 210, 225.5, 226.3, 226.7, 510, 512, and 558.

26 274. Further, Plaintiffs are entitled; to recover reasonable attorneys' fees and costs pursuant to
27 Labor Code §§2699(g)(1) and any other applicable statute.

1 **TWENTY-SECOND CAUSE OF ACTION**
2 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**
3 **LABOR CODE §§226 *et seq.*, 1198.5**
4 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

5 275. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
6 though set forth in full herein.

7 276. Labor Code §226(c) requires an employer, within twenty-one (21) days of a written
8 request thereof, to inspect or receive a copy of an employee's records. Pursuant to Labor Code §226(f),
9 an employer's failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

10 277. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request
11 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
12 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

13 278. On August 18, 2021, Plaintiff made a written request to inspect or receive a copy of his
14 personnel and payroll records from Defendants, which Defendants received.

15 279. Defendants failed and refused to permit Plaintiff's inspection of his personnel and
16 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to him within
17 the time required by Labor Code §§ 226 *et seq.*, 1198.5, or ever.

18 As a result of Defendants' failure and refusal to comply with Labor Code §§ 226, and 1198.5, Plaintiff is
19 entitled to recover from Defendants a civil penalty of \$1,500.00

20
21 **TWENTY-THIRD CAUSE OF ACTION**
22 **FOR UNFAIR COMPETITION**
23 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**
24 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

25 280. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 262, inclusive, as
26 though set forth in full herein.

27 281. The court has jurisdiction over this action pursuant to Business and Professions Code
28 section 17200 *et seq.*, specifically Business and Professions Code section 17203, which provides that

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

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

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

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

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff seeks judgment against Defendants and each of them, in an amount of
3 no less than \$5,000,000, according to proof as follows:

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

8 2. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12,
9 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 5-2001, in the amount of no less than
10 an amount according to proof, plus interest;

11 3. For liquidated damages pursuant to Labor Code §1194.2 in the amount of according to
12 proof, plus interest;

13 4. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194,
14 Industrial Welfare Commission Order No. 5-2001, and 8 Code of Regulations §11050, in the amount of
15 according to proof;

16 5. For payment of meal and rest break compensation pursuant to Labor Code §§226.7, 512
17 and Industrial Welfare Commission Wage Order No. 5-2001, section 12 (D), and Code of Regulations,
18 title 8, section 11050 in the amount of no less than \$28,434.50;

19 6. For statutory penalties or damages pursuant to Labor Code §558 in the amount according
20 to proof;

21 7. For reimbursement of necessary business expenses pursuant to Labor Code §2802, in the
22 amount according to proof;

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

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

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

27 11. For waiting time penalties pursuant to Labor Code §§ 201-203 in the amount of no less
28 than \$4,950.00;

- 1 12. For civil penalties pursuant to Labor Code §98.6 in the amount of no less than \$10,000.00;
- 2 13. For civil penalties pursuant to Labor Code §1102.5 in the amount of no less than
- 3 \$10,000.00;
- 4 14. For statutory penalties pursuant to Labor Code §2699, subdivision (f), in the amount of no
- 5 less than an amount according to proof on Plaintiff's own behalf, and similar amounts on behalf of all of
- 6 Defendants' aggrieved employees, estimated to exceed \$500,000.00;
- 7 15. For civil penalties under Labor Code §210, in addition to and entirely independent and
- 8 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
- 9 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
- 10 each subsequent violation, plus 25 percent of the amount unlawfully withheld;
- 11 16. For civil penalties under Labor Code §2802, in addition to and entirely independent and
- 12 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
- 13 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
- 14 each subsequent violation;
- 15 17. For civil penalties under Labor Code §§551 and 551, in addition to and entirely
- 16 independent and apart from any other penalty provided in the Labor Code, in the amount of \$100 for each
- 17 aggrieved employee per pay period for each violation, and \$200 for each aggrieved employee per pay
- 18 period for each subsequent violation;
- 19 18. For civil penalties under Labor Code §51, in addition to and entirely independent and
- 20 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
- 21 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
- 22 each subsequent violation;
- 23 19. For civil penalties under Labor Code §§ 210 and 225.5, in addition to and entirely
- 24 independent and apart from any other penalty provided in the Labor Code, for each violation of Labor
- 25 Code §§204, 221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
- 26 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation or for each
- 27 willful or intentional violation, in addition to 25 percent of the amount unlawfully withheld;
- 28

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

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

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

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

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

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

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

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

24 28. Treble exemplary and punitive damages according to proof;

25 29. For prejudgment interest on each of the foregoing at the legal rate from the date the
26 obligation became due through the date of judgment in this matter.

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

1 30. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
2 condemning Defendants' discriminatory practices;

3 31. For injunctive relief barring Defendants' discriminatory employment policies and
4 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

5 32. For punitive damages, pursuant to Civil Code section 3294 in amounts sufficient to punish
6 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

7 33. For injunctive relief compelling Defendants to report to federal and state authorities wages
8 earned by Plaintiff, and other employees, and pay all state and federal taxes owing, employer matching
9 funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all
10 this in an amount according to the proof;

11 34. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful
12 conduct, and failure to pay wages and other compensation in accordance with the law;

13 35. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
14 Code and/or any other basis;

15 36. For post-judgment interest; and

16 37. For any other relief that is just and proper.

17 DATED: February 7, 2022

GUERRA & CASILLAS LLP

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19 By: 

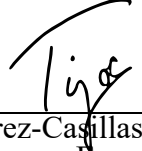
20 Tizoc Perez-Casillas, Esq.
21 Ruben Guerra, Esq.
22 Attorneys for Plaintiff
23 DOLORES DECORSE
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25
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27
28

JURY TRIAL DEMANDED

Plaintiff demands trial of all issues by jury.

DATED: February 7, 2022

GUERRA & CASILLAS LLP

By: 

Tizoc Perez-Castillas, Esq.
Ruben Guerra, Esq.
Attorneys for Plaintiff
DOLORES DECORSE