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

YOLANDA RAMIREZ, as an individual,

Plaintiff,

vs.

PEOPLE CARE, LLC DBA FIRSTLIGHT
HOME CARE, a California corporation and
DOES 1-50, inclusive,

Defendant

Case No.: 30-2022-01299662-CU-WT-CJC

Assigned for all Purposes to Honorable
Judge James Crandall

COMPLAINT FOR:

**1. VIOLATION OF THE
CALIFORNIA FAIR EMPLOYMENT
AND HOUSING ACT (GOV'T CODE, §
12940 (a))—DISABILITY
DISCRIMINATION**

**2. VIOLATION OF THE CALIFORNIA
FAIR EMPLOYMENT AND HOUSING
ACT (GOV'T CODE, § 12940 (h))—
RETALIATION**

**3. VIOLATION OF THE
CALIFORNIA FAIR EMPLOYMENT
AND HOUSING ACT (GOV'T CODE, §
12940 (k))—FAILURE TO PREVENT**

**4. VIOLATION OF THE
CALIFORNIA FAIR EMPLOYMENT
AND HOUSING ACT (GOV'T CODE, §
12940 (m))—FAILURE TO
ACCOMMODATE**

**5. VIOLATION OF THE
CALIFORNIA FAIR EMPLOYMENT
AND HOUSING ACT (GOV'T CODE, §
12940 (n))—FAILURE TO ENGAGE IN**

**TIMELY GOOD FAITH, ,
INTERACTIVE PROCESS**

**6. UNLAWFUL BUSINESS
PRACTICES UNDER (BUS. AND PROF.
CODE, § 17200, ET SEQ.) PRACTICES**

[JURY DEMAND]

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1 5. The corporate defendant's conduct was undertaken by its officers, managing agents
2 and other persons responsible for supervision of employees and for the drafting and
3 implementation of policies and other managerial decisions. The conduct of the officers,
4 managing agents, and other individuals was on behalf of the corporate defendant. Further, the
5 corporate defendant had advance knowledge of such conduct of said individuals whose actions
6 and conduct were ratified, authorized, approved and/or known by the corporate defendant's
7 officers and managing agents.

8 **COMMON ALLEGATIONS TO ALL CAUSES OF ACTION**

9 6. Plaintiff, a 59 year old female, commenced her employment with Defendants on or
10 about November 2019 as a caregiver.

11 7. During their employment, on or around February 10, 2021, Ms. Ramirez suffered a
12 work-related injury where she used her leg to cushion the fall of a patient. Plaintiff had a lot of
13 leg pain and requested to see a physician. The doctor said Plaintiff could return to work normal,
14 however the Plaintiff continued to experience pain.

15 8. Plaintiff began attending physical therapy for the leg injury sustained while at work
16 and soon faced disparate treatment from her supervisors. Plaintiff was placed on modified work
17 duty and had her work hours significantly reduced. Plaintiff was also relocated from her regular
18 work station to an isolated room and given more menial tasks. At times Plaintiff supervisors
19 have purposefully denied her the ability use Defendants restroom facilities forcing her to go to
20 another business altogether to find a restroom. On other occasions, the temperature in the area
21 the Plaintiff works would be tempered with making it intolerable for her to work.

22 9. On another occasion Ms. Ramirez tried to get copies of her paystubs but her
23 supervisors would not provide information on Human Resources program the Defendants offer,
24 it would be some time before Plaintiff would get the information from Defendants.

25 10. Consequently, Ms. Ramirez has suffered and continues to suffer damages in the form
26 of lost wages, and other employment benefits. As a result of the financial losses and the loss of
27 her employment, Ms. Ramirez has suffered and continues to suffer emotional stress, including
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1 but not limited to, frustration, loss of confidence, nervousness, humiliation, paranoia and
2 anxiety.

3 11. On February 9, 2022, Plaintiff exhausted her administrative remedies by filing a claim
4 with the California Department of Fair Employment and Housing and received a Notice of Case
5 Closure and Right-to-Sue letter, copies of which are attached hereto as Exhibit 1.

6 **FIRST CAUSE OF ACTION**

7 **(Violation of FEHA - California Government Code §12940 (a)
8 [Disability Discrimination] Against All Defendants and DOES 1-50)**

9 12. Plaintiff incorporates paragraphs 1 through 11 above as though fully set forth herein.

10 13. The California Fair Employment and Housing Act (“FEHA”) declares as a matter of
11 public policy that it is necessary to protect and safeguard the right and opportunity of all persons
12 to seek, obtain, and hold employment without discrimination or abridgment on account of
13 physical disability and medical condition. (Cal. Gov’t Code, § 12920.) The stated purpose of
14 the FEHA is to provide effective remedies that will eliminate these types of discriminatory
15 practices. (*Id.*)

16 14. Under the FEHA an employer may not discharge any person from employment, or
17 discriminate against the person in compensation or in terms, conditions, or privileges of
18 employment because of a physical disability or medical condition. (Cal. Gov’t Code, § 12940,
19 subd. (a).) This includes even a perceived medical condition. (*Id.*)

20 15. As alleged above in detail above, Defendants discriminated against Ms. Ramirez
21 because of an actual or perceived physical disability. More specifically, Defendants violated the
22 FEHA by discriminating against and reducing Ms. Ramirez’s hours of employment because of
23 an actual or perceived physical disability. Ms. Ramirez suffered a work-related injury. Although
24 it was clear that Ms. Ramirez could perform the essential functions of her job, Defendants made
25 it perfectly clear to Ms. Ramirez that she was not going to receive any proper accommodations
26 nor was she going to be allowed to continue working comfortably for Defendants after reporting
27 her injury. Defendants also made it clear that she was not welcomed due to the fact that she had
28 a physical disability or perceived physical disability.

1 16. As a result of Defendants' discriminatory conduct, Plaintiff has suffered and continues
2 to suffer damages in the form of lost wages, and other employment benefits. As a result of the
3 financial losses and the loss of their employment, Plaintiff has suffered and continues to suffer
4 emotional stress, including but not limited to, frustration, loss of confidence, nervousness,
5 humiliation, paranoia, and anxiety.

6 17. Defendants' wrongful conduct was blatant and intended to cause injury to Plaintiff and
7 was despicable conduct carried out with a willful and conscious disregard of Plaintiff's rights.
8 The Defendants' discriminatory conduct subjected Plaintiff to cruel and unjust hardship, was done
9 with reckless disregard, all with the intent to deprive Plaintiff of their legal rights, or to otherwise
10 cause injury, such as to constitute malice, oppression and/or fraud under Civil Code section 3294.
11 As a result, Plaintiff is entitled to punitive damages in an amount sufficient to punish or to set an
12 example of Defendants to prevent such conduct by others.

13 **SECOND CAUSE OF ACTION**

14 **(Violation of FEHA—California Government Code, § 12940 (h) 15 [Retaliation] Against All Defendants, and DOES 1-50)**

16 18. Plaintiff incorporates paragraphs 1 through 17 above as though fully set forth herein.

17 19. Under the FEHA an employer cannot discharge, expel, or otherwise discriminate
18 against any person because the person has opposed any practices forbidden under this part or
19 because the person has filed a complaint, testified, or assisted in any proceeding under this part.
(Cal. Gov't Code, § 12940, subd. (h).)

20 20. The FEHA also forbids employers to retaliate or otherwise discriminate against a person
21 for requesting accommodation under this subdivision, regardless of whether the request was
22 granted. (Gov. Code, § 12940)

23 21. As alleged in detail above, Defendants retaliated against Ms. Ramirez because of an
24 actual or perceived physical disability. More specifically, soon after Ms. Ramirez sustained her
25 work-related injury, her work environment changed for the worse. Few reasonable
26 accommodations were offered and her hours were reduced.

27 22. The close temporal nexus between Ms. Ramirez' injury, and Ms. Ramirez's experience
28 of retailiation is undeniable.

1 23. As a result of Defendants' retaliatory conduct, Plaintiff has suffered and continues to
2 suffer damages in the form of lost wages, and other employment benefits. As a result of the
3 financial losses and the loss of their employment, Plaintiff has suffered and continues to suffer
4 emotional stress, including but not limited to, frustration, loss of confidence, nervousness,
5 humiliation, paranoia, and anxiety.

6 24. Defendants' wrongful conduct was intended to cause injury to Plaintiff and was
7 despicable conduct carried out with a willful and conscious disregard of Plaintiff's rights. The
8 Defendants' retaliatory conduct subjected Plaintiff to cruel and unjust hardship, was done with
9 reckless disregard, all with the intent to deprive Plaintiff of their legal rights, or to otherwise cause
10 injury, such as to constitute malice, oppression and/or fraud under Civil Code section 3294. As
11 a result, Plaintiff is entitled to punitive damages in an amount sufficient to punish or to set an
12 example of Defendants to prevent such conduct by others.

13 **THIRD CAUSE OF ACTION**

14 **(Violation of FEHA—California Government Code, § 12940 (k) 15 [Failure to Prevent] Against All Defendants and DOES 1-50)**

16 25. Plaintiff incorporates paragraphs 1 through 24 above as though fully set forth herein.

17 26. Under the FEHA it is unlawful for an employer to fail to take all reasonable steps
18 necessary to prevent discrimination and retaliation from occurring. (Cal. Gov't Code, § 12940,
19 subd. (k)(h))

20 27. As alleged in detail above, Defendants failed to prevent the discrimination and
21 retaliation against Plaintiff from occurring. Plaintiff was an employee of Defendants and as such,
22 Defendants had a duty to take all steps necessary to prevent any discrimination and retaliation
23 against Plaintiff. Defendants breached their duty to Plaintiff by allowing management to
24 discriminate, and retaliate against Plaintiff by reducing their hours following their work-related
25 injury.

26 28. As a result of Defendants' conduct, Plaintiff has suffered and continues to suffer
27 damages in the form of lost wages, and other employment benefits. As a result of the financial
28 losses and the loss of their employment, Plaintiff has suffered and continues to suffer emotional

1 stress, including but not limited to, frustration, loss of confidence, nervousness, humiliation,
2 paranoia, and anxiety.

3 29. Defendants' wrongful conduct was intended to cause injury to Plaintiff and was
4 despicable conduct carried out with a willful and conscious disregard of Plaintiff's rights. The
5 Defendants subjected Plaintiff to cruel and unjust hardship, was done with reckless disregard, all
6 with the intent to deprive Plaintiff of their legal rights, or to otherwise cause injury, such as to
7 constitute malice, oppression, and/or fraud under Civil Code section 3294. As a result, Plaintiff
8 is entitled to punitive damages in an amount sufficient to punish or to set an example of
9 Defendants to prevent such conduct by others.

10 **FOURTH CAUSE OF ACTION**

11 **(Violation of FEHA—California Government Code, § 12940 (m) 12 [Failure to Accommodate] Against All Defendants and DOES 1-50)**

13 30. Plaintiff incorporates paragraphs 1 through 29 above as though fully set forth herein.

14 31. Under the FEHA, it is unlawful for an employer to fail to provide reasonable
15 accommodation to an employee who is an otherwise qualified individual and who can perform
16 the essential functions of the position. (Cal. Gov't Code, § 12940, subd. (m).)

17 32. As alleged in detail above, Defendants retaliated against Plaintiff because of an actual
18 or perceived physical disability. More specifically, soon after Plaintiff sustained a work-related
19 injury, thier work environment changed and they were treated disparately. Few reasonable
20 accommodations were offered and the overall number of hours the Plaintiff was allowed to
21 work were reduced.

22 33. As a result of Defendants' conduct, Plaintiff has suffered and continues to suffer
23 damages in the form of lost wages, and other employment benefits. As a result of the financial
24 losses and the loss of their employment, Plaintiff has suffered and continues to suffer emotional
25 stress, including but not limited to, frustration, loss of confidence, nervousness, humiliation,
26 paranoia, and anxiety.

27 34. Defendants' discriminatory conduct was intended to cause injury to Plaintiff and was
28 despicable conduct carried out with a willful and conscious disregard of Plaintiff's rights. The
Defendants subjected Plaintiff to cruel and unjust hardship, was done with reckless disregard, all

1 with the intent to deprive Plaintiff of their legal rights, or to otherwise cause injury, such as to
2 constitute malice, oppression and/or fraud under Civil Code section 3294. As a result, Plaintiff
3 is entitled to punitive damages in an amount sufficient to punish or to set an example of
4 Defendants to prevent such conduct by others.

5 **FIFTH CAUSE OF ACTION**

6 **(Violation of FEHA—California Government Code, § 12940 (n))** 7 **[Failure to Engage in Interactive Process] Against All Defendants and DOES 1-50)**

8 35. Plaintiff incorporates paragraphs 1 through 34 above as though fully set forth herein.

9 36. Under the FEHA, an employer must engage in a timely, good faith, interactive process
10 with the employee to determine effective reasonable accommodations, if any, in response to
11 reasonable accommodation by an employee with a known physical disability or medical
12 condition. (Cal. Gov't Code, § 12940, subd. (n).)

13 37. As alleged in detail above, Plaintiff suffered a work-related injury to their leg. Instead
14 of referring Plaintiff to medical treatment or offering Plaintiff any reasonable accommodations,
15 Plaintiff was as to returned to a normal work schedule and was later subject to a number of
16 disparate treatment, culminating in an overall reduction of their work hours. Defendants failed
17 in their duty to engage in any good-faith interactive process with Plaintiff

18 38. As a result of Defendants' discriminatory conduct, Plaintiff has suffered and continues
19 to suffer damages in the form of lost wages, and other employment benefits. As a result of the
20 financial losses and the loss of his employment, Plaintiff has suffered and continues to suffer
21 emotional stress, including but not limited to, frustration, loss of confidence, nervousness,
22 humiliation, paranoia, and anxiety.

23 39. Defendants' discriminatory conduct was intended to cause injury to Plaintiff and was
24 despicable conduct carried out with a willful and conscious disregard of Plaintiff's rights. The
25 Defendants subjected Plaintiff to cruel and unjust hardship, was done with reckless disregard, all
26 with the intent to deprive Plaintiff of their legal rights, or to otherwise cause injury, such as to
27 constitute malice, oppression and/or fraud under Civil Code section 3294. As a result, Plaintiff
28 is entitled to punitive damages in an amount sufficient to punish or to set an example of
Defendants to prevent such conduct by others.

SIXTH CAUSE OF ACTION
(For Unlawful Business Practices – Business & Professions Code § 17200 et seq.)
Against All Defendants and DOES 1-50)

40. Plaintiff incorporated by reference all of the allegations set forth in paragraphs 1 through 39 above as though fully set forth herein.

41. Business & Professions Code section 17200 states “As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.”

42. Through Defendants' conduct during the applicable statutory period including, but not limited to, the conduct alleged herein, including that alleged on information and belief, the Defendants have engaged in business practices in California by practicing, employing, and utilizing, the employment practices outlined in the preceding paragraphs all in violation of California law. Defendants' use of such practices constitutes an unfair business practice, unfair competition, and provides as an unfair advantage over Defendants' competitors doing business in the State of California that comply with their obligations to properly provide employment conditions in compliance with the law and provide reasonable accommodations and avoid retaliatory treatment towards employees who become entitled to workers' compensation benefits, retain a workers' compensation attorney and file workers compensation claims.

43. Defendants' violations of the California Civil Code, California Government Code and their scheme to avoid employing employees who have work restrictions or retained a workers' compensation attorney or filed a workers' compensation claim or become entitled to workers' compensation benefits herein constitute unlawful business practices because these actions were done in a systematic manner over a period of time to the detriment of Plaintiff. The acts complained of herein occurred within the last four (4) years preceding the filing of this complaint and include, but are not limited to, (i) failure to employ and deny employment to employees whom report work-related injuries; (ii) deny employment to employees who have retained workers compensation attorneys; (iii) deny employment to employees who become entitled to workers

1 compensation benefits, and (iv) deny employment to employees who have filed workers
2 compensation claims.

3 44. Plaintiff is informed and believes and on that basis alleges that, at all times herein
4 mentioned, Defendants engaged in the above-mentioned acts of unlawful, deceptive, and unfair
5 business practices prohibited by California Business and Professions Code sections 17200 et seq.,
6 including those set forth in the preceding paragraph, thereby depriving Plaintiff of the minimum
7 working condition standards and conditions due promulgated by the Fair Employment and
8 Housing Act set forth in Government Code section 12940 et seq., including but not limited to
9 sections 12940(a), 12940(h), 12940(k), 12940(m), and 12940(n).

10 45. As a result of Defendants' unfair competition as alleged herein, Plaintiff has suffered
11 an injury in fact and lost money or property. Plaintiff has been deprived of their statutory rights
12 to be free from discrimination, retaliation, and harassment as alleged herein.

13 46. Pursuant to California Business & Professions Code section 17203, Plaintiff is entitled
14 to seek restitution of all wages and other monies owed on behalf of himself disgorgement of
15 Defendants' profits, including interest thereon, which Defendants wrongfully withheld from them
16 and retained for itself by means of its unlawful and unfair business practices.

17 47. Plaintiff is entitled to an injunction and other declaratory and equitable relief against
18 such practices to prevent future damage for which there is no adequate remedy at law, and to
19 avoid a multiplicity of lawsuits.

20 48. Plaintiff is informed and believes, and on that basis alleges, that the illegal conduct
21 alleged herein is continuing and there is no indication that Defendants will not continue such
22 activity into the future. Plaintiff alleges that if Defendants are not enjoined from the conduct set
23 forth in this Complaint, they will continue to deny employment to employees who are injured,
24 file workers compensation claims, become entitled to workers' compensation benefits, or retain
25 workers compensation attorneys and will fail to comply with other requirements of the Fair
26 Employment and Housing Act set forth in Government Code section 12940 et seq., including but
27 not limited to sections 12940(a), 12940(h), 12940(k), 12940(m), and 12940(n).

49. As a direct and proximate result of Defendants' conduct, Defendants have received and will continue to receive monies that rightfully belong to members of the general public who have been adversely affected by Defendants' conduct, as well as to Plaintiff by virtue of avoiding the costs associated with employing employees that may require accommodations or that have rights to workers compensation benefits and retain legal counsel.

50. Plaintiff is entitled and seeks any and all available remedies including but not limited to restitution and recovery of reasonable attorneys' fees and costs pursuant to California Code of Civil Procedure section 1021.5, Business and Professions Code section 17200 et seq., the substantial benefit doctrine, and/or the common fund doctrine.

PRAYER FOR RELIEF

WHEREFORE, Ms. Ramirez prays for judgment against defendant, and each of them, as follows:

First, Second, Third, Fourth, and Fifth Causes of Action:

1. For general and special damages arising out of the violation of FEHA and the wrongful termination of Ms. Ramirez, which amount necessarily includes lost wages, lost commissions, lost benefits, emotional distress and other such damages in an amount exceeding the “unlimited” jurisdictional limits of this court, such amount to be subject to proof at the time of trial;

2. For attorney's fees Ms. Ramirez has incurred to enforce her rights pursuant to California Code of Civil Procedures sections 1021.5 and 226(g), and Government Code section 12965, subdivision (b), and other statutory basis for attorneys fees;

3. For prejudgment interest on that amount at the legal rate;

4. For a declaration from this court pursuant to California Government Code section 12965(c)(3) as follows:

a. Defendant's conduct in terminating Ms. Ramirez was an unlawful practice as provided in the Fair Employment and Housing Act;

b. Defendant's conduct in allowing Ms. Ramirez to be retaliated against was an unlawful practice as provided in the Fair Employment and Housing Act; and

c. Defendants failed to protect Ms. Ramirez against unlawful harassment and retaliation in violation of the Fair Employment and Housing Act, and is hereby ordered to undertake all reasonable measures necessary to prevent unlawful harassment and retaliation, as required by the Fair Employment and Housing Act, from this day forward.

5. Punitive damages in an amount sufficient to punish the Defendants and/or to deter further malicious, fraudulent and oppressive conduct;

6. For injunctive relief arising under FEHA;

7. For costs of suit herein, and;

8. For such other relief as the Court deems just and proper.

Sixth Cause of Action

9. For a temporary restraining order, a preliminary injunction, and a permanent injunction enjoining Defendants and its agents, servants and employees, and all persons acting under, in concert with, or for Defendants from engaging in the unlawful, unfair, and fraudulent acts and business practices described in Paragraphs 40-50 above;

10. For pre-judgment and post-judgment interest to the extent permitted by law;

11. For an award of attorneys' fees and costs incurred in the investigation, filing and prosecution of this action pursuant to Code of Civil Procedure section 1021.5, Business and Professions Code sections 17200, et seq., Labor Code section 1194 and any other applicable provision of law; and

12. For such other relief as the Court deems just and proper.

As to All Causes of Action:

13. For reasonable attorneys' fees and costs incurred; and

14. For such other and further relief as this Court may deem just and proper.

1 Dated: December 29, 2022

JACKSON LAW, APC

2 By: /s/ Armond M. Jackson

3 Armond M. Jackson

Attorneys for plaintiff Yolanda Ramirez

4 **DEMAND FOR JURY TRIAL**

5 Plaintiff Yolanda Ramirez demands a jury trial in the above captioned matter.

6
7 Dated: December 29, 2022

JACKSON LAW, APC

8 By: /s/ Armond M. Jackson

9 Armond M. Jackson

Attorneys for plaintiff Yolanda Ramirez