

MESSRELIAN LAW INC.

Harout Messrelian, Esq., SB# 272020
500 N. Central Ave., Suite 840
Glendale, California 91203
Telephone: (818) 484-6531
Facsimile: (818) 956-1983
Email: hm@messrelianlaw.com

Attorneys for Plaintiff Timisha Villeroy

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Kern County Superior Court
By Vickie Fogerson, Deputy

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

TIMISHA VILLEROY,

Plaintiff,

vs.

CALCANNA CC, INC.; DE Y. ZHONG;
and DOES 1 to 25, inclusive,

Defendants.

) CASE NO.: BCV-22-100781

) **COMPLAINT FOR DAMAGES FOR:**

-) **1) FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**
) **2) FAILURE TO PAY MINIMUM**
) **WAGES;**
) **3) FAILURE TO PAY OVERTIME;**
) **4) FAILURE TO PROVIDE**
) **ACCURATE ITEMIZED WAGE**
) **STATEMENTS;**
) **5) FAILURE TO PAY WAGES WHEN**
) **EMPLOYMENT ENDS;**
) **6) FAILURE TO PAY WAGES OWED**
) **EVERY PAY PERIOD;**
) **7) VIOLATION OF LABOR CODE**
) **SECTION 558;**
) **8) FAILURE TO MAINTAIN**
) **ACCURATE RECORDS;**
) **9) FAILURE TO GIVE REST BREAKS;**
) **10) FAILURE TO GIVE MEAL BREAKS**
) **11) PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA");**
) **12) FAILURE TO REIMBURSE FOR**
) **BUSINESS EXPENSES;**
) **13) SEXUAL HARASSMENT IN**
) **VIOLATION OF FAIR**
) **EMPLOYMENT AND HOUSING**
) **ACT ("FEHA");**
) **14) FAILURE TO PREVENT**
) **HARASSMENT IN VIOLATION OF**
) **FEHA;**
) **15) RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 98.6;**

1) **16) RETALIATION IN VIOLATION OF**
2) **LABOR CODE SECTION 1102.5;**
3) **17) WRONGFUL TERMINATION IN**
4) **VIOLATION OF PUBLIC POLICY;**
5) **18) VIOLATION OF CALIFORNIA**
6) **BUSINESS AND PROFESSIONS**
7) **CODE SECTION 17200.**

8) **DEMAND FOR JURY TRIAL**

9 COMES NOW Plaintiff, TIMISHA VILLEROY (hereinafter "Plaintiff"), and alleges as
10 follows:

11 **PARTIES, JURISDICTION, VENUE**

12 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the
13 County of Kern in this judicial district because Defendants CALCANNA CC, INC.; DE Y.
14 ZHONG and DOES 1 to 25, inclusive, do business in the County of Kern
15 and because Defendants' obligations and liabilities arise therein, and because the work that was
16 performed by Plaintiff in the County of Kern is the subject of this action. Moreover,
17 Plaintiff's damages sought herein exceed \$25,000.

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

19 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
20 CALCANNA CC, INC. is and was a California corporation, doing business in Kern County,
21 California, and which employed Plaintiff.

22 4. Plaintiff is informed and believes that at all times herein mentioned, Defendant
23 DE Y ZHONG is a male resident of the County of Kern, State of California, and an owner,
24 director, officer, and/or managing agent of Defendant CALCANNA CC, INC. Plaintiff is
25 informed and believes and thereon alleges that DE Y. ZHONG managed and was directly
26 involved in the day-to-day operations of CALCANNA CC, INC. and is being included in this
27 lawsuit pursuant to Labor Code Section 558.1 because he personally controlled the wages, hours,
28 and/or working conditions of Plaintiff and other non-exempt, hourly employees. Defendants

1 CALCANNA CC, INC. and DE Y. ZHONG are collectively referred to herein as
2 “CALCANNA” or “Defendant(s)”.

3 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
4 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
5 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
6 defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible
7 for the conduct alleged herein. Upon discovering the true names and capacities of these
8 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and
9 capacities of these fictitiously named defendants.

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

15 **GENERAL ALLEGATIONS**

16 7. Plaintiff started working for CALCANNA on or around May 2021.

17 8. Her employment ended on or around November 18, 2021.

18 9. During her tenure, Plaintiff was classified as an hourly, non-exempt employee and
19 earned \$20 per hour.

20 10. CALCANNA has committed numerous labor code and other legal violations against
21 Plaintiff and other similarly situated aggrieved employees, including all hourly, non-exempt
22 employees who worked for CALCANNA at any of their California locations:

23 11. CALCANNA did not provide Plaintiff and other similarly situated aggrieved
24 employees with the minimum wages to which they were entitled for all work performed and as
25 such did not compensate Plaintiff and others for all hours worked at the minimum wage rate
26 pursuant to California Labor Code sections 1194, 1197 and 1197.1. This is so because the
27 company had a policy of rounding down employee hours to the detriment of the employees,
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1 which resulted in employees such as Plaintiff not being paid for all hours worked. In addition,
2 Plaintiff consistently worked through her meal period while “off the clock” and was not
3 compensated for this time in violation of California’s minimum wage laws. In addition,
4 Plaintiff was not compensated at all for her drop-offs and pick-ups in contravention of
5 California law.

6 12. Due to the above “off the clock” violations, including the time shaving/rounding,
7 CALCANNA also violated Labor Code §510 because it failed to pay Plaintiff and other similarly
8 situated aggrieved employees the correct amount of overtime, even though they worked more
9 than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their employment.
10 Furthermore, CALCANNA did not include bonuses and other forms of additional compensation
11 in calculating the correct regular rate of pay for purposes of then calculating the correct overtime
12 rate of pay.

13 13. CALCANNA violated Labor Code § 226.7 and the applicable Industrial Welfare
14 Commission Wage Order (no. 4) because it failed to provide Plaintiff and other similarly situated
15 aggrieved employees 10-minute rest periods for every four hours of work, or majority portion
16 thereof, throughout their employment. CALCANNA did not completely relieve Plaintiff of all
17 duty during said rest periods. CALCANNA did not pay to Plaintiff one additional hour of pay
18 at Plaintiff’s regular rate of compensation for each workday that one or more statutory rest
19 periods was not provided. It was not part of the company policy and culture for employees such
20 as Plaintiff and others to take rest breaks. The opportunity to take uninterrupted, statutory rest
21 breaks was not available. As such, the culture and environment at CALCANNA did not lend
22 itself to the employees receiving statutory breaks wherein they were relieved of all work duties.
23 It was the normal practice and custom of CALCANNA not to authorize, permit, and enforce
24 timely statutory rest periods.

25 14. CALCANNA violated Labor Code §§ 512 and 226.7 and the applicable Industrial
26 Welfare Commission Wage Order (no. 4) because it failed to provide Plaintiff and other similarly
27 situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for every five
28 (5) hours of work (and before the fifth hour) throughout their employment, and Plaintiff did not

1 validly waive said meal periods. CALCANNA did not completely relieve Plaintiffs of all duties
2 during said meal periods. CALCANNA did not pay to Plaintiff one additional hour of pay at
3 Plaintiff's regular rate of compensation for each workday that one or more statutory meal periods
4 was not provided. If Plaintiff was able to get a meal period, it would be late and after the 5th hour
5 worked (sometimes after the 7th hour worked). In addition, if Plaintiff was somehow able to get
6 a timely, statutory meal break, it would be interrupted by work obligations since Plaintiff and
7 others were required to keep a "walkie-talkie" on them at all times and respond immediately,
8 even if on a statutory break. Like the rest breaks, receiving a timely, thirty-minute uninterrupted
9 meal break was not part of the company culture and was not enforced by CALCANNA. It was
10 the normal practice and custom of CALCANNA not to authorize, permit, and enforce timely
11 statutory meal periods. In fact, and as alluded to above, Plaintiff would consistently work through
12 her meal period but would not get compensated for that time.

13 15. Furthermore, during the relevant time period, and due to the above labor code violations,
14 CALCANNA failed to pay Plaintiff and other similarly situated aggrieved employees all wages
15 due to them within any time period specified by California Labor Code section 204.

16 16. CALCANNA was also in violation of California Labor Code section 226(a) by failing to
17 include pertinent information on the wage statements, including but not limited to, the correct
18 hourly rate, all hours worked, overtime hours worked, correct overtime pay, gross wages earned,
19 net wages earned, premium pay for missed meal and rest breaks, all deductions, the correct start
20 and end of the pay period, all employee identifying information, the correct name and address of
21 the legal employer, and reimbursement for business expenses, among others. As such,
22 CALCANNA did not provide Plaintiff and other similarly situated aggrieved employees with
23 complete, accurate itemized wage statements. Furthermore, Plaintiff would be denied access to
24 her paystubs despite asking for them.

25 17. CALCANNA violated Labor Code § 203 because it willfully failed to pay Plaintiff and
26 other situated aggrieved employees earned and due wages upon separation of employment, either
27 immediately upon involuntary termination, or within 72 hours of resignation. These earned but
28 unpaid wages include the unpaid minimum wages/compensation for all hours worked, overtime,

1 premium pay for missed meal and rest breaks, and business expense reimbursement, among
2 others.

3 18. During the relevant time period, CALCANNA also failed to keep accurate and complete
4 payroll records showing the correct wages paid to Plaintiff and other aggrieved employees
5 pursuant to California Labor Code sections 1174(d).

6 19. Alternatively, during the relevant time period, Plaintiff and other aggrieved employees
7 incurred necessary, business-related expenses and costs that were not reimbursed by
8 CALCANNA. These costs include, but are not limited to, the use of personal cell phones for
9 work purposes as well as mileage reimbursement for use of personal vehicles for work purposes.
10 Accordingly, CALCANNA was in violation of California Labor Code sections 2800 and 2802.

11 20. Furthermore, CALCANNA violated the applicable Industrial Welfare Commission
12 Wage Order (Wage Order 4, Section 14(b)) in that there was no proper suitable seating/break
13 area for employees.

14 21. Moreover, CALCANNA failed to provide Worker's Compensation coverage for
15 Plaintiff and other aggrieved employees in violation of Labor Code Section 3700.5 and also
16 failed to provide sick pay in violation of Labor Code Sections 232 and 246.

17 22. In addition, Plaintiff would also have claims against CALCANNA pursuant to the Fair
18 Employment and Housing Act (FEHA) for sexual harassment and a hostile work environment.

19 23. This is so because Plaintiff's direct supervisor, Stephen Schlett, would consistently make
20 comments about the fact that he has a large penis. Mr. Schlett would make sexually charged
21 comments to Plaintiff, including telling her, "I'm black from the waist down" and "because I
22 have a big dick and I can put shit together". Plaintiff reported Mr. Schlett's conduct to the facility
23 manager, who laughed and said, "he's a walking HR violation". Mr. Schlett invited Plaintiff and
24 other managers to his home on one occasion and told the other managers, "you guys be sure to
25 be there cause Timisha is gonna be there in a thong". It is also important to note that Plaintiff
26 had complained to the company about discriminatory hiring practices because Plaintiff was
27 instructed to only hire women employees for a while. Moreover, Plaintiff also complained about
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1 the fact that employee timecards were altered, but the response was that it is what upper
2 management/ownership wanted.

3 24. Furthermore, CALCANNA retaliated against Plaintiff in violation of Labor Code
4 sections 1102.5 and 98.6 by terminating Plaintiff's employment after Plaintiff provided notice
5 to Defendants and the California Labor and Workforce Development Agency (LWDA) on or
6 around October 4, 2021, stating that Plaintiff would be seeking penalties under the Private
7 Attorneys General Act of 2004 (PAGA) for various labor code violations against Plaintiff and
8 other hourly, non-exempt employees. Not surprisingly, CALCANNA terminated Plaintiff's
9 employment on or around mid-November 2021 in violation of Labor Code sections 98.6 and
10 1102.5.

11 **FIRST CAUSE OF ACTION**

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

13 **(California Industrial Welfare Commission Order 4-2001, California Code of**
14 **Regulations Title 8 Section 11040, and California Labor Code Section 1198)**
15 **(Plaintiff against all named defendants and all DOE defendants)**

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

18 26. At all times relevant herein, Defendants were required to compensate their employees
19 for all hours worked upon reporting for work at the appointed time stated by the employer
20 pursuant to Industrial Welfare Commission Order 4-2001, California Code of Regulations,
21 Title 8, Section 11040.

22 27. For the three (3) years preceding filing of this action, Defendants failed to compensate
23 Plaintiff for all hours worked.

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

27 29. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
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1 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
2 this Court.

3 30. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
4 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
5 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
6 reasonable attorney's fees and costs of suit.

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

11 **SECOND CAUSE OF ACTION**

12 **FAILURE TO PAY MINIMUM WAGES**

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

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

15 32. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 31, inclusive, of this Complaint as though fully set forth herein.

17 33. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
18 to suffer or permit a California employee to work without paying wages at the minimum wage
19 rate for all hours worked as required by the applicable Industrial Welfare Commission
20 (hereinafter "IWC") Wage Order No. 4-2001, codified at California Code of
21 Regulations, Title 8, Section 11040, subdivision 4.

22 34. Pursuant to IWC Wage Order no. 4-2001, subdivision 2(K), at all relevant
23 times, "hours worked" included "the time during which an employee is subject to the control of
24 an employer, and includes all the time the employee is suffered or permitted to work, whether
25 or not required to do so..."

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

4 36. Plaintiff was, at all relevant times, under the control of Defendants and suffered or
5 permitted to work by Defendants. Defendants' acts or omissions in failing to adequately
6 compensate Plaintiff were not in good faith nor were there reasonable grounds for Defendants
7 to believe that their acts or omissions were not contrary to California law.

8 37. For all hours worked by Plaintiff for which she was paid less than the minimum wage
9 rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum
10 wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount
11 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
12 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

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

16 **THIRD CAUSE OF ACTION**

17 **FAILURE TO PAY OVERTIME**

18 **(California Industrial Welfare Commission Order 4-2001, California Code of**
19 **Regulations Title 8 Section 11040; California Labor Code Section 510)**

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

21 39. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 38, inclusive, of this Complaint as though fully set forth herein.

23 40. Pursuant to Industrial Welfare Commission Order No. 4-2001, Cal. Code of
24 Regs., Title 8, Section 11040, for the period of Plaintiff's employment, Defendants were
25 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
26 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
27 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
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1 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
2 week.

3 41. Plaintiff was a non-exempt employee entitled to the protections of the California
4 Industrial Welfare Commission Order No. 4-2001, California Code of Regulations,
5 Title 8, Section 11040.

6 42. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a
7 single workday or forty (40) hours in a single workweek on numerous occasions.

8 43. Plaintiff was entitled to the above overtime premiums.

9 44. Defendants did not pay Plaintiff premium wages of at least one and one-half times
10 Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay
11 Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past
12 twelve (12) in a day.

13 45. Defendants did not pay Plaintiff premium wages of at least one and one-half times
14 Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

15 46. Plaintiff worked at least one pay period in which she was not properly paid overtime
16 within the three (3) years prior to the initiation of this lawsuit.

17 47. Defendants know or should know the actual dates of overtime worked, the amount of
18 overtime worked, and the amount of unpaid overtime due.

19 48. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
20 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
21 Court.

22 49. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
23 Regulations, Title 8, Sections 11040, Plaintiff is entitled to recover damages for the
24 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
25 reasonable attorney's fees and costs of suit.

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

2 **FOURTH CAUSE OF ACTION**

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

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

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

6 51. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 50, inclusive, of this Complaint as though fully set forth herein.

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

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

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

23 55. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
24 sustained damages, including loss of earnings, in an amount to be established at trial. As a
25 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
26 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
27 and attorney's fees pursuant to statute.
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1 56. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
2 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
3 trial.

4 **FIFTH CAUSE OF ACTION**

5 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

6 **(California Labor Code Sections 201, 203)**

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

8 57. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 56, inclusive, of this Complaint as though fully set forth herein.

10 58. Pursuant to California Labor Code Section 201(a), an employer who discharges an
11 employee must immediately pay for all compensation due and owing.

12 59. Pursuant to California Labor Code Section 202, when an employee resigns, the
13 employer must pay all compensation due and owing within 72 hours of resignation, or on the
14 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

15 60. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
16 without abatement or reduction, any wages of an employee whose employment ends, the wages
17 of the employee shall continue as a penalty from the due date at the same rate until paid or until
18 an action is commenced; however, the wages shall not continue for more than 30 days for
19 failure to pay an employee owed wages.

20 61. After Plaintiff's employment with Defendants ended and after Plaintiff was terminated
21 from her employment, Defendants willfully refused and continue to refuse to pay her unpaid
22 wages as required by Labor Code Section 203.

23 62. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
24 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
25 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
26 preceding the filing of this lawsuit.

27 63. Under this cause of action, Plaintiff also prays for attorney's fees and costs under
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1 California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set
2 forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

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

6 **SIXTH CAUSE OF ACTION**

7 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

8 **(California Labor Code Section 204)**

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

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

12 66. California Labor Code Section 204 establishes the fundamental right of all employees
13 in the State of California to be paid wages in a timely fashion for their work.

14 67. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
15 full amount of all owed wages when due as required by California Labor Code Section 204.

16 68. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
17 informed, believes, and thereon alleges, that all times relevant during the liability period,
18 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
19 including overtime hours, the minimum wage, and premium pay for missed meal and rest
20 breaks.

21 69. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
22 amount, subject to proof, to the extent she was not paid all wages each pay period. The precise
23 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
24 from Defendants' records or indirectly based on information from Defendants' records.

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

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE SECTION 558

(California Labor Code Section 558)

(Plaintiff against all named defendants and all DOE defendants)

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

72. California Labor Code Section 558 states that any person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was filed.

73. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558. Thus, Defendants are subject to civil penalties under the following laws:

- a. California Labor Code Section 558. Defendants failed to pay Plaintiff regular wages, including minimum wages, and overtime wages for overtime hours worked. Defendants also failed to Plaintiff premium pay for missed meal and rest breaks. As such, Defendants violated Section 558 under which penalties are due. Plaintiff therefore prays for penalties of \$50.00 for the first pay period and \$100.00 for each subsequent violation for each pay period for which Plaintiff was underpaid in addition to an amount sufficient to recover underpaid wages.
- b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for relief associated with Plaintiff's prosecution of this cause of action under California

1 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
2 paying Plaintiff for her overtime hours worked and for all hours worked (including
3 the minimum wage).

- 4 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
5 fees for relief associated with Plaintiff's prosecution of this cause of action under
6 California Labor Code Sections 200, et seq.

7 74. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under
8 the statutes, regulations, and wage orders alleged in this cause of action along with any
9 allowable interest, penalties, attorney's fees, and costs according to proof at trial.

10 75. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs and
11 attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.

12 **EIGHTH CAUSE OF ACTION**

13 **FAILURE TO MAINTAIN ACCURATE RECORDS**

14 **(California Labor Code Section 1174(d))**

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

16 76. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 75, inclusive, of this Complaint as though fully set forth herein.

18 77. Labor Code section 1174(d) requires that employers, including Defendants, maintain
19 accurate records showing the hours worked daily by its employees and to whom wages were
20 paid.

21 78. Additionally, the "Records" section of the applicable IWC Wage Order obligates the
22 employer, including Defendants, to keep accurate information with respect to each one of their
23 employees including, but not limited to, the total wages paid each payroll period, and time
24 records showing when the employee begins and ends each work period, meal periods, split
25 shift intervals; the total daily hours worked; the total hours worked in the payroll period, and
26 the applicable rates of pay.

27 79. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails
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1 to maintain accurate and complete records required by Labor Code section 1174(d) is subject
2 to a penalty. On information and belief, Defendants intentionally failed to maintain accurate
3 records of Plaintiff's total daily hours, the total hours worked in the payroll period, the
4 applicable rates of pay, and total wages earned for the payroll period.

5 80. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered and
6 continues to suffer substantial losses related to Defendants' failure to record and maintain
7 records of meal and rest periods as well as time records.

8 81. Plaintiff seeks all available remedies for Defendants' violations including, but not
9 limited penalties, and costs to the extent permitted by law and according to proof at trial.

10 **NINTH CAUSE OF ACTION**

11 **FAILURE TO GIVE REST BREAKS**

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

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

15 83. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 16 a. Title 8 of the California Code of Regulations Sections 11040(12)(A), which
17 provides that every employer shall authorize and permit all employees to take rest
18 periods, which insofar as practicable shall be in the middle of each work period.
19 The authorized rest period time shall be based on the total hours worked daily at the
20 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
- 21 b. Title 8 of the California Code of Regulations Sections 11040(12)(B), which
22 provides that if an employer fails to provide an employee a rest period in
23 accordance with the applicable provisions of this order, the employer shall pay the
24 employee one (1) hour of pay at employee's regular rate of compensation for each
25 workday that the rest period is not provided;
- 26 c. Title 8 of the California Code of Regulations sections 11040(20)(A), which
27 penalizes the employer \$50.00 for each initial violation, per employee, of any
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provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and

- d. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any rest period mandated by an applicable order of the Industrial Welfare Commission, and (b) if an employer fails to provide an employee a rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at employee's regular rate of compensation for each work day that the rest period is not provided.

84. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute rest break after every four (4) hours of work or major fraction thereof, as required by California law.

85. Under this cause of action, Plaintiff prays for wages due to her under the statutes, regulations, and wage orders alleged in this cause of action along with any allowable interest, penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

86. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's fees as well as interest under Labor Code section 218.6.

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

TENTH CAUSE OF ACTION

FAILURE TO GIVE MEAL BREAKS

(Plaintiff against all named defendants and all DOE defendants)

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

89. Plaintiff brings this cause of action under the following laws, for the following reasons:

- a. California Labor Code section 512(a), which requires that employees be given a 30-minute uninterrupted meal break after five (5) hours of work, and a second uninterrupted meal break after ten (10) hours of work;
- b. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- c. California Industrial Welfare Commission Order No. 4 section 11(B), as codified under Title 8 of the California Code of Regulations Section 11040, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 4 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section 11040, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 4 Section 20(A), as codified under California Code of Regulations Section 11040 , which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4) as enforceable law.

90. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks

1 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
2 to take a second relieved meal break after ten (10) hours of work, as required by California
3 law. California Labor Code section 512(a) and California Industrial Welfare Commission
4 Order No. 4/9, as codified under California Code of Regulations Sections 11040/11090 et. seq.
5 requires that employees receive uninterrupted meal periods every five (5) hours of consecutive
6 work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of
7 all work duty. California Labor Code section 226.7 provides that employers may not require
8 their employees to work through their meal periods. California Labor Code section 226.7 and
9 California Code of Regulations section 11040/11090 requires that if the employer fails to
10 provide the employee with an uninterrupted meal period, the employer must pay the employee
11 one (1) hour of pay for each work day that the meal period is not given.

12 91. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
13 regulations, and wage orders alleged in this cause of action along with any allowable interest,
14 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
15 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

16 92. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
17 fees as well as interest under Labor Code section 218.6.

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

21 **ELEVENTH CAUSE OF ACTION**

22 **PRIVATE ATTORNEYS GENERAL ACT**

23 **Individual and Representative Claim for PAGA penalties under California Labor Code**
24 **sections 201, 202, 203, 204 and/or 204b, 226, 226.3, 226.7, 232, 246, 510, 512, 558, 558.1,**
25 **1174, 1174.5, 1194, 1197, 1198, 2753, 2802, 3700.5 and IWC Wage Order no. 4-2001)**

26 **(Against all Defendants and all DOE Defendants)**

27 94. Plaintiff re-alleges and incorporates by reference each and every allegation in
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1 paragraphs 1 through 93, inclusive, of this Complaint as though fully set forth herein.

2 95. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
3 Defendants of the specific violations of the California Labor Code that Defendants
4 and DOE defendants have violated and continue to violate.

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

7 97. Plaintiff therefore has exhausted all administrative remedies required of her under
8 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
9 cause of action and pursue penalties in a representative action for Defendants' violations of the
10 Labor Code.

11 98. Pursuant to California Labor Code section 2699, any provisions of the Labor
12 Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its
13 departments, divisions, commissions, boards, agencies, or employees for violation of the code
14 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
15 on behalf of himself or herself and other current or formal employees pursuant to the
16 procedures specified in California Labor Code section 2699.3.

17 99. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
18 violator and had one or more of the alleged violations committed against her, and therefore is
19 properly suited to represent the interests of other current and former employees, including all
20 hourly, non-exempt or misclassified employees who worked for CALCANNA at any of its
21 California locations during the PAGA period.

22 100. Based on the acts alleged above, Plaintiff, on behalf of herself and others, seeks
23 penalties under California Labor Code sections 2698 and 2699 because of Defendants'
24 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

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

2 102. California Labor Code section 2699 et seq. imposes penalties upon culpable
3 Defendants for violating the Labor Code.

4 103. California Labor Code section 558 establishes a civil penalty as follows: Any
5 employer or other person action on behalf of an employer who violates, or causes to be
6 violated, a section of this chapter or any provision regulating hours and days of work in any
7 order of the Industrial Welfare Commission (including the “Hours and Days of Work” section
8 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
9 dollars (\$50) for each underpaid employee for each pay period for which the employee was
10 underpaid ...; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
11 employee for each pay period for which the employee was underpaid ...;

12 104. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted
13 by law, but only those penalties that are required to be shared with the LWDA as Plaintiff is
14 not seeking individual/victim specific relief or underpaid wages under this particular cause of
15 action.

16 105. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted
17 by law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
18 the following:

19 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
20 226.3, 226.7, 232, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1198, 2753, 2802,
21 3700.5 via 2698 and 2699 and any other Labor Codes and Industrial Welfare Commission
22 Wage Orders (Order no. 4) violated based on the facts alleged in this Complaint.

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

1
2 **TWELFTH CAUSE OF ACTION**

3 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

4 **(Plaintiff against all Defendants and DOE Defendants, and each of them)**

5 107. Plaintiff re-alleges and incorporates by reference each and every allegation in
6 paragraphs 1 through 106, inclusive, of this Complaint as though fully set forth herein.

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

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

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

17 **THIRTEENTH CAUSE OF ACTION**

18 **SEXUAL HARASSMENT IN VIOLATION OF FEHA**

19 **(Plaintiff against corporate Defendant CALCANNA CC, INC. and all DOE Defendants)**

20 111. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 110, inclusive, of this Complaint as though fully set forth herein.

22 112. At all times herein mentioned, FEHA, Government Code section 12900, et seq.,
23 was in full force and effect and was binding on Defendants. Specifically, Government Code
24 section 12940(j) prohibits an employer from sexually harassing an employee on the basis of
25 her sex.
26

27 113. The actions of supervisor Stephen Schlett towards Plaintiff, while in the course
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1 and scope of his employment, as described herein, created a hostile sexual environment which
2 materially altered Plaintiff's working conditions, and which constitutes sexual harassment in
3 violation of California Government Code section 12940(j)(1).

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

9 115. As a proximate result of the conduct of the Defendants, Plaintiff has suffered and will
10 continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other
11 pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer
12 physical and emotional injuries, including nervousness, humiliation, depression, anguish,
13 embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's
14 damages will be ascertained at trial.

15 116. In committing the foregoing acts, Defendants have been guilty of oppression, fraud,
16 and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to punitive
17 damages in a sum appropriate to punish and make an example out of the foregoing Defendants.

18 117. The acts of oppression, fraud, and/or malice, were engaged in by employees of
19 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
20 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
21 wrongful conduct for which an award of punitive damages is sought, and/or was personally
22 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
23 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
24 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
25 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with
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1 California Civil Code section 3294 in a sum appropriate to punish and make an example of
2 each Defendant.

3 118. FEHA provides for an award of reasonable attorneys' fees and costs incurred by a
4 prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
5 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
6 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
7 award of attorneys' fees and costs.
8

9 **FOURTEENTH CAUSE OF ACTION**

10 **FAILURE TO PREVENT HARASSMENT IN VIOLATION OF FEHA**

11 **(Plaintiff against corporate Defendant CALCANNA CC, INC. and all DOE defendants)**

12 119. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 118, inclusive, of this Complaint as thought fully set forth herein.

14 120. FEHA requires employers to take "all reasonable steps necessary to prevent
15 discrimination and harassment from occurring." (Gov. Code section 12940, subd. (k)).

16 121. As alleged above, Plaintiff was subjected to sexual harassment.

17 122. Defendant CALCANNA CC, INC. failed to take all reasonable steps necessary to
18 prevent harassment. In addition, Defendant CALCANNA CC, INC. failed to remedy such
19 harassment when it realized and was informed that it was occurring.

20 123. The failure of Defendant CALCANNA CC, INC. to prevent harassment created and
21 encouraged an environment where such harassment was condoned, encouraged, tolerated,
22 sanctioned, and/or ratified.

23 124. As a direct and proximate result of the unlawful conduct of Defendants, Plaintiff has
24 been harmed in that Plaintiff has suffered the loss of wages, salary, benefits, and additional
25 amounts of money Plaintiff would have received if Plaintiff had not been discharged from her
26 employment. As a result, Plaintiff has suffered such damages in an amount according to proof.

27 125. As a further direct and proximate result of the conduct of Defendants,
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1 Plaintiff has been harmed in that Plaintiff has suffered the intangible loss of employment-
2 related opportunities. As a result, Plaintiff has suffered such damages in an amount according
3 to proof.

4 126. As a further direct and proximate result of the conduct of Defendants,
5 Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish, and
6 emotional distress, and has been harmed in mind and body. As a result, Plaintiff has suffered
7 such damages in an amount according to proof.
8

9 127. The above-recited actions of Defendants were done with malice, fraud, oppression,
10 and in reckless disregard of Plaintiff's rights under FEHA. Accordingly, Plaintiff is entitled to
11 an award of punitive damages.

12 **FIFTEENTH CAUSE OF ACTION**

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

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

15 **(Plaintiff against corporate Defendant CALCANNA CC, INC. DOE Defendants, and**
16 **each of them)**

17 128. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 127, inclusive, of this Complaint as though fully set forth herein.

19 129. California Labor Code section 98.6 provides, in pertinent part, as follows:

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

24 130. In doing the things herein alleged, Defendant CALCANNA CC, INC. violated Labor
25 Code section 98.6 in that they retaliated against Plaintiff for complaining about her wages and
26 about the labor code violations that were being committed by Defendants, especially after her
27 PAGA notice to the LWDA regarding Defendant's labor code violations.
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1 131. As a direct and proximate result of the aforementioned acts and omissions of
2 Defendants, Plaintiff suffered general and compensatory damages, including but not
3 limited to, loss of income (past and future), loss of employment benefits (past and future),
4 general and compensatory damages (past and future), mental pain and anguish and emotional
5 distress (past and future), and will continue to suffer in the future, in an amount to be proved at
6 trial. Moreover, pursuant to Labor Code section 98.6, an employer who violates this section is
7 liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee for each
8 violation of this section.

9 132. The foregoing conduct engaged in by Defendants CALCANNA CC, INC. and each of
10 its directors, officers and/or managing agents, constitutes malice, fraud, and oppression and
11 was authorized, ratified, and carried on with a conscious and willful disregard of their workers'
12 right to work in an environment free of retaliation, so as to justify the imposition of punitive
13 damages to punish and set an example of said Defendants.

14 **SIXTEENTH CAUSE OF ACTION**

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

16 **(Plaintiff against corporate Defendant CALCANNA CC, INC. and DOE Defendants, and**
17 **each of them)**

18 133. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 132, inclusive, of this Complaint as though fully set forth herein.

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

4 135. As discussed fully above, Plaintiff complained to Defendants about the company's
5 illegal conduct as described above, and the labor code violations being committed against
6 Plaintiff and others, including sending a PAGA notice to the LWDA regarding Defendant's
7 labor code violations against Plaintiff and other hourly, non-exempt employees.

8 136. Defendant CALCANNA CC, INC. retaliated against Plaintiff for her whistleblowing,
9 as alleged above, all in violation of Labor Code § 1102.5.

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

15 138. Plaintiff requests all available relief under Labor Code § 1102.5 including damages
16 and the imposition of civil penalties of \$10,000 for each violation as well as attorney's fees.

17 **SEVENTEENTH CAUSE OF ACTION**

18 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

19 **(Against corporate Defendant CALCANNA CC, INC. and all DOE Defendants)**

20 139. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 138, inclusive, of this Complaint as though fully set forth herein.

22 140. At all times during her employment with Defendant, Plaintiff performed her
23 duties with the utmost diligence and competence.

24 141. Plaintiff is informed and believes and thereon alleges that Defendants' decisions and
25 actions to treat her differently and terminate her employment as alleged herein, was motivated
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1 by Plaintiff's whistleblowing and complaints about illegal activity at the workplace as well as
2 complaints about wage and hour violations being committed against Plaintiff, including
3 Plaintiff serving Defendant with a PAGA notice that was sent to Defendant and the LWDA on
4 or around October 4, 2021. Defendant CALCANNA CC, INC. intentionally created the
5 aforementioned retaliation, thereby not giving Plaintiff an opportunity to work in an
6 environment free of retaliation.

7 142. The employment of Plaintiff was wrongfully terminated on or around November 18,
8 2021 in violation of the fundamental public policy of the State of California with respect to
9 retaliating against an employee on account of her whistleblowing. Moreover, Plaintiff was
10 forced to hire an attorney to assist her to end these illegal activities. Said conduct violated
11 statutory and constitutional expressions of public policy including, the California Labor Code
12 sections 98.6 and 1102.5 and the California Constitution, Article 1 section 8.

13 143. As set forth above, said actions by Defendants were wrongful and in violation of the
14 fundamental principles of the public policy of the State of California as reflected in its laws,
15 objectives and policies. Said statutes and constitutional expressions of public policy include,
16 but are not limited to, California Labor Code sections 98.6 and 1102.5 and the California
17 Constitution, Article 1 section 8. These laws inure to the benefit of the public at large, and not
18 just the private interests of the employers and employees whom they govern or protect.

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

24 145. The foregoing conduct engaged in by Defendants and each of their directors, officers
25 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
26 and carried on with a conscious and willful disregard of their workers' right to work in an
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environment free of retaliation due to whistleblowing, so as to justify the imposition of punitive damages to punish and set an example of said Defendants.

EIGHTEENTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

(California Business and Professions Code Section 17200)

(Plaintiff against corporate Defendant CALCANNA CC, INC. and all DOE defendants)

146.Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 145, inclusive, of this Complaint as though fully set forth herein.

147.By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants constitutes unfair and unlawful business practices under California Business and Professions Code Section 17200, et seq.

148.Defendants' violations of California labor laws and the Labor Code as well as the Fair Employment and Housing Act (FEHA) constitutes a business practice because it was done repeatedly over a significant period of time in a systematic manner that was detrimental to Plaintiff and other similarly situated aggrieved employees.

149.For the four years preceding the filing of this action, Plaintiff has suffered damages and request damages and/or restitution of all monies and profits to be disgorged from Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of this Court.

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

1. For compensatory damages including lost past and future wages, regular wages, overtime, and all other sums of money, including employment benefits, together with interest on said amounts, and any other economic injury to Plaintiff, according to proof;
2. For general damages according to proof;
3. For special and consequential damages to the extent allowed by law;

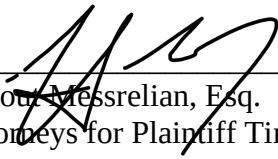
4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof at trial;
5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to proof at trial;
7. For an award of punitive damages against corporate Defendants according to proof;
8. For restitution and disgorgement for all unfair business practices by corporate Defendants against Plaintiff in an amount subject to proof at trial;
9. For an order enjoining corporate Defendants from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
10. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
11. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
12. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claim;
13. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law;
14. For the imposition of civil penalties and/or statutory penalties;
15. For all interest as allowed by law;
16. For all costs and disbursements incurred in this suit;
17. Reasonable attorney's fees where available by law, including but not limited to,

1 pursuant to Labor Code section 2698 et seq., the California Labor Code, Fair
2 Employment and Housing Act (Government Code section 12940 et seq) and/or other
3 applicable laws; and

4 18. For such other and further relief as this Court may deem proper.

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6 DATED: April 4, 2022

MESSRELIAN LAW INC.

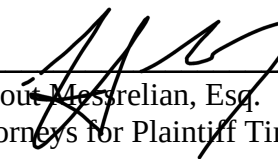
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8 By 
9 Harout Messrelian, Esq.
Attorneys for Plaintiff Timisha Villeroy

10
11 **DEMAND FOR JURY TRIAL**

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

13
14 DATED: April 4, 2022

MESSRELIAN LAW INC.

15
16 By 
17 Harout Messrelian, Esq.
18 Attorneys for Plaintiff Timisha Villeroy
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