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DAVID GONZALEZ

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

DAVID GONZALEZ, an individual,  
  
Plaintiff,

v.

SYSCO LOS ANGELES, INC., a Delaware  
corporation; and DOES 1 through 20, inclusive,  
  
Defendants.

Case No. **22STCV03775**

**COMPLAINT FOR DAMAGES FOR:**

- 1. DISCRIMINATION IN VIOLATION OF  
GOV'T CODE §§12940 ET SEQ.;**
- 2. RETALIATION IN VIOLATION OF  
GOV'T CODE §§12940 ET SEQ.;**
- 3. FAILURE TO PREVENT  
DISCRIMINATION AND RETALIATION  
IN VIOLATION OF GOV'T CODE  
§12940(k);**
- 4. FAILURE TO PROVIDE REASONABLE  
ACCOMMODATIONS IN VIOLATION OF  
GOV'T CODE §§12940 ET SEQ.;**
- 5. FAILURE TO ENGAGE IN A GOOD  
FAITH INTERACTIVE PROCESS IN  
VIOLATION OF GOV'T CODE §§12940 ET  
SEQ.;**
- 6. FOR DECLARATORY JUDGMENT**
- 7. RETALIATION (LAB. CODE §98.6);**

8. RETALIATION (LAB. CODE §§1102.5, 1102.6);
9. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
10. FAILURE TO PAY WAGES (CAL. LABOR CODE §§201, 1194);
11. FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);
12. FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§510, 1194);
13. FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);
14. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);
15. WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);
16. PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ); AND
17. UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.)

**DEMAND OVER \$25,000**

**[DEMAND FOR JURY TRIAL]**

**COMES NOW PLAINTIFF, DAVID GONZALEZ**, 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.

1  
2 **THE PARTIES**

3 2. Plaintiff, DAVID GONZALEZ, is and at all times relevant hereto was a resident of the  
4 County of LOS ANGELES, State of California.

5 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant  
6 hereto, Defendant SYSCO LOS ANGELES, INC. (hereinafter referred to as "SLA") was and is a  
7 California corporation doing business at 20701 East Currier Road, in the County of LOS ANGELES,  
8 State of California.

9 4. SLA is hereinafter referred to as "Employers."

10 5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant  
11 hereto, Employers owned and operated a private food products seller, marketer, and distributor company.

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

16 7. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint  
17 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare  
18 Commission Order No. 9-2001 and are each any "employer or other person acting on behalf of an  
19 employer" as such term is used in Labor Code section 558, and liable to Plaintiff on that basis.

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

27 9. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant  
28 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,

1 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the  
2 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part  
3 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,  
4 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

5       10. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each  
6 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit  
7 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the  
8 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code  
9 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and  
10 each of them, including those defendants named as DOES 1-20, and each of them, formed and executed  
11 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,  
12 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and  
13 actually causing Plaintiff harm.

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

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

22  
23                   **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

24       13. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity  
25 of interest and ownership between Employers and DOES 1-20 that the individuality and separateness of  
26 defendants have ceased to exist.

1           14.     Plaintiff is informed and believes, and based thereon alleges, that despite the formation of  
2     purported corporate existence, Employers and DOES 1-20 are, in reality, one and the same, including,  
3     but not limited to because:

4                 a.     Employers are completely dominated and controlled by one another and DOES 1-  
5     20, who personally committed the frauds and violated the laws as set forth in this complaint, and who  
6     have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or  
7     accomplish some other wrongful or inequitable purpose.

8                 b.     Employers and DOES 1-20 derive actual and significant monetary benefits by and  
9     through one another's unlawful conduct, and by using one another as the funding source for their own  
10    personal expenditures.

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

14                d.     Employers do not comply with all requisite corporate formalities to maintain a  
15    legal and separate corporate existence.

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

25           15.     Accordingly, Employers constitute the alter ego of one another and DOES 1-20, and the  
26    fiction of their separate corporate existence must be disregarded.

27           16.     As a result of the aforementioned facts, Plaintiff is informed and believes, and based  
28    thereon alleges that Employers and DOES 1-20 are Plaintiff's joint employers by virtue of a joint

1 enterprise, and that Plaintiff was an employee of Employers and DOES 1-20. Plaintiff performed services  
2 for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants  
3 shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which  
4 Defendants' business was and is conducted.

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

### 13 14 **FACTUAL ALLEGATIONS**

15 18. On or about August 22, 2021, Employers hired Plaintiff to work as a Driver helper.  
16 Plaintiff was a full-time, non-exempt employee, and performed all of Plaintiff's job duties satisfactorily  
17 before Plaintiff was wrongfully terminated on or about October 14, 2021.

18 19. Between August 22, 2021, and October 14, 2021, Plaintiff's hourly wage rate fluctuated  
19 between \$23.32 to \$26.33. During this time period, Plaintiff's fixed schedule was five days per week,  
20 Monday, Wednesday through Saturday, for approximately 12 to 17 hours per day.

21 20. Plaintiff worked approximately 42 hours during his employment, for which Plaintiff  
22 received no wages at all, not Plaintiff's hourly wage rate, or even the requisite minimum wage.

23 21. Plaintiff worked approximately 50 overtime hours during his employment but was paid  
24 only Plaintiff's regular hourly wage rate for these hours, with no premium pay.

25 22. Plaintiff worked approximately 50 double-overtime hours during his employment but was  
26 paid only Plaintiff's regular overtime hourly wage rate for these hours.

1           23.     Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of  
2 Plaintiff's right to take statutory 10-minute rest breaks for every four hours worked or substantial portion  
3 thereof.

4           24.     Throughout Plaintiff's employment, Plaintiff did not receive uninterrupted statutory 30-  
5 minute meal periods for days on which Plaintiff worked at least 5 hours, which was each day Plaintiff  
6 worked. Throughout Plaintiff's employment, Plaintiff did not receive a second uninterrupted statutory  
7 30-minute meal periods for days on which Plaintiff worked at least 10 hours, which was 5 days each  
8 week. One or more of Plaintiff's 30-minute meal periods were not provided, not provided timely, and/or  
9 interrupted approximately 5 times per week.

10          25.     Throughout Plaintiff's employment, he complained to Employers that he was not paid  
11 correctly for all regular, overtime, and double overtime hours. Following Plaintiff's complaint and  
12 Plaintiff's injury, Employers decreased Plaintiff's hourly wage to \$23.32.

13          26.     Plaintiff also requested Employer to stop withholding union fees, but Employer continued  
14 to withhold union fees from Plaintiff's wages.

15          27.     On September 16, 2021, Plaintiff injured his neck, back, and shoulder in a vehicular  
16 accident. This limited Plaintiff's ability to perform the major life activity of working and therefore  
17 constituted a disability.

18          28.     Plaintiff notified Employers of this disability and/or medical condition on the same day or  
19 shortly thereafter.

20          29.     Plaintiff went on leave from September 16, 2021, to September 18, 2021, to recover and/or  
21 heal.

22          30.     Plaintiff returned to work on or around September 21, 2021.

23          31.     On September 21, 2021, Plaintiff sprained his shoulder while working. Plaintiff notified  
24 Employer on or around the same day.

25          32.     Employer perceived Plaintiff to be limited in his ability to perform the major life activity  
26 of working and therefore constituted a perceived disability.

27          33.     On or around October 7, 2021, Plaintiff injured his knee while working. Plaintiff notified  
28 Employer the same day.

1           34.     Employer perceived Plaintiff to be limited in his ability to perform the major life activity  
2 of working and therefore constituted a perceived disability.

3           35.     Employer also removed Plaintiff from the schedule on October 11, 2021, and October 13,  
4 2021, although these were Plaintiff's regular workdays.

5           36.     On or around October 12th and October 14th of 2021, Employer refused to assign Plaintiff  
6 to a driver and sent Plaintiff home after Plaintiff waited approximately one-hour.

7           37.     Employer did not pay Plaintiff reporting time pay for the time he was required to come to  
8 work and was sent home shortly thereafter.

9           38.     Thereafter Defendants wrongfully terminated Plaintiff's employment on October 14,  
10 2021.

11          39.     Defendants discriminated and retaliated against Plaintiff when it denied employment  
12 benefits and privileges, denied reasonable accommodations for a disability, denied work opportunities  
13 and assignments, terminated Plaintiff, reduced Plaintiff's hours, and for exercising Plaintiff's right to  
14 request time off and a return to work as an accommodation of Plaintiff's disability and/or medical  
15 condition, perceived and/or real.

16          40.     At all relevant times, Defendants failed to properly engage in a good faith interactive  
17 process in an effort to properly accommodate Plaintiff's disability and/or medical condition such that  
18 Plaintiff could continue working for Defendants.

19          41.     At all relevant times, Defendants failed to reasonably accommodate Plaintiff even though  
20 Plaintiff was able to perform the essential job duties of Plaintiff's position or another position with or  
21 without accommodations.

22          42.     Plaintiff's termination was substantially motivated by Plaintiff's disability or perceived  
23 disability, medical condition or perceived medical condition, request for accommodation, and/or  
24 engagement in protected activities, without any discussion of disability accommodations or any good  
25 faith attempt to engage in the interactive process with Plaintiff. Defendants' discriminatory animus is  
26 evidenced by the previously mentioned facts.

27          43.     Defendants' conduct described herein was undertaken, authorized, and/or ratified  
28 Defendants' officers, directors and/or managing agents, including, but not limited to those identified

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

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

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

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

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

20  
21 **FIRST CAUSE OF ACTION**  
22 **FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**  
23 **AGAINST ALL DEFENDANTS**

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

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

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

3           51.     FEHA requires Defendants to refrain from discriminating against an employee on the  
4 basis of basis of race, religious creed, color, national origin, ancestry, mental disability, genetic  
5 information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation,  
6 veteran or military status, disability and/or medical condition, real or perceived, and to prevent  
7 discrimination and harassment on the basis of disability and/or medical condition, real or perceived, use  
8 of medical leave, and engagement in protected activities from occurring.

9           52.     Plaintiff was a member of multiple protected classes as a result of Plaintiff’s disability,  
10 medical condition and/or the perception that Plaintiff was suffering from a disability and/or medical  
11 condition.

12          53.     At all times relevant hereto, Plaintiff was performing competently in the position Plaintiff  
13 held with Defendants.

14          54.     Plaintiff suffered the adverse employment actions of unlawful discrimination, failure to  
15 accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate and/or  
16 return to work, and termination, and was harmed thereby.

17          55.     Plaintiff is informed and believes that Plaintiff’s disability and/or medical condition, real  
18 and perceived, and/or some combination of these protected characteristics under Government Code  
19 §12926(j) were motivating reasons and/or factors in the decisions to subject Plaintiff to the  
20 aforementioned adverse employment actions.

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

23          57.     The damage allegations are herein incorporated by reference.

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

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

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

5  
6 **SECOND CAUSE OF ACTION**  
7 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**  
8 **AGAINST ALL DEFENDANTS**

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

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

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

15 63. Plaintiff engaged in the protected activities of requesting accommodation, requesting  
16 medical leave and/or exercising Plaintiff's right to medical leave, and complaining about and protesting  
17 Defendants' discriminatory conduct towards Plaintiff based upon Plaintiff's disability, medical  
18 condition, real or perceived, and use of medical leave.

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

22 65. Plaintiff is informed and believes that Plaintiff's conduct of requesting accommodation,  
23 requesting medical leave and/or exercising Plaintiff's right to medical leave, complaining about and  
24 protesting about Defendants' discriminatory conduct, and/or some combination of these factors, were  
25 motivating reasons and/or factors in the decisions to subject Plaintiff to the aforementioned adverse  
26 employment actions.

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

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

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

6           69. The damage allegations are herein incorporated by reference.

7           70. The foregoing conduct of Defendants individually, or by and through their officers,  
8 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was  
9 despicable conduct carried on by the 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 §3294, thereby entitling Plaintiff to  
12 punitive damages in an amount appropriate to punish or make an example of Defendants.

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

15  
16                                   **THIRD CAUSE OF ACTION**

17                   **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION**

18                                   **IN VIOLATION OF GOV'T CODE §12940(k)**

19                                   **AGAINST ALL DEFENDANTS**

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

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

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

1           75.     The damage allegations are herein incorporated by reference.

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

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

10  
11                                   **FOURTH CAUSE OF ACTION**  
12                   **FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**  
13                                   **IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**  
14                                   **AGAINST ALL DEFENDANTS**

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

17           79.     At all times hereto, the FEHA, including in particular Government Code §12940(m), was  
18 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on  
19 Defendants to make reasonable accommodation for the known physical disability and/or medical  
20 condition of an employee.

21           80.     At all relevant times, Plaintiff was a member of a protected class within the meaning of,  
22 in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a disability, a  
23 physical condition that affected Plaintiff's major life activities, and medical condition of which  
24 Defendants had both actual and constructive knowledge.

25           81.     At all times herein, Plaintiff was willing and able to perform the duties and functions of  
26 the position in which Plaintiff was employed or could have performed the duties and functions of that  
27 position with reasonable accommodations. At no time would the performance of the functions of the  
28 employment position, with a reasonable accommodation for Plaintiff's disability or medical condition,

1 actual or as it was perceived by Defendants, have been a danger to Plaintiff's or any other person's health  
2 or safety. Accommodation of Plaintiff's disability or disability or medical condition, real or perceived  
3 by Defendants, would not have imposed an undue hardship on Defendants. Defendants failed and refused  
4 to accommodate Plaintiff's disability, failed to engage in the interactive process with Plaintiff and  
5 continue to violate this obligation, up to and including the date of Plaintiff's termination or, if Defendant  
6 contends Plaintiff was never terminated, through the present and ongoing.

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

9 83. The damage allegations are herein incorporated by reference.

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

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

18  
19 **FIFTH CAUSE OF ACTION**  
20 **FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS**  
21 **IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**  
22 **AGAINST ALL DEFENDANTS**

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

25 87. At all times hereto, the FEHA, including in particular Government Code §12940(n), was  
26 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on  
27 Defendants to engage in a timely, good faith, interactive process with the employee to determine effective  
28 reasonable accommodations, if any, in response to a request for reasonable accommodation by an

1 employee with a known physical disability or known medical condition and/or becoming aware of the  
2 employee's need for accommodation.

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

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

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

17 91. The damage allegations are herein incorporated by reference.

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

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

**SIXTH CAUSE OF ACTION**  
**FOR DECLARATORY JUDGMENT**  
**AGAINST ALL DEFENDANTS**

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

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

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

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

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

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

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

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

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

97. Moreover, Government Code §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.

98. 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 disability and/or perceived disability, medical condition or perceived medical condition, engagement in protected activities, and/or some combination of these protected characteristics. Plaintiff contends that Defendants did discriminate and retaliate against Plaintiff on the basis of Plaintiff's disability and/or perceived disability, medical condition or perceived medical condition, engagement in protected activities, and/or some combination of these protected characteristics; and that Plaintiff was retaliated against and, ultimately wrongfully terminated as a result of Plaintiff's medical condition, disability and/or perceived disability, medical condition or perceived medical condition, engagement in protected activities, and/or some combination of these protected characteristics. Plaintiff is informed and believes, and on that basis alleges, that Defendants shall dispute Plaintiff's contentions.

99. Pursuant to Code of Civil Procedure §1060, Plaintiff desires a judicial determination of Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the basis of Plaintiff's perceived disability, disability, medical condition, perceived medical condition, engagement in protected activities, and/or some combination of these protected characteristics.

100. Pursuant to Code of Civil Procedure §1060, Plaintiff seeks a judicial determination of Plaintiff's rights and duties, and a declaration that Plaintiff's perceived disability, medical condition, perceived medical condition, disability, engagement in protected activities, and/or some combination of these protected characteristics was a substantial motivating factor in the decision to subject Plaintiff to the aforementioned adverse employment actions.

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

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

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

9  
10                                   **SEVENTH CAUSE OF ACTION**

11                                           **RETALIATION**

12                                                   **LABOR CODE §98.6**

13                                                           **AGAINST ALL DEFENDANTS**

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

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

1           106. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff was  
2 terminated from Plaintiff's employment with Defendants as a result of Plaintiff's complaints about not  
3 being paid all wages due, not receiving meal and/or rest breaks, exercising Plaintiff's right to take meal  
4 and/or rest breaks.

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

13           108. The damage allegations are herein incorporated by reference.

14           109. As a result of Defendants' actions, Plaintiff is each entitled to a civil penalty not to exceed  
15 \$10,000.00 for Defendants' violations of Labor Code §§98.6 and/or 1102.

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

20  
21                                   **EIGHTH CAUSE OF ACTION**  
22                                   **FOR RETALIATION**  
23                                   **IN VIOLATION OF LABOR CODE §§ 1102.5 AND 1102.6**  
24                                   **AGAINST ALL DEFENDANTS**

25           111. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set  
26 forth in full herein.

27           112. At all relevant times, Labor Code §1102.5(a) was in full force and effect and was binding  
28 on Defendants. This law prohibits an employer, or any person acting on behalf of the employer, from

1 discharging an employee or in any manner discriminating or retaliating against, or taking any adverse  
2 action against, an employee because, among other things, the employee disclosed information to a  
3 government or law enforcement agency, or to a person with authority over the employee or another  
4 employee who has the authority to investigate, discover, or correct the violation or noncompliance, if the  
5 employee has reasonable cause to believe that the information discloses a violation of state or federal  
6 statute, or violation of or noncompliance with a local, state, or federal rule or regulation, regardless of  
7 whether disclosing the information is part of the employee's job duties.

8 113. Plaintiff reported violations of employment practices to Plaintiff's supervisors and upper  
9 management.

10 114. Defendants subjected Plaintiff to the adverse employment action, including without  
11 limitation, termination because Plaintiff reported the violations of employment practices to Plaintiff's  
12 supervisors.

13 115. Plaintiff's reports of these violations were a motivating and contributing factor for the  
14 adverse employment actions by Defendants against Plaintiff.

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

17 117. As a result of Defendant's unlawful actions, Plaintiff is each entitled to reasonable  
18 attorney's fees and a civil penalty not to exceed \$10,000.00.

19 118. The damage allegations are herein incorporated by reference.

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

**NINTH CAUSE OF ACTION**  
**FOR WRONGFUL TERMINATION**  
**IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA**  
**AGAINST ALL DEFENDANTS**

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

121. At all relevant times mentioned in this complaint, the FEHA was in full force and effect and was binding on Defendants. This law requires Defendants to refrain, among other things, from discriminating against any employee on the basis of disability, medical condition, real or perceived, and use of medical leave, and from retaliating against any employee who engages in protected activity.

122. At all times mentioned in this complaint, it was a fundamental policy of the State of California that Defendants cannot discriminate and/or retaliate against any employee on the basis of disability, medical condition, real or perceived, use of medical leave and/or engagement in protected activity.

123. Plaintiff believes and thereon alleges that Plaintiff's disability and/or medical condition, real or perceived, use of medical leave, engagement in protected activity with respect to these protected classes, and/or some combination thereof, were factors in Defendants' conduct as alleged hereinabove.

124. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's employment on the basis of disability, medical condition, real or perceived, or use of medical leave, Plaintiff's complaining of discrimination due to these protected classes, Plaintiff's engagement in protected activity, and/or some combination of these factors, were a proximate cause in Plaintiff's damages as stated below.

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

126. At all relevant times mentioned in this complaint, Labor Code §98.6 was in full force and effect and was binding upon Defendants and each of them. This law prohibits retaliation against

1 employees who complain about unpaid wages and/or attempt to exercise the rights under the Labor Code.  
2 Labor Code §98.6 reflects the State's broad public policy interest in protecting the rights of individual  
3 employees and job applicants who could not otherwise afford to protect themselves from violations of  
4 the Labor Code.

5 127. At all relevant times mentioned in this complaint, Labor Code §1102.5 was in full force  
6 and effect and was binding upon Defendants and each of them. This law prohibits retaliation against  
7 employees who disclose reasonable suspicions of illegal activity or conduct by their employer to a  
8 government or law enforcement agency, or to employer itself. Labor Code §1102.5 reflects the State's  
9 broad public policy interest in encouraging workplace "whistleblowers," who may without fear of  
10 retaliation report concerns regarding an employer's suspected illegal conduct, irrespective of whether the  
11 reporting is made to governmental agencies or to the employer itself, and irrespective of whether the  
12 employee's suspicions are correct that the challenged conduct actually violates some law. Indeed, the  
13 law in California is that an employee's good faith but mistaken belief in the illegality of his co-workers',  
14 supervisor's, and employer's conduct is protected from employer retaliation in the whistle-blowing  
15 context.

16 128. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's  
17 engagement in protected activities under Labor Code §§98.6 and/or 1102.5 was a proximate cause in  
18 Plaintiff's damages as stated below.

19 129. The damage allegations are herein incorporated by reference.

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

**TENTH CAUSE OF ACTION**  
**FOR FAILURE TO PAY WAGES DUE**  
**LABOR CODE §§201, 1182.12, 1194, 1194.2**  
**AGAINST ALL DEFENDANTS**

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

132. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and required by 8 Code of Regulations §11090, as set forth hereinabove. As alleged herein, Defendants routinely failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

133. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8 Code of Regulations §11090, and Industrial Welfare Commission Order No. 9-2001.

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

135. Labor Code §558(a) provides that any person acting on behalf of an employer who violates, or causes to be violated, any statute or provision regulating hours and days of work in any order of the Industrial Welfare Commission pay a civil penalty in the amount of \$50.00 for each underpaid employee for each pay period in which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting on behalf of an employer is liable in the amount of \$100.00 for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover the underpaid wages.

136. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated above based upon Defendants' underpayment of minimum and overtime wages. Within the one year immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code §558 on approximately 16 pay periods, the first of which Defendants are penalized \$50.00, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties of \$1550.00.

**ELEVENTH CAUSE OF ACTION**  
**FOR FAILURE TO PAY MINIMUM WAGES**  
**LABOR CODE §§1182.12, 1194, 1194.2, 1197**  
**AGAINST ALL DEFENDANTS**

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

138. 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.

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

| Effective  | 26+ employees | 1-25 employees |
|------------|---------------|----------------|
| 07/01/2021 | \$15.00       | \$15.00        |
| 07/01/2020 | \$15.00       | \$14.25        |
| 07/01/2019 | \$14.25       | \$13.25        |

140. At all relevant times, Employers failed and refused to pay Plaintiff the legal minimum wage in the State of California, as set forth in Labor Code §1182.12.

141. Defendants failed to pay Plaintiff the requisite minimum wage in each of the following ways in the four years immediately preceding the filing of this complaint:

a. From August 22, 2021, to October 14, 2021, Plaintiff worked approximately 42 hours without getting paid anything. Therefore, Plaintiff is owed \$630.00 calculated at one 42 hours, at \$15.00 per hour.

142. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum wages in the amount of \$630.00.

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

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

3           145. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated  
4 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, an  
5 additional \$630.00, plus interest thereon.

6  
7                                   **TWELFTH CAUSE OF ACTION**  
8                                   **FOR FAILURE TO PAY OVERTIME COMPENSATION**  
9                                   **LABOR CODE §§510, 1194**  
10                                  **AGAINST ALL DEFENDANTS**

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

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

20           148. At all relevant times, Defendants required Plaintiff to work more than eight hours per day  
21 and/or more than 40 hours per workweek.

22           149. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime and  
23 double overtime compensation required by Labor Code §510, 8 Code of Regulations §11090, and  
24 Industrial Welfare Commission Order No. 9-2001.

25           150. In the four years last past, Plaintiff worked 50 hours of overtime, all of which should have  
26 been paid at 1.5 times Plaintiff's regularly hour wage rate at that time. Defendants failed to pay Plaintiff  
27 the requisite overtime wages in each of the following ways in the four years immediately preceding the  
28 filing of this complaint:

a. From approximately August 22, 2021, to October 14, 2021, Plaintiff's hourly overtime rate was \$39.49. During this time period, Plaintiff worked approximately 50 hours of overtime, but received only Plaintiff's regular hourly wage rate, no premium. Therefore, Plaintiff is owed \$13.16 for each of those hours, totaling \$658.25.

b. From approximately August 22, 2021, to October 14, 2021, Plaintiff's hourly double overtime rate was \$52.66. During this time period, Plaintiff worked approximately 50 hours of double-overtime, but received only Plaintiff's regular overtime wage rate. Therefore, Plaintiff is owed \$26.33 for each of those hours, totaling \$1316.50.

151. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor Code §510, 8 Code Regulations §11090, and Industrial Welfare Commission Order No. 9-2001.

152. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages of \$1974.75, above and beyond the minimum wages sought in the preceding cause of action for these same hours.

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

**THIRTEENTH CAUSE OF ACTION**

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

**LABOR CODE §§226.7, 512**

**AGAINST ALL DEFENDANTS**

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

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

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

1           157. In the four years last past, Plaintiff regularly worked in excess of five hours per day, and  
2 was thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on each  
3 day of work. In the four years last past, Plaintiff regularly worked in excess of 10 hours per day, and was  
4 thereby entitled to take uninterrupted two 30-minute meal periods and two 10-minute rest periods on each  
5 day of work. In the four years last past, Plaintiff regularly worked in excess of twelve hours per day, and  
6 was thereby entitled to take two uninterrupted 30-minute meal periods and three 10-minute rest periods  
7 on each day of work.

8           158. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed  
9 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the  
10 applicable sections of 8 Code of Regulations §11090 and Industrial Welfare Commission Order No. 9-  
11 2001, as follows:

12           a. From approximately August 22, 2021 to October 14, 2021, Plaintiff's statutory 30-  
13 minute meal periods were interrupted and/or missed approximately 5 times per week for 8 weeks, or on  
14 approximately 40 days. During this same time period, Plaintiff was deprived of one or more of Plaintiff's  
15 statutory 10-minute rest periods on approximately 40 days (5 days per week for 8 weeks weeks).

16           159. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8  
17 Code of Regulations §11090 and Industrial Welfare Commission Order No. 9-2001. Consequently,  
18 Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage,  
19 whichever is greater, for each day that Plaintiff was denied such meal periods, and is owed one hour of  
20 pay at Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day  
21 that Plaintiff was denied such rest periods, calculated as follows:

22           a. From approximately August 22, 2021 to October 14, 2021, Defendants failed to  
23 provide Plaintiff with an uninterrupted statutory meal period on approximately 40 separate days.  
24 Consequently, Plaintiff is owed one hour of pay at \$26.33 for each day, or \$1053.20, plus interest thereon,  
25 for unpaid interrupted meal periods. During this same time period, Defendants failed to provide Plaintiff  
26 with the statutory rest period on approximately 40 separate days. Consequently, Plaintiff is owed one  
27 hour of pay at \$26.33 for each day, or \$1053.20, plus interest thereon, for unpaid rest periods. Thus,  
28

1 Plaintiff is owed a total of \$2106.40, plus interest thereon, for unpaid meal and rest periods for this time  
2 period.

3 160. Thus, the total missed meal and rest period compensation owing Plaintiff for this time  
4 period is \$2106.40.

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

7 162. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover  
8 such amounts in the combined amount of \$2106.40, pursuant to Labor Code §226.7(b), plus interest  
9 thereon and costs of suit.

10  
11 **FOURTEENTH CAUSE OF ACTION**

12 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**

13 **LABOR CODE §§226 ET SEQ.**

14 **AGAINST ALL DEFENDANTS**

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

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

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

1           166. At all relevant times, Defendants failed to provide the Plaintiff with timely and accurate  
2 wage and hour statements showing gross wages earned, total hours worked, all deductions made, net  
3 wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and  
4 rates in effect during each pay period and the corresponding number of hours worked at each hourly rate  
5 by Plaintiff. For the majority of the time and as to nearly all of Plaintiff's wages, Defendants knowingly  
6 and intentionally, not inadvertently, failed to provide Plaintiff with paystubs at all, and instead paying  
7 Plaintiff entirely in cash without any calculations of how Plaintiff's gross wages were calculated. Not  
8 one of the paystubs that Plaintiff received complied with Labor Code §226, and contained almost none  
9 of the required information, including hours actually worked.

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

11           168. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,  
12 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in  
13 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled  
14 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating  
15 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting  
16 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,  
17 meal period, and rest period wages. For the time periods that Plaintiff was not provided with paystubs at  
18 all, Plaintiff's aforementioned injuries are presumed as a matter of law.

19           169. Plaintiff was paid on a bi-weekly basis, and therefore Defendants violated Labor Code  
20 §226 approximately 16 times during the one year preceding the filing of this complaint. Consequently,  
21 Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory maximum  
22 amount of \$4,000.00, whichever is greater.

23           170. In addition thereto, for Defendant's 16 violations, Defendants are penalized \$250.00 for  
24 the first violation, and the remainder of which Defendants are penalized \$1,000.00 each, for a total due  
25 in Labor Code §226.3 penalties of \$15,250.00.

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

1 **FIFTEENTH CAUSE OF ACTION**  
2 **FOR WAITING TIME PENALTIES**  
3 **LABOR CODE §§201-203**  
4 **AGAINST ALL DEFENDANTS**

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

7 173. 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, unpaid minimum wages, overtime compensation, and meal and rest  
10 period compensation that Defendants should have paid, but did not pay to Plaintiff during the term of  
11 Plaintiff's employment and which were, at the latest, due within the time restraints of Labor Code §§201-  
12 203.

13 174. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-  
14 203.

15 175. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff  
16 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and  
17 more than \$14,217.60 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of  
18 \$473.92, inclusive of overtime.

19 176. Based on Defendants' conduct as alleged herein, Defendants are liable for \$14,217.60 in  
20 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'  
21 fees and costs.

22 **SIXTEENTH CAUSE OF ACTION**  
23 **FOR PRIVATE ATTORNEY GENERAL ACT**  
24 **LABOR CODE §2699**  
25 **AGAINST ALL DEFENDANTS**

26 177. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as  
27 though set forth in full herein.  
28

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

4           179. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and  
5 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as  
6 previously pleaded in this Complaint.

7           180. On November 24, 2021, more than 63 calendar days before filing this Complaint, Plaintiff  
8 provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail  
9 to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby  
10 satisfying the requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201,  
11 202, 203, 226, 226.7, 226.8, 510, 512, 1174, 1182.12, 1194, 1194.2, and 1197, each of which is  
12 enumerated among the serious violations set forth in Labor Code §2699.5.

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

16           182. As a direct and proximate result of Defendants' California Labor Code violations as set  
17 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100.00 for each aggrieved employee per  
18 pay period for the initial violation, and \$200.00 for each aggrieved employee per pay period for each  
19 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly  
20 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly  
21 provide for a penalty, §§226.3, 226.7, 510, 512, and 558.

22           183. Plaintiff may also seek these penalties on behalf of himself/herself and these same  
23 penalties on behalf of all other aggrieved employees.

24           184. Plaintiff is also entitled to reasonable attorneys' fees and costs, and 25% of the recovered  
25 civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

**SEVENTEENTH CAUSE OF ACTION**  
**FOR UNFAIR COMPETITION**  
**BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**  
**AGAINST ALL DEFENDANTS**

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

186. Defendants' violations of 8 Code of Regulations §11090, Industrial Welfare Commission Order No. 9-2001, Labor Code §§201-203, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5, 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants' failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business & Professions Code §§17200, et seq.

187. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

188. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from Plaintiff.

**PRAYER FOR RELIEF**

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

1. For a money judgment representing compensatory damages including lost wages, earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,

1 together with interest on these amounts; for other special damages; and for general damages for mental  
2 pain and anguish and emotional distress and loss of earning capacity;

3 2. For civil penalties pursuant to Labor Code §98.6 in the amount of no less than \$10,000.00;

4 3. For civil penalties pursuant to Labor Code § 1102.5 in the amount of no less than  
5 \$10,000.00;

6 4. For penalties pursuant to Labor Code §226.8(b)-(c), in the amount of no less than  
7 \$25,000.00;

8 5. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12,  
9 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 9-2001, in the amount of no less than  
10 \$630.00;

11 6. For liquidated damages pursuant to Labor Code §1194.2 in the amount of \$630.00, plus  
12 interest;

13 7. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194,  
14 Industrial Welfare Commission Order No. 9-2001, and 8 Code of Regulations §11090, in the amount of  
15 no less than \$1974.75;

16 8. For statutory penalties or damages pursuant to Labor Code §558 in the amount of no less  
17 than \$1550.00;

18 9. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512,  
19 in the amount of no less than \$2106.40;

20 10. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;

21 11. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no  
22 less than \$15,250.00;

23 12. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less  
24 than \$14,217.60;

25 13. For statutory penalties pursuant to Labor Code §2699(f) on Plaintiff's own behalf, and  
26 similar amounts on behalf of all of Defendants' aggrieved employees, in an amount according to proof;

27 14. For payment of unlawful withholdings pursuant to Labor Code §§221-224;

1           15.     For payment of accrued vacation time at the time of termination pursuant to Labor Code  
2 §227.3;

3           16.     For reporting time pay pursuant to Industrial Welfare Commission Order No. 9-2001;

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

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

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

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

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

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

19           22.     For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful  
20 conduct, misclassification of Plaintiff as an independent contractor, and failure to pay wages and other  
21 compensation in accordance with the law;

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

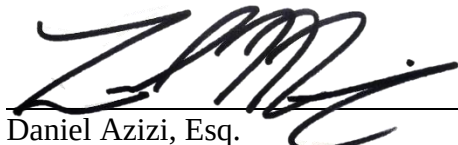
3           24.     For post-judgment interest; and

4           25.     For any other relief that is just and proper.

5 DATED: January 28, 2022

**DOWNTOWN LA LAW GROUP, LLP**

6  
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8  
9 By:



Daniel Azizi, Esq.

Liliuokalani Martin, Esq.

Zekiah N. Wright, Esq.

ATTORNEYS FOR PLAINTIFF,

DAVID GONZALEZ

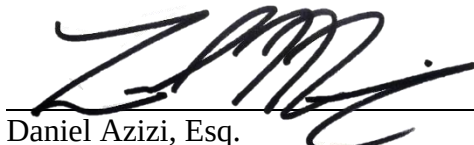
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15 **JURY TRIAL DEMANDED**

16 Plaintiff demands trial of all issues by jury.

17 DATED: January 28, 2022

**DOWNTOWN LA LAW GROUP, LLP**

18  
19  
20  
21 By:



Daniel Azizi, Esq.

Liliuokalani Martin, Esq.

Zekiah N. Wright

ATTORNEYS FOR PLAINTIFF,

DAVID GONZALEZ