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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JESSICA DIAZ,

Plaintiff,

vs.

OS4LABOR LLC; PERSONNEL
STAFFING GROUP, LLC; DART
WAREHOUSE CORPORATION; and
DOES 1 to 25, inclusive,

Defendants.

) CASE NO.: 22STCV17718

) **COMPLAINT FOR DAMAGES FOR:**

-) **1) SEXUAL HARASSMENT IN**
) **VIOLATION OF FAIR**
) **EMPLOYMENT AND HOUSING**
) **ACT ("FEHA");**
) **2) RETALIATION IN VIOLATION OF**
) **FEHA;**
) **3) FAILURE TO PREVENT**
) **HARASSMENT AND RETALIATION**
) **IN VIOLATION OF FEHA;**
) **4) RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 1102.5;**
) **5) WRONGFUL TERMINATION IN**
) **VIOLATION OF PUBLIC POLICY;**
) **6) NEGLIGENT INFLECTION OF**
) **EMOTIONAL DISTRESS;**
) **7) INTENTIONAL INFLECTION OF**
) **EMOTIONAL DISTRESS;**
) **8) FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**
) **9) FAILURE TO PAY MINIMUM**
) **WAGES;**
) **10) FAILURE TO PAY OVERTIME;**
) **11) FAILURE TO PROVIDE**
) **ACCURATE ITEMIZED WAGE**
) **STATEMENTS;**
) **12) FAILURE TO PAY WAGES OWED**
) **EVERY PAY PERIOD;**
) **13) FAILURE TO PROVIDE REST**
) **BREAKS;**
) **14) FAILURE TO PROVIDE MEAL**

BREAKS;

**15) FAILURE TO PAY WAGES WHEN
EMPLOYMENT ENDS;**

16) PRIVATE ATTORNEYS GENERAL ACT ("PAGA")

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

18) VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

JURY TRIAL DEMANDED

COMES NOW Plaintiff, JESSICA DIAZ (hereinafter “Plaintiff”), and alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants OS4LABOR LLC; PERSONNEL STAFFING GROUP, LLC; DART WAREHOUSE CORPORATION; and DOES 1 to 25, inclusive, (hereinafter collectively known as “Defendants”), do business in the County of Los Angeles, and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a female resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant

OS4LABOR LLC is a California Corporation, doing business in the County of Los Angeles, State of California. Defendant is an entity subject to suit under the California Fair Employment and Housing Act, Government Code section 12940, et. seq. ("FEHA").

4. Plaintiff is informed and believes that at all times herein mentioned, Defendant PERSONNEL STAFFING GROUP, LLC is an Illinois Corporation, doing business in the County of Los Angeles, State of California. Defendant is an entity subject to suit under the California Fair Employment and Housing Act, Government Code section 12940, et. seq. ("FEHA").

5. Plaintiff is informed and believes that at all times herein mentioned, Defendant DART WAREHOUSE CORPORATION is a California Corporation, doing business in the County of Los Angeles, State of California. Defendant is an entity subject to suit under the California Fair Employment and Housing Act, Government Code section 12940, et. seq. ("FEHA").

6. OS4LABOR LLC; PERSONNEL STAFFING GROUP, LLC, and DART WAREHOUSE CORPORATION are "joint employers" in that they each controlled the wages, hours, and/or working conditions of Plaintiff and other hourly, non-exempt employees who worked at any of their locations in the State of California during the relevant PAGA period. OS4LABOR LLC; PERSONNEL STAFFING GROUP, LLC, and DART WAREHOUSE CORPORATION are collectively referred to herein as "DART" or "Defendant(s)".

7. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner

1 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
2 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
3 and capacities of these fictitiously named defendants.

4 8. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
5 that information and belief, alleges that at all times herein mentioned, each of the remaining
6 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
7 under the authority of their agency, employment, or representative capacity, with the consent
8 of his/her codefendants.
9

10 **GENERAL ALLEGATIONS**

11 9. Plaintiff worked for DART for approximately one week in January 2022. Plaintiff was
12 classified as an hourly, non-exempt employee. Her latest rate of pay was \$18.50 per hour.

13 10. DART has committed numerous labor code violations against Plaintiff and other
14 similarly situated aggrieved employees.

15 11. DART did not provide Plaintiff and other similarly situated aggrieved employees with
16 the minimum wages to which they were entitled for all work performed and did not compensate
17 her and others for all hours worked pursuant to California Labor Code sections 1194, 1197 and
18 1197.1. This is so because DART had a policy of rounding down work hours to the detriment of
19 employees, which results in “time shaving” and employees such as Plaintiff not being paid for
20 all hours worked, akin to a minimum wage violation. Moreover, and to the extent that Plaintiff
21 and others worked through their meal periods or their meal periods were interrupted by work
22 obligations (and Plaintiff’s were), that would result in a minimum wage violation for not being
23 paid for all hours worked.

24 12. Due to the above , including the “off the clock” work, DART also violated Labor Code
25 §510 because it failed to pay Plaintiff and other similarly situated aggrieved employees overtime,
26 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
27 throughout their employment. This is so because the “off the clock” work and hours mentioned
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1 above were not factored into Plaintiff's and others' regular hours, which would have essentially
2 resulted in overtime hours worked. In addition, any bonus or incentive payments were not
3 factored into the regular rate of pay for purposes of calculating the overtime rate of pay.

4 13. DART violated Labor Code §§ 512 and 226.7 along with the applicable Industrial
5 Welfare Commission Wage Order (no. 4) because it failed to provide Plaintiff and other similarly
6 situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for every five
7 (5) hours of work throughout their employment, and Plaintiff did not validly waive said meal
8 periods. DART did not completely relieve Plaintiffs of all duties during said meal periods.
9 DART did not pay to Plaintiff one additional hour of pay at Plaintiff's regular rate of
10 compensation for each workday that one or more statutory meal periods was not provided. It was
11 not part of the company culture for employees such as Plaintiff and others to always and
12 consistently take timely, uninterrupted meal breaks before the 5th hour worked. In addition,
13 Plaintiff and others did not receive a second meal break before the 10th hour worked. As such,
14 the culture at DART did not lend itself to the employees consistently receiving statutory breaks
15 wherein they were relieved of all work duties. There would be several instances wherein Plaintiff
16 would be attempting to take a statutory break but would be interrupted by management. It was
17 the normal practice and custom of DART not to authorize, permit, and enforce statutory meal
18 periods.

19 14. Similarly, DART violated Labor Code § 226.7 along with the applicable Industrial
20 Welfare Commission Wage Order (no. 4) because it failed to provide Plaintiff and other similarly
21 situated aggrieved employees 10-minute rest periods for every four hours of work, or majority
22 portion thereof, throughout their employment. DART did not completely relieve Plaintiff of all
23 duty during said rest periods. DART did not pay to Plaintiff one additional hour of pay at
24 Plaintiff's regular rate of compensation for each workday that one or more statutory rest periods
25 was not provided. Like the situation involving meal breaks, it was not company policy and not
26 part of the company culture for employees such as Plaintiff and others to take always and
27 consistently take timely, uninterrupted rest breaks in the middle of their first and second 4 hours
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1 of work. As stated above, there would be several instances wherein Plaintiff would be attempting
2 to take a statutory break but would be interrupted by management. As such, the culture at DART
3 did not lend itself to the employees receiving timely, uninterrupted statutory breaks wherein they
4 were relieved of all work duties.

5 15. Furthermore, during the relevant time period, and due to the violations as alleged above,
6 DART failed to pay Plaintiff and other similarly situated aggrieved employees all wages due to
7 them within any time period specified by California Labor Code section 204. DART was also in
8 violation of California Labor Code section 226(a) by failing to include pertinent information on
9 the wage statements, including but not limited to, all hours worked, all hourly rates in effect,
10 overtime hours worked, gross wages earned, premium pay for missed meal and rest breaks, all
11 deductions, net wages earned, gross wages earned, all deductions, the correct name and address
12 of the employing entity, the start and end of the pay period, and reimbursement for business
13 expenses, among others. As such, DART did not provide Plaintiff and other similarly situated
14 aggrieved employees with complete, accurate itemized wage statements during the PAGA
15 period.

16 16. DART violated Labor Code § 203 because it willfully failed to pay Plaintiff and other
17 similarly situated aggrieved employees their earned and due wages upon separation of
18 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
19 These earned but unpaid wages include compensation for all hours worked, overtime
20 compensation, premium pay for missed meal and rest breaks, and business expense
21 reimbursement, among others.

22 17. During the relevant time period, DART also failed to keep accurate and complete payroll
23 records showing the hours worked by Plaintiff and other similarly situated aggrieved employees
24 as well as the correct wages paid to Plaintiff and other aggrieved employees pursuant to
25 California Labor Code sections 1174(d).

26 18. Moreover, Plaintiff and other aggrieved employees incurred necessary, business-related
27 expenses and costs that were not reimbursed by DART. These costs include, but are not limited
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1 to, use of personal cell phones for work purposes. Accordingly, DART was in violation of
2 California Labor Code sections 2800 and 2802.

3 19. Moreover, DART failed to provide rest break facility for its employees, including
4 Plaintiff pursuant to Wage Order no. 4, section 13.

5 20. In addition, Plaintiff would have claims for sexual harassment and retaliation under the
6 Fair Employment and Housing Act (FEHA) as well as retaliation pursuant to Labor Code
7 section 1102.5. During her employment tenure, Plaintiff suffered an injury at work to her leg.
8 The day after her injury, Plaintiff asked her manager, "George" of Dart Warehouse
9 Corporation, for help on how to use the "PFR gun" due to the fact that she was injured. The
10 manager took this opportunity to try to rub Plaintiff's leg and got extremely close to her
11 physically. While getting very close, the manager was leering at Plaintiff and staring right at
12 her. Note that the manager had also commented on Plaintiff's looks and said she "looks good",
13 which had already made Plaintiff uncomfortable. Due to the hostile work environment,
14 Plaintiff reported her manager's conduct to Mr. Brooks at Dart Warehouse Corporation. Mr.
15 Brooks did not seem to care about Plaintiff's complaint and said that his workers had been
16 running on 13 days straight. Plaintiff responded that it didn't minimize George's inappropriate
17 conduct. Plaintiff was terminated that same afternoon, hours after her complaint to Mr. Brooks.
18 Plaintiff asked for a written statement of the complaint she made, but was not provided with a
19 copy.

20 21. Pursuant to California Government Code section 12960, Plaintiff has exhausted her
21 administrative remedies. Plaintiff filed a complaint with the Department of Fair Employment
22 and Housing ("DFEH"), alleging claims in this complaint. The DFEH immediately issued to
23 Plaintiff a right to sue letter.

24
25 **FIRST CAUSE OF ACTION**

26 **SEXUAL HARASSMENT IN VIOLATION OF FEHA**

27 **(Plaintiff against All Named Defendants and all DOE Defendants)**
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1 22. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 21, inclusive, of this Complaint as thought fully set forth herein.

3 23. At all times herein mentioned, FEHA, Government Code section 12900, et seq., was in
4 full force and effect and was binding on Defendants. Specifically, Government Code section
5 12940(j) prohibits an employer from sexually harassing an employee on the basis of her sex.

6 24. The actions of Plaintiff's manager, "George", towards Plaintiff, while in the course and
7 scope of his employment with Defendant, as described herein, created a hostile sexual
8 environment which materially altered Plaintiff's working conditions, and which constitutes
9 sexual harassment in violation of California Government Code section 12940(j)(1).
10

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

15 26. As a proximate result of the conduct of the Defendants, Plaintiff has suffered and will
16 continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other
17 pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer
18 physical and emotional injuries, including nervousness, humiliation, depression, anguish,
19 embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's
20 damages will be ascertained at trial.

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

8
9 29. FEHA provides for an award of reasonable attorneys' fees and costs incurred by a
10 prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
11 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
12 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
13 award of attorneys' fees and costs.

14 **SECOND CAUSE OF ACTION**

15 **RETALIATION IN VIOLATION OF FEHA**

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17 **(Plaintiff against All Named Defendants and all DOE defendants)**

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

20 31. At all times herein mentioned, Government Code section 12940 et. seq. was in full
21 force and effect and was binding upon Defendants. Said statute imposes certain duties upon
22 Defendants concerning harassment, discrimination, and retaliation against persons, such as
23 Plaintiff, on the basis of sex/gender or complaints of sexual harassment or gender
24 harassment/discrimination. Said statutes were intended to prevent the type of injury and
25 damage set forth herein. Plaintiff was, at all times herein mentioned, a member of the class of
26 persons intended to be protected by said statutes. As alleged above, Plaintiff was retaliated
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1 against after she reported manager George's sexually harassing behavior. As a result of the
2 work environment and ensuing retaliatory conduct by Defendants, Plaintiff was terminated
3 from her employment with DART.

4 32. As a direct and proximate result of the conduct of Defendants, and each of them,
5 Plaintiff has been harmed in that Plaintiff has suffered the loss of wages, salary, and benefits,
6 among other things. As a result, Plaintiff has suffered such damages in an amount
7 according to proof.

8 33. As a further direct and proximate result of the conduct of Defendants, and each of them,
9 Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish, and
10 emotional distress, and has been harmed in mind and body. As a result, Plaintiff has suffered
11 such damages in an amount according to proof.

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

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

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

5 **THIRD CAUSE OF ACTION**

6 **FAILURE TO PREVENT HARASSMENT AND RETALIATION IN VIOLATION OF**

7 **FEHA**

8 **(Plaintiff against All Named Defendants and all DOE defendants)**

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10 37. Plaintiff re-alleges and incorporates by reference each and every allegation in
11 paragraphs 1 through 36, inclusive, of this Complaint as thought fully set forth herein.

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

14 39. As alleged above, Plaintiff was subjected to harassment and retaliation.

15 40. Defendants failed to take all reasonable steps necessary to prevent harassment,
16 and retaliation. In addition, Defendants failed to remedy such harassment, and retaliation when
17 it realized and was informed that it was occurring. Defendants further failed to train, supervise,
18 and monitor its employees and agents.

19 41. The failure of Defendants to prevent harassment and retaliation created and encouraged
20 an environment where such harassment and retaliation was condoned, encouraged, tolerated,
21 sanctioned, and/or ratified.

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

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

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

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

FOURTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5

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

46. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 45, inclusive, of this Complaint as though fully set forth herein.

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

48. As discussed fully above, Plaintiff complained to Defendants about her supervisor's illegal and sexually harassing conduct being committed against Plaintiff.

1 49. Defendants retaliated against Plaintiff for her whistleblowing, as alleged above,
2 all in violation of Labor Code § 1102.5.

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

8 51. Plaintiff requests all available relief under Labor Code § 1102.5 including damages
9 and the imposition of civil penalties for each violation as well as attorney's fees under Labor
10 Code section 1102.6.

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12 **FIFTH CAUSE OF ACTION**

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

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

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

17 53. At all times during her employment with Defendants, Plaintiff performed her duties
18 with the utmost diligence and competence.

19 54. Plaintiff is informed and believes and thereon alleges that Defendants' decisions to
20 harass her, as alleged herein, was motivated by Plaintiff's sex and Plaintiff's complaint about
21 sexual harassment in the workplace. Defendants intentionally created the aforementioned
22 harassment, thereby not giving Plaintiff an opportunity to work in an environment free of
23 harassment.

24 55. The employment of Plaintiff was terminated on or around January 2022 in violation of
25 the fundamental public policy of the State of California with respect to harassing and
26 retaliating against an employee on account of her sex and on account of her subsequently
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1 complaining to Defendants about the sexual harassment. Moreover, Plaintiff was forced to hire
2 an attorney to assist her to end these illegal activities. Said conduct violated statutory and
3 constitutional expressions of public policy including, but not limited to, California Government
4 Code sections 12940 et seq., and the California Constitution, Article 1 section 8.

5 56. As set forth above, said actions by Defendants was wrongful and in violation of the
6 fundamental principles of the public policy of the State of California as reflected in its laws,
7 objectives and policies. Said statutes and constitutional expressions of public policy include,
8 but are not limited to, California Government Code sections 12940 et seq., and the California
9 Constitution, Article 1 section 8. These laws inure to the benefit of the public at large, and not
10 just the private interests of the employers and employees whom they govern or protect.

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

16 58. The foregoing conduct engaged in by Defendants and each of its directors, officers
17 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
18 and carried on with a conscious and willful disregard of their workers' right to work in an
19 environment free of harassment and retaliation based on sex/gender and complaints about
20 sexual harassment, so as to justify the imposition of punitive damages to punish and set an
21 example of said Defendants.
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23 **SIXTH CAUSE OF ACTION**

24 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

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

26 59. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.
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1 60. As an employee of Defendants, Plaintiff was owed a duty of care by Defendants, and
2 each of them, to ensure that Plaintiff was not exposed to foreseeable harms.

3 61. Defendants, and each of them, knew, or should have known, that Plaintiff was being
4 subjected to sexual harassment and retaliation, and that the failure to exercise due care to
5 prevent a harassing and retaliatory course of conduct could and would cause Plaintiff to suffer
6 severe emotional distress.

7 62. Defendants, and each of them, failed to exercise their duty of care to prevent their
8 employees, managers, supervisors, and/or officers from harassing Plaintiff based on her
9 sex/gender and from retaliating against Plaintiff as alleged above.

10 63. As a direct and proximate result of the aforementioned acts and omissions of
11 Defendants, Plaintiff has been caused to and did in fact suffer severe and extreme mental and
12 emotional distress, including but not limited to, anguish, humiliation, embarrassment, loss of
13 confidence, fright, depression, and anxiety, the exact nature and extent of which are not now
14 known to her, but in an amount to be proved at trial.

15 64. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has been
16 directly and legally caused to suffer damages as alleged herein.

17 **SEVENTH CAUSE OF ACTION**

18 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

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

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

22 66. Defendants' harassing actions against Plaintiff constituted severe and outrageous
23 misconduct and caused Plaintiff extreme emotional distress.

24 67. Defendants were aware that treating Plaintiff in the manner alleged above, including
25 terminating Plaintiff's employment, would devastate Plaintiff and cause Plaintiff extreme
26 hardship.
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1 68. As a direct and proximate result of the aforementioned acts and omissions of
2 Defendants, Plaintiff has been caused to and did in fact suffer severe and extreme mental and
3 emotional distress, including but not limited to, anguish, humiliation, embarrassment, loss of
4 confidence, fright, depression, and anxiety, the exact nature and extent of which are not now
5 known to her, but in an amount to be proved at trial.

6 69. Defendants' misconduct was done intentionally, in a malicious, fraudulent, oppressive
7 manner, entitling Plaintiff to punitive damages.

8 **EIGHTH CAUSE OF ACTION**

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

10 **(California Industrial Welfare Commission Order 4-2001, California Code of**
11 **Regulations Title 8 Section 11040, and California Labor Code Section 1198)**

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

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

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

20 72. For the three (3) years preceding filing of this action, Defendants failed to compensate
21 Plaintiff for all hours worked.

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

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

1 75. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
2 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
3 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
4 reasonable attorney's fees and costs of suit.

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

9 **NINTH CAUSE OF ACTION**

10 **FAILURE TO PAY MINIMUM WAGES**

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

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

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

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

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

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

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

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

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

TENTH CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(California Industrial Welfare Commission Order 4-2001, California Code of Regulations Title 8 Section 11040)

(Plaintiff against all named defendants and all DOE defendants)

84. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 83, inclusive, of this Complaint as though fully set forth herein.

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

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

4 87. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
5 single workweek on numerous occasions.

6 88. Plaintiff was entitled to the above overtime premiums.

7 89. Defendants did not pay Plaintiff premium wages of at least one and one-half times
8 Plaintiff's regular rate of pay for hours worked past eight (8) in a day.

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

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

13 92. Defendants know or should know the actual dates of overtime worked, the amount of
14 overtime worked, and the amount of unpaid overtime due.

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

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

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

25 **ELEVENTH CAUSE OF ACTION**

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

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

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

1 96. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 95, inclusive, of this Complaint as though fully set forth herein.

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

5 98. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
6 accurately reflected all information required by Labor Code Section 226, including but not
7 limited to, gross wages earned, including overtime, net wages earned, total hours worked by
8 the employee, all deductions, all applicable hourly rates, the correct start and end of the pay
9 period, the correct name and address of the employer, and premium pay for missed meal breaks
10 and rest breaks. Therefore, Defendants failed to maintain and provide accurate itemized wage
11 statements to Plaintiff in accordance with California Labor Code Section 226(a).

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

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

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

26 ///

27 ///

TWELFTH CAUSE OF ACTION

FAILURE TO PAY WAGES OWED EVERY PAY PERIOD

(California Labor Code Section 204)

(Plaintiff against all named defendants and all DOE defendants)

102. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 101, inclusive, of this Complaint as though fully set forth herein.

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

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

105. Defendants failed to pay Plaintiff all wages earned each pay period due to the above labor code violations. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the liability period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked, including overtime hours and the minimum wage as well as providing premium wages for missed, short, or late meal and rest breaks.

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

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

THIRTEENTH CAUSE OF ACTION

FAILURE TO GIVE REST BREAKS

(Plaintiff against all named defendants and all DOE defendants)

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

1 paragraphs 1 through 107, inclusive, of this Complaint as though fully set forth herein.

2 109. Plaintiff brings this cause of action under the following laws, for the following
3 reasons:

- 4 a. Title 8 of the California Code of Regulations Sections 11040(12)(A), which
5 provides that every employer shall authorize and permit all employees to take rest
6 periods, which insofar as practicable shall be in the middle of each work period.
7 The authorized rest period time shall be based on the total hours worked daily at the
8 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
9
10 b. Title 8 of the California Code of Regulations Sections 11040(12)(B), which
11 provides that if an employer fails to provide an employee a rest period in
12 accordance with the applicable provisions of this order, the employer shall pay the
13 employee one (1) hour of pay at employee's regular rate of compensation for each
14 workday that the rest period is not provided;
15
16 c. Title 8 of the California Code of Regulations sections 11040(20)(A), which
17 penalizes the employer \$50.00 for each initial violation, per employee, of any
18 provision of the Wage Order, and \$100.00 for each additional violation thereafter
19 per employee; and
20
21 d. California Labor Code section 226.7, which states that (a) no employer shall require
22 any employee to work during any rest period mandated by an applicable order of
23 the Industrial Welfare Commission, and (b) if an employer fails to provide an
24 employee a rest period in accordance with an applicable order of the Industrial
25 Welfare Commission, the employer shall pay the employee one (1) additional hour
26 of pay at employee's regular rate of compensation for each work day that the rest
27 period is not provided.
28

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

4 111. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
5 regulations, and wage orders alleged in this cause of action along with any allowable interest,
6 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
7 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
8

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

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

14 **FOURTEENTH CAUSE OF ACTION**

15 **FAILURE TO GIVE MEAL BREAKS**

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

17 114. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 113, inclusive, of this Complaint as though fully set forth herein.
19

20 115. Plaintiff brings this cause of action under the following laws, for the following
21 reasons:

- 22 a. California Labor Code section 512(a), which requires that employees be given a 30-
23 minute uninterrupted meal break after five (5) hours of work, and a second
24 uninterrupted meal break after ten (10) hours of work;
25 b. California Labor Code section 226.7, which states that (a) no employer shall require
26 any employee to work during any meal period mandated by an applicable order of
27 the Industrial Welfare Commission, and (b) if any employer fails to provide an
28

1 employee a meal period in accordance with an applicable order of the Industrial
2 Welfare Commission, the employer shall pay the employee one (1) additional hour
3 of pay at the employee's regular rate of compensation for each workday that the
4 meal period is not provided;

- 5 c. California Industrial Welfare Commission Order No. 4 section 11(B), as codified
6 under Title 8 of the California Code of Regulations Section 11040, which states that
7 if an employer fails to provide an employee a meal period in accordance with the
8 applicable provisions of the Wage Order, the employer shall pay the employee one
9 (1) hour of pay at the employee's regular rate of compensation for each workday
10 that the meal period is not provided;
- 11 d. California Industrial Welfare Commission Wage Order No. 4 Section 7(A)(3), as
12 codified under Title 8 of the California Code of Regulations Section 11040, which
13 requires an employer to maintain records documenting its employees' meal periods;
- 14 e. California Industrial Welfare Commission wage order No. 4 Section 20(A), as
15 codified under California Code of Regulations Section 11040, which penalizes the
16 employer \$50.00 for each initial violation, per employee, of any provision of the
17 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- 18 f. California Labor Code section 1171 and 1173, which have given the California
19 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4)
20 as enforceable law.
21
22
23

24 116. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks
25 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
26 to take a second relieved meal break after ten (10) hours of work, as required by California
27 law. California Labor Code section 512(a) and California Industrial Welfare Commission
28

1 Order No. 4, as codified under California Code of Regulations Sections 11040 et. seq. requires
2 that employees receive uninterrupted meal periods every five (5) hours of consecutive work,
3 and that the meal period be at least 30 minutes in length, wherein employee is relieved of all
4 work duty. California Labor Code section 226.7 provides that employers may not require their
5 employees to work through their meal periods. California Labor Code section 226.7 and
6 California Code of Regulations section 11040 requires that if the employer fails to provide the
7 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
8 of pay for each work day that the meal period is not given.
9

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

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

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

19 **FIFTEENTH CAUSE OF ACTION**

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

21 **(California Labor Code Sections 201, 202, 203)**

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

23 120. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 119, inclusive, of this Complaint as though fully set forth herein.

25 121. Pursuant to California Labor Code Section 201(a), an employer who discharges an
26 employee must immediately pay for all compensation due and owing.
27

28 122. Pursuant to California Labor Code Section 202, when an employee resigns, the

1 employer must pay all compensation due and owing within 72 hours of resignation, or on the
2 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

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

8 124. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
9 continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

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

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

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

20 **SIXTEENTH CAUSE OF ACTION**

21 **PRIVATE ATTORNEYS GENERAL ACT**

22 **Individual and Representative Claim for PAGA penalties under California Labor Code**
23 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5,**
1194, 1197, 1198, 2802 and IWC Wage Order no. 4-2001)

24 **(Against all Named Defendants and all DOE Defendants)**

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

27 129. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
28

1 Defendants of the specific violations of the California Labor Code that Defendants
2 and DOE defendants have violated and continue to violate.

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

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

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

15 133. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
16 violator and had one or more of the alleged violations committed against her, and therefore is
17 properly suited to represent the interests of other current and former employees, including all
18 hourly, non-exempt employees who worked for DART at any of their California locations
19 during the relevant time period.

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

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

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

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

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

15 139. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
16 the following:

17 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
18 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802 via 2698 and 2699 and
19 any other Labor Codes as well as the Industrial Welfare Wage Order no. 4-2001 violated
20 based on the facts alleged in this Complaint.

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

25 **SEVENTEENTH CAUSE OF ACTION**

26 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

1 141. Plaintiff re-alleges and incorporates by reference each and every allegation in
2 paragraphs 1 through 140, inclusive, of this Complaint as thought fully set forth herein.

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

6 143. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
7 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
8 of completing her job duties, which were not reimbursed by Defendant. These expenses
9 include, but are not limited to use of personal cell phones for business-related purposes.

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

12
13 **EIGHTEENTH CAUSE OF ACTION**

14 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

15 **(California Business and Professions Code Section 17200)**

16 **(Plaintiff against all named Defendants and all DOE defendants)**

17 145. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 144, inclusive, of this Complaint as though fully set forth herein.

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

22 147. Defendant’s violations of California labor laws and the Fair Employment and Housing
23 Act (FEHA) constitutes a business practice because it was done repeatedly over a significant
24 period of time in a systematic manner that was detrimental to Plaintiff and other employees.

25 148. For the four years preceding the filing of this action, Plaintiff has suffered damages
26 and request damages and/or restitution of all monies and profits to be disgorged from
27 Defendants in an amount according to proof at time of trial, but in excess of the
28

jurisdiction of this Court.

PRAYER FOR RELIEF

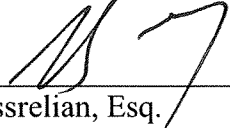
WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as follows:

1. For compensatory damages including lost past and future wages, overtime, commissions, and all other sums of money, including employment benefits, together with interest on said amounts, and any other economic injury to Plaintiff, according to proof;
2. For general damages according to proof;
3. For special and consequential damages to the extent allowed by law;
4. For restitution and disgorgement for all unfair business practices by Defendants against Plaintiff in an amount according to proof;
5. For an award of punitive damages against Defendants according to proof;
6. For an order enjoining Defendants from further unfair and unlawful business practices in violation of Business and Professions Code section 17200, et seq.;
7. For damages and penalties against Defendants under Labor Code section 226 for Plaintiff in an amount subject to proof at trial;
8. For damages and penalties pursuant to Labor Code section 203 against Defendants in an amount subject to proof at trial;
9. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claims
10. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law; ,

- 1 11. For the imposition of civil penalties and/or statutory penalties;
- 2 12. Reasonable attorney's fees where available by law, including but not limited to,
- 3 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5,
- 4 FEHA, and/or other applicable laws; and
- 5 13. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
- 6 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period.
- 7 14. For one hour of wages due to Plaintiff for each work period of at least three-and-a-half
- 8 (3.5) hours when Plaintiff did not receive an uninterrupted ten (10) minute rest period.
- 9 15. Costs and expenses of suit incurred herein;
- 10 16. For all interest as allowed by law;
- 11 17. For such other and further relief as the Court deems just and proper.

12 DATED: May 29, 2022

MESSRELIAN LAW INC.

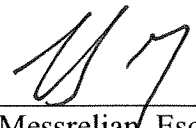
14 By 
15 Harout Messrelian, Esq.
16 Attorneys for Plaintiff Jessica Diaz

17 **DEMAND FOR JURY TRIAL**

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

19 DATED: May 29, 2022

MESSRELIAN LAW INC.

21 By 
22 Harout Messrelian, Esq.
23 Attorneys for Plaintiff Jessica Diaz