

MESSRELIAN LAW INC.
Harout Messrelian, Esq. (SB# 272020)
hm@messrelianlaw.com
Maralle Messrelian, Esq. Of Counsel (SB#316974)
maralle@messrelianlaw.com
500 N. Central Ave., Suite 840
Glendale, California 91203
Telephone: (818) 484-6531
Facsimile: (818) 956-1983

Attorneys for Plaintiff Alfredo Valdovinos

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Superior Court of California,
County of Alameda

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

ALFREDO VALDOVINOS,

Plaintiff,

vs.

MAGNUM DRYWALL, INC; and DOES 1
to 25, inclusive,

Defendants.

) CASE NO.: **22CV013028**

) **COMPLAINT FOR DAMAGES FOR:**

-) **1) FAILURE TO COMPENSATE FOR**
) **ALL HOURS WORKED;**
) **2) FAILURE TO PAY MINIMUM**
) **WAGES;**
) **3) FAILURE TO PAY OVERTIME;**
) **4) FAILURE TO PROVIDE**
) **ACCURATE ITEMIZED WAGE**
) **STATEMENTS;**
) **5) FAILURE TO PAY WAGES WHEN**
) **EMPLOYMENT ENDS;**
) **6) FAILURE TO PAY WAGES OWED**
) **EVERY PAY PERIOD;**
) **7) FAILURE TO GIVE REST BREAKS;**
) **8) FAILURE TO GIVE MEAL BREAKS**
) **9) PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA");**
) **10) FAILURE TO REIMBURSE FOR**
) **BUSINESS EXPENSES;**
) **11) FAILURE TO PROVIDE**
) **PERSONNEL RECORDS;**
) **12) FAILURE TO PROVIDE PAY**
) **RECORDS;**
) **13) DISCRIMINATION ON THE BASIS**
) **OF PHYSICAL DISABILITY IN**
) **VIOLATION OF FAIR**
) **EMPLOYMENT AND HOUSING**
) **ACT ("FEHA");**

- 14) **FAILURE TO ACCOMMODATE
PHYSICAL DISABILITY IN
VIOLATION OF FEHA;**
- 15) **FAILURE TO ENGAGE IN
INTERACTIVE PROCESS TO
DETERMINE REASONABLE
ACCOMMODATION IN
VIOLATION OF FEHA;**
- 16) **RETALIATION IN VIOLATION OF
FEHA;**
- 17) **FAILURE TO PREVENT
DISCRIMINATION AND
RETALIATION IN VIOLATION OF
FEHA;**
- 18) **WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**
- 19) **VIOLATION OF CALIFORNIA
BUSINESS AND PROFESSIONS
CODE SECTION 17200.**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, ALFREDO VALDOVINOS (hereinafter “Plaintiff”), and
alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Alameda in this judicial district because Defendants MAGNUM DRYWALL, INC and DOES 1 to 25, inclusive, do business in the County of Alameda and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Alameda is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the county of Alameda, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant MAGNUM DRYWALL, INC (hereinafter “MAGNUM”) is and was a California corporation, doing business in Alameda, California, and which employed Plaintiff.

4. The “aggrieved employees” are all current and former hourly, non-exempt employees

1 who worked for MAGNUM in the state of California during the relevant time period pursuant
2 to California Labor Code section 2698, *et. seq.*, the Labor Code Private Attorneys General Act
3 of 2004 (“PAGA”).

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

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

16 **GENERAL ALLEGATIONS**

17 7. Plaintiff started working for MAGNUM on or around October or November 2021.
18 Plaintiff’s employment ended on or around February 22, 2022. Plaintiff was classified as an
19 hourly, non-exempt employee and earned approximately \$55 per hour. Plaintiff generally
20 worked Monday through Friday. Plaintiff and other aggrieved employees were paid weekly for
21 purposes of calculating the aggregate number of pay periods under PAGA.

22 8. It is Plaintiff’s position that MAGNUM has violated numerous California Labor Code
23 Sections against Plaintiff and other similarly situated aggrieved employees. Under *Huff v.*
24 *Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745 (2018), Plaintiff can equivocally bring the
25 following labor code violations on behalf of all other hourly, non-exempt employees.

26 9. MAGNUM did not provide Plaintiff and other similarly situated aggrieved employees
27 with the minimum wages to which they were entitled for all work performed and did not
28 compensate him and others for all hours worked pursuant to California Labor Code sections
1194, 1197 and 1197.1. Plaintiff and others were not paid for all hours worked and consistently

1 worked “off the clock”. This is so because employees such as Plaintiff and others were not paid
2 for travel time as a matter of company policy. In addition, the company rounded down work
3 hours and engaged in “time shaving” to the detriment of employees, which is akin to a minimum
4 wage violation.

5 10. Due to the above “off the clock” violations, MAGNUM violated Labor Code §510
6 because it failed to pay Plaintiff and other similarly situated aggrieved employees overtime, even
7 though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
8 throughout their employment. Our client’s and others’ actual work hours, which included the
9 “off the clock” work as described above, entitled them to overtime, however, it was not company
10 policy to keep accurate track of all hours worked and to pay employees the correct amount of
11 overtime, including travel time as alluded to above. In addition, any bonuses or incentive
12 payments were not factored into any regular rate of pay for purposes of calculating the correct
overtime rate of pay.

13 11. MAGNUM also violated Labor Code §§ 512 and 226.7 along with the applicable
14 Industrial Welfare Commission Wage Order (Wage Order no. 16) because it failed to provide
15 Plaintiff and other similarly situated aggrieved employees the requisite 30-minute, uninterrupted
16 meal periods for every five (5) hours of work throughout their employment, and Plaintiff did not
17 validly waive said meal periods. MAGNUM did not completely relieve Plaintiff of all duty
18 during said meal periods. MAGNUM did not pay to Plaintiff one additional hour of pay at our
19 client’s regular rate of compensation for each workday that one or more statutory meal periods
20 was not provided. It was not company policy and not part of the culture for employees such as
21 Plaintiff and others to take timely, uninterrupted meal breaks. In fact, it was normal and
22 customary for Plaintiff and others to take meal breaks AFTER the 5th hour worked. In addition,
23 meal breaks would be interrupted by work obligations. As such, the culture at MAGNUM did
24 not lend itself to the employees receiving timely statutory breaks wherein they were relieved of
25 all work duties. Despite the fact that Plaintiff and others would receive their meal breaks after
26 the 5th hour worked and/or their meal breaks would be interrupted, they would not be
27 compensated with premium wage for their missed, interrupted, late, or short meal periods.
28 Furthermore, to the extent Plaintiff and others worked a 10-hour shift or longer, there was no

1 second meal period provided. Moreover, MAGNUM had no policy in place regarding keeping
2 of track of whether employees such as Plaintiff and others were receiving timely, uninterrupted
3 meal periods.

4 12. MAGNUM also violated Labor Code § 226.7 along with the applicable Industrial
5 Welfare Commission Wage Order (Wage Order No. 16) because it failed to provide Plaintiff and
6 other similarly situated aggrieved employees 10-minute rest periods for every four hours of
7 work, or majority portion thereof, throughout their employment. MAGNUM did not completely
8 relieve Plaintiff of all duty during said rest periods. MAGNUM did not pay to Plaintiff one
9 additional hour of pay at our client's regular rate of compensation for each workday that one or
10 more statutory rest periods was not provided. Like the situation with meal breaks, Plaintiff and
11 others did not take timely, uninterrupted rest breaks wherein they were relieved of all duty. It
12 was not company policy and not part of the culture for employees such as Plaintiff and others to
13 take at least TWO rest breaks since it was the normal practice and custom of MAGNUM not to
14 authorize, permit, and enforce statutory rest periods. The issue of not receiving statutory rest
15 breaks became an even bigger issue with Plaintiff's newest supervisor. Under this new
16 supervisor, there were no rest breaks at all as they did not exist.

17 13. Furthermore, even if MAGNUM did in fact provide meal period penalties to Plaintiff and
18 others for late, short, interrupted, or no meal periods, that does not absolve MAGNUM of PAGA
19 penalties. In *Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1256, the Court
20 stated that "section 226.7 does not give employers a lawful choice between providing either meal
21 and rest breaks or an additional hour of pay" (emphasis in original). Thus, the extra hour of pay
22 does not excuse the violation; the employer has still committed a violation even if the remedy
23 for the violation has been paid. *See also Wert v. U.S. Bancorp* (S.D. Cal. Mar. 22, 2016, 2016
24 WL 1110302 at *4).

25 14. Furthermore, during the relevant time period and due to the labor code violations as
26 discussed above, MAGNUM failed to pay Plaintiff and other similarly situated aggrieved
27 employees all wages due to them within any time period specified by California Labor Code
28 section 204.

15. MAGNUM was also in violation of California Labor Code section 226(a), by failing to

1 include accurate, pertinent information on the wage statements, including but not limited to, all
2 hours worked, overtime hours worked, all applicable hourly rates, the correct legal name and
3 correct address of employer entity, gross wages earned, all deductions, net wages earned,
4 reimbursement for business expenses, the correct start and end of the applicable pay period, the
5 employee ID numbers or social security numbers, among other items. As such, MAGNUM did
6 not provide Plaintiff and other similarly situated aggrieved employees with complete, accurate
7 itemized wage statements.

8 16. MAGNUM violated Labor Code § 203 because it willfully failed to pay Plaintiff and
9 other similarly situated aggrieved employees earned and due wages upon separation of
10 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
11 These earned but unpaid wages include compensation for all hours worked, minimum wages,
12 overtime wages, meal/rest period compensation described above, and business expense
13 reimbursement.

14 17. During the relevant time period, MAGNUM also failed to keep accurate and complete
15 payroll records showing the actual hours worked per day and the wages paid to Plaintiff and
16 other aggrieved employees pursuant to California Labor Code sections 1174(d).

17 18. Moreover, MAGNUM failed to provide sick pay pursuant to Labor Code sections 232
18 and 246 and also failed to provide Worker's Compensation coverage for Plaintiff and other
19 aggrieved employees in violation of Labor Code Section 3700.5.

20 19. During the relevant time period, Plaintiff and other aggrieved employees incurred
21 necessary, business-related expenses and costs that were not reimbursed by MAGNUM. These
22 costs include, but are not limited to, use of personal cell phones for work purposes as Plaintiff
23 would have to use his cell phone communicate with management regarding job-related issues.
24 Plaintiff and others were also not reimbursed for use of their personal tools, including sander,
25 buckets, and other small hand tools. Accordingly, MAGNUM was in violation of California
26 Labor Code sections 2800 and 2802.

27 20. Moreover, Plaintiff and others were not provided suitable restroom and rest break
28 facilities per Wage Order no. 16-2001.

21 21. In addition, Plaintiff has individual causes of action against MAGNUM for

1 discrimination based on physical disability in violation of the Fair Employment and Housing Act
2 (FEHA), failure to accommodate/engage in the interactive process in violation of FEHA, and
3 wrongful termination in violation of public policy.

4 22. On or around mid-February 2022, Plaintiff started to feel very sick while at work as he
5 was very dizzy and extremely nauseous. Plaintiff reported his symptoms to the lead. Thereafter,
6 Plaintiff continued to work on a scaffold but started to get even dizzy, which presented a huge
7 liability issue and injury concern. Plaintiff alerted management that he was not feeling better and
8 would need to see a doctor. After seeing the doctor, the doctor advised that Plaintiff be off work
9 for a period of 4 to 5 days. The doctor provided Plaintiff with a doctor's note for time off of
10 work. Plaintiff reported this to his supervisor and provided the doctor's note. Not surprisingly,
11 Plaintiff was terminated after presenting the doctor's note and after missing work due to his
12 physical disabilities. Defendants informed Plaintiff that they were terminating his employment
13 because there was "no more work". In fact, Defendants terminated Plaintiff's employment due
14 to his physical disabilities and for requesting/missing time from work. MAGNUM failed to
15 engage in the interactive process, failed to provide reasonable accommodations for Plaintiff and
16 retaliated against Plaintiff due to his physical disabilities and his need to take off time from work
17 (through sick leave or other medical leave). In addition, it is important to note that MAGNUM
18 unequivocally knew about Plaintiff's physical disabilities, including the fact that he suffers from
19 diabetes, high cholesterol, hypertension, and vertigo, and terminated him after his physical
20 disabilities caused him to miss work.

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

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1 **FIRST CAUSE OF ACTION**

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

3 **(California Industrial Welfare Commission Order 16-2001, California Code of**
4 **Regulations Title 8 Section 11160, and California Labor Code Section 1198)**

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

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

8 25. At all times relevant herein, Defendants were required to compensate their employees for
9 all hours worked upon reporting for work at the appointed time stated by the employer pursuant
10 to Industrial Welfare Commission Order 16-2001, California Code of Regulations, Title 8,
11 Section 11160.

12 26. For the three (3) years preceding filing of this action, Defendants failed to compensate
13 Plaintiff for all hours worked.

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

17 28. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an
18 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
19 Court.

20 29. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
21 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is entitled
22 to recover damages for the nonpayment of wages for all hours worked, penalties, plus reasonable
23 attorney's fees and costs of suit.

24 30. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
25 along with any allowable interest, penalties, attorney's fees, and costs which will equal an
26 amount known to Plaintiff once he has obtained all of his payroll records from Defendants.

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

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

9 **THIRD CAUSE OF ACTION**

10 **FAILURE TO PAY OVERTIME**

11 **(California Industrial Welfare Commission Order 16-2001, California Code of**
12 **Regulations Title 8 Section 11160; California Labor Code Section 510)**
13 **(Plaintiff against all named Defendants and all DOE defendants)**

14 38. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 37, inclusive, of this Complaint as though fully set forth herein.

16 39. Pursuant to Industrial Welfare Commission Order No. 16-2001, Cal. Code of Regs.,
17 Title 8, Section 11160, for the period of Plaintiff's employment, Defendants were required to
18 compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5) times the
19 regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week,
20 and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a
21 day or hours worked in excess of eight (8) on the seventh consecutive work day in a week.

22 40. Plaintiff was a non-exempt employee entitled to the protections of the California
23 Industrial Welfare Commission Order No. 16-2001, California Code of Regulations, Title 8,
24 Section 11160.

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

27 42. Plaintiff was entitled to the above overtime premiums.

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

1 Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past
2 twelve (12) in a day. Defendants did not pay Plaintiff premium wages of at least one and one-
3 half times Plaintiff's regular rate of pay for hours worked past forty (40) in a week.

4 44. Furthermore, since Plaintiff and others were not paid their correct regular rate for all
5 hours worked (at twice the minimum wage), they were also not paid the corresponding correct
6 and accurate overtime rate of pay.

7 45. Plaintiff worked at least one pay period in which he was not properly paid overtime
8 within the three (3) years prior to the initiation of this lawsuit.

9 46. Defendants know or should know the actual dates of overtime worked, the amount of
10 overtime worked, and the amount of unpaid overtime due.

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

13 48. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
14 Regulations, Title 8, Sections 11160, Plaintiff is entitled to recover damages for the nonpayment
15 of overtime premiums for all overtime hours worked, penalties, interest, plus reasonable
16 attorney's fees and costs of suit.

17 49. 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 trial.

19 **FOURTH CAUSE OF ACTION**

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

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

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

23 50. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 49, inclusive, of this Complaint as though fully set forth herein.

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

27 52. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
28 accurately reflected all information required by Labor Code Section 226, including but not
limited to, all hours worked, gross wages earned, including overtime, minimum wages, and

1 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the
2 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed to
3 maintain and provide accurate itemized wage statements to Plaintiff in accordance with
4 California Labor Code Section 226(a).

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

11 54. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
12 sustained damages, including loss of earnings, in an amount to be established at trial. As a
13 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
14 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
15 and attorney's fees pursuant to statute.

16 55. 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 **FIFTH CAUSE OF ACTION**

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

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

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

23 56. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 55, inclusive, of this Complaint as though fully set forth herein.

25 57. 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 58. Pursuant to California Labor Code Section 202, when an employee resigns, the employer
28 must pay all compensation due and owing within 72 hours of resignation, or on the employee's
last day of work if the employee gives more than 72 hours notice of resignation.

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

6 60. After Plaintiff's employment with Defendants ended and after Plaintiff was terminated
7 from his employment, Defendants willfully refused and continue to refuse to pay his unpaid
8 wages as required by Labor Code Section 203.

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

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

16 63. 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 **SIXTH CAUSE OF ACTION**

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

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

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

23 64. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 63, inclusive, of this Complaint as though fully set forth herein.

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

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

67. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is

1 informed, believes, and thereon alleges, that all times relevant during the liability period,
2 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
3 including overtime hours, the minimum wage, and premium pay for missed meal and rest breaks.

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

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

11 **SEVENTH CAUSE OF ACTION**

12 **FAILURE TO GIVE REST BREAKS**

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

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

- 17 a. Title 8 of the California Code of Regulations Sections 11160(11)(A), which provides
18 that every employer shall authorize and permit all employees to take rest periods,
19 which insofar as practicable shall be in the middle of each work period. The
20 authorized rest period time shall be based on the total hours worked daily at the rate
21 of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
- 22 b. Title 8 of the California Code of Regulations Sections 11160(11)(B), which provides
23 that if an employer fails to provide an employee a rest period in accordance with the
24 applicable provisions of this order, the employer shall pay the employee one (1) hour
25 of pay at employee's regular rate of compensation for each workday that the rest
26 period is not provided;
- 27 c. Title 8 of the California Code of Regulations sections 11160(18)(A), which penalizes
28 the employer \$50.00 for each initial violation, per employee, of any provision of the
Wage Order, and \$100.00 for each additional violation thereafter per employee; and

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

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

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

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

17 75. 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 trial.

19 **EIGHTH CAUSE OF ACTION**

20 **FAILURE TO GIVE MEAL BREAKS**

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

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

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

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

the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;

- c. California Industrial Welfare Commission Order No. 16 section 10(F), as codified under Title 8 of the California Code of Regulations Section 11160, which states that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 16 Section 6(A)(3), as codified under Title 8 of the California Code of Regulations Section 11160, which requires an employer to maintain records documenting its employees' meal periods;
- e. California Industrial Welfare Commission wage order No. 16 Section 18(A), as codified under California Code of Regulations Section 11160, which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- f. California Labor Code section 1171 and 1173, which have given the California Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 16) as enforceable law.

78. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks after five (5) hours of work. California Labor Code section 512(a) and California Industrial Welfare Commission Order No. 16, as codified under California Code of Regulations Section 11160 et. seq. requires that employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that the meal period be at least 30 minutes in length, wherein employee is relieved of all work duty. California Labor Code section 226.7 provides that employers may not require their employees to work through their meal periods. California Labor Code section 226.7 and California Code of Regulations section 11160 requires that if the employer fails to

1 provide the employee with an uninterrupted meal period, the employer must pay the employee
2 one (1) hour of pay for each work day that the meal period is not given.

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

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

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

12 **NINTH CAUSE OF ACTION**

13 **PRIVATE ATTORNEYS GENERAL ACT**

14 **Individual and Representative Claim for PAGA penalties under California Labor Code** 15 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 232, 246, 510, 512, 558,** 16 **1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5)**

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

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

20 83. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
21 Defendants of the specific violations of the California Labor Code that Defendants
22 and DOE defendants have violated and continue to violate.

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

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

86. Pursuant to California Labor Code section 2699, any provisions of the Labor Code that

1 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,
2 divisions, commissions, boards, agencies, or employees for violation of the code
3 may, as an alternative, be recovered through a civil action brought by an Aggrieved Employee
4 on behalf of himself or herself and other current or former employees pursuant to the procedures
5 specified in California Labor Code section 2699.3.

6 87. Plaintiff is an “Aggrieved Employee” because Plaintiff was employed by the alleged
7 violator and had one or more of the alleged violations committed against him, and therefore is
8 properly suited to represent the interests of other current and former employees.

9 88. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks penalties
10 under California Labor Code sections 2698 and 2699 because of Defendants’ violations of
11 numerous provisions of the California Labor Code as alleged in this Complaint.

12 89. Plaintiff therefore has exhausted all administrative remedies required of him under
13 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
14 cause of action and pursue penalties in a representative action for Defendants’ violations of the
15 Labor Code.

16 90. California Labor Code section 2699 et seq. imposes penalties upon culpable Defendants
17 for violating the Labor Code.

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

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

93. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by

1 law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
2 the following:

3 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
4 226.3, 226.7, 232, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5 via
5 2698 and 2699 and any other Labor Codes and Industrial Welfare Commission Wage Orders
6 (Order no. 16) violated based on the facts alleged in this Complaint.

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

11 **TENTH CAUSE OF ACTION**

12 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

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

16 96. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
17 employee for all necessary expenditures or losses incurred by the employee in direct
18 consequence of the discharge of his or her duties."

19 97. Beginning at least 3 years prior to the filing of this complaint, in order to discharge their
20 duties for Defendants, Plaintiff incurred reasonable and necessary expenses in the course of
21 completing his job duties, which were not reimbursed by Defendants. These costs include, but
22 are not limited to, use of personal cell phones for work purposes as Plaintiff would have to use
23 his cell phone communicate with management regarding job-related issues. Plaintiff and others
24 were also not reimbursed for use of their personal tools, including sander, buckets, and other
25 small hand tools. Plaintiff is entitled to reimbursement for these necessary expenditures, plus
26 interest and attorney's fees and costs, under Labor Code section 2802.

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1 **ELEVENTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE PERSONNEL RECORDS**

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

4 98. Plaintiff re-alleges and incorporates by reference each and every allegation in
5 paragraphs 1 through 97, inclusive, of this Complaint as though fully set forth herein.

6 99. Labor Code section 1198.5 dictates “every current and former employee, or his or her
7 representative, has the right to inspect and receive a copy of the personnel records that the
8 employer maintains relating to the employee’s performance or to any grievance concerning the
9 employee.”

10 100. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, “the employer
11 shall make the contents of those personnel records available for inspection to the current or
12 former employee, or his or her representative, at reasonable intervals and at reasonable times...”
13 On information and belief, Defendants intentionally failed to provide Plaintiff with personnel
14 records when requested by Plaintiff via letter on March 9, 2022, as required by law. Plaintiff
15 requested his personnel records in accordance with California Labor Code section 1198.5(k) on
16 March 9, 2022, via U.S. certified mail, return receipt requested.

17 101. Defendants failed to provide Plaintiff with an opportunity to inspect or copy his records
18 within 30 days. As a direct result of Defendants’ violations alleged herein, Plaintiff has suffered
19 and continues to suffer substantial losses related to Defendants’ failure to provide personnel
20 records.

21 102. Plaintiff seeks all available remedies for Defendants’ violations including, but not
22 limited penalties, and costs to the extent permitted by law and according to proof at trial.
23 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
24 amount of \$750.00, along with costs and attorney’s fees.

25 **TWELFTH CAUSE OF ACTION**

26 **FAILURE TO PROVIDE PAY RECORDS**

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

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

1 104. Labor Code section 226 sub-section (b) dictates “an employer...shall afford current and
2 former employees the right to inspect or copy records pertaining to their employment, upon
3 reasonable request to the employer...”

4 105. Moreover, pursuant to sub-section (c) of Labor Code section 226, “an employer who
5 receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining
6 to a current or former employee shall comply with the request as soon as practicable, but no later
7 than 21 calendar days from the date of the request.” On information and belief, Defendants
8 intentionally failed to provide Plaintiff with pay records when requested by Plaintiff via certified
9 letter, return receipt requested, on March 9, 2022, and as required by law. Plaintiff requested his
10 pay records in accordance with California Labor Code section 226 on March 9, 2022, via
11 certified mail. Defendants failed to provide Plaintiff with an opportunity to inspect or copy his
12 pay records within 21 days.

13 106. As a direct result of Defendants’ violations alleged herein, Plaintiff has suffered and
14 continues to suffer substantial losses related to Defendants’ failure to provide pay records.
15 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants in the
16 amount of \$750.00, along with costs and attorney’s fees.

17 107. Plaintiff seeks all available remedies for Defendants’ violations including, but not
18 limited penalties, and costs to the extent permitted by law and according to proof at trial.

19 **THIRTEENTH CAUSE OF ACTION**

20 **DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION**

21 **OF FEHA**

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

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

25 109. Defendants and DOES 1 to 25, inclusive, are covered employers under California’s
26 Fair Employment and Housing Act.

27 110. California Government Code section 12926(m) has established a “broad definition” of
28 physical disability: disability protections under the Fair Employment and Housing Act (FEHA)

1 even extend to “perceived” physical disabilities. Id. Under the law of this state, “working” is a
2 major life activity. *See* section 12926.1(c).

3 111. Plaintiff’s health issues, including but not limited to his dizzy spells, diabetes, high
4 cholesterol, hypertension, and vertigo, which were debilitating, and which limited a major life
5 activity, qualify as disability under FEHA, and Plaintiff was entitled to its protection.

6 112. Defendants knew of Plaintiff’s disabilities and violated California Government Code
7 section 12940 et. seq. by discriminating against Plaintiff on the basis of his disabilities.

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

13 114. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive, and
14 each of their directors, officers and/or managing agents, constitutes malice, fraud, and oppression
15 and was authorized, ratified, and carried on with a conscious and willful disregard of their
16 workers’ right to work in an environment in which personnel decisions and company policies
17 are made without regard to physical disability, so as to justify the imposition of punitive damages
18 to punish and set an example of said Defendants.

19 115. As a proximate result of the foregoing conduct, which violated the provisions of
20 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney’s
21 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

22 **FOURTEENTH CAUSE OF ACTION**

23 **FAILURE TO ACCOMMODATE PHYSICAL DISABILITY IN VIOLATION OF** 24 **FEHA**

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

26 116. Plaintiff re-alleges and incorporates by reference each and every allegation in
27 paragraphs 1 through 115, inclusive, of this Complaint as though fully set forth herein.

28 117. California Government Code section 12940(p) provides that it is unlawful for an
employer to fail to make reasonable accommodation for the known physical disabilities of an

1 employee.

2 118. Defendants failed to make reasonable accommodation of Plaintiff's physical disabilities
3 of which Defendants were unequivocally aware.

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

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

14 121. As a proximate result of the foregoing conduct, which violated the provisions of
15 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
16 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

17 **FIFTEENTH CAUSE OF ACTION**

18 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS IN VIOLATION OF FEHA**

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

20 122. Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 121, inclusive, of this Complaint as though fully set forth herein.

22 123. California Government Code section 12940(n) provides that it is unlawful for an
23 employer to fail to engage in a timely, good faith, interactive process with an employee to
24 determine effective accommodations for that employee's physical disability.

25 124. Defendants failed to engage in a timely, good faith, interactive process with Plaintiff
26 to determine effective reasonable accommodations for Plaintiff's known physical disabilities.

27 125. As a direct and proximate result of the aforementioned acts and omissions of
28 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
loss of income (past and future), loss of employment benefits (past and future), general and

1 compensatory damages (past and future), mental pain and anguish and emotional distress (past
2 and future), and will continue to suffer in the future, in an amount to be proved at trial.

3 126. The foregoing conduct engaged in by Defendants and each of their directors, officers
4 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
5 and carried on with a conscious and willful disregard of their workers' right to engage in the
6 interactive process and receive reasonable accommodations, so as to justify the imposition of
7 punitive damages to punish and set an example of said Defendants.

8 127. As a proximate result of the foregoing conduct, which violated the provisions of
9 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
10 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

11 **SIXTEENTH CAUSE OF ACTION**

12 **RETALIATION IN VIOLATION OF FEHA**

13 **(Plaintiff against all named Defendants and all DOE Defendants)**

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

16 129. At all times herein mentioned, Government Code section 12940 et. seq. was in full
17 force and effect and was binding upon Defendants and each of them. Said statute imposes certain
18 duties upon Defendants concerning discrimination and retaliation against persons, such as
19 Plaintiff, on the basis of physical disability or on the basis of Plaintiff requesting time off of
20 work/missing time from work due to a physical disability. Said statutes were intended to prevent
21 the type of injury and damage set forth herein. Plaintiff was, at all times herein mentioned, a
22 member of the class of persons intended to be protected by said statutes. As alleged above,
23 Plaintiff was retaliated against and was eventually terminated from his employment as a result
24 of his physical disabilities, and for requesting time off/being forced to miss work as a result of
25 his physical disabilities.

26 130. As a direct and proximate result of Defendants' conduct, Plaintiff has been harmed
27 in that Plaintiff has suffered the loss of wages, salary, and benefits, among other things. As a
28 result, Plaintiff has suffered such damages in an amount according to proof.

131. As a further direct and proximate result of the conduct of Defendants, and each of

1 them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish and
2 emotional distress, and has been harmed in mind and body. As a result, Plaintiff has suffered
3 such damages in an amount according to proof.

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

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

16 134. FEHA provides for an award of reasonable attorneys' fees and costs incurred by a
17 prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
18 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
19 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
20 award of attorneys' fees and costs.

21 **SEVENTEENTH CAUSE OF ACTION**

22 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION IN VIOLATION**

23 **OF FEHA**

24 **(Plaintiff against all named Defendants and all DOE Defendants)**

25 135. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 134, inclusive, of this Complaint as though fully set forth herein.

27 136. At all times herein mentioned, FEHA, California Government Code section 12940(k),
28 was in full force and effect and was binding on Defendants. This statute states that it is an
unlawful employment practice in California for an employer to "fail to take all reasonable steps

1 necessary to prevent discrimination and harassment from occurring.”

2 137. During the course of Plaintiff’s employment, Defendants failed to prevent their
3 employees, including management, from engaging in intentional actions that resulted in Plaintiff
4 being treated less favorably and eventually being terminated because of Plaintiff’s protected
5 status (i.e. his physical disabilities). During the course of Plaintiff’s employment, Defendants
6 failed to prevent their employees from engaging in unjustified employment practices against
7 employees in such protected classes. During the course of Plaintiff’s employment, Defendants
8 failed to prevent a pattern and practice by its employees of intentional discrimination and
9 retaliation on the basis of physical disabilities, and/or other protected status and/or protected
10 activity.

11 138. Plaintiff believes and, on that basis, alleges that his physical disabilities and other
12 protected status and/or protected activity in asking for time off work was a substantial motivating
13 factor in Defendants’ employees’ discriminating against him and retaliating against him.

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

19 140. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive, and
20 each of their directors, officers and/or managing agents, constitutes malice, fraud, and oppression
21 and was authorized, ratified, and carried on with a conscious and willful disregard of their
22 workers’ right to work in an environment in which personnel decisions and company policies
23 are made without regard to physical disability, so as to justify the imposition of punitive damages
24 to punish and set an example of said Defendants.

25 141. As a proximate result of the foregoing conduct, which violated the provisions of
26 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney’s
27 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

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1 **EIGHTEENTH CAUSE OF ACTION**

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

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

4 142. Plaintiff re-alleges and incorporates by reference each and every allegation in
5 paragraphs 1 through 141 inclusive, of this Complaint as though fully set forth herein.

6 143. At all times during his employment with Defendants, Plaintiff performed his duties
7 with the utmost diligence and competence.

8 144. Plaintiff is informed and believes and thereon alleges that Defendants' decisions to
9 discriminate against him and retaliate against him, as alleged herein, was motivated by Plaintiff's
10 physical disabilities and Plaintiff having to miss work due to his disability. Plaintiff is further
11 informed and believes and thereon alleges that any other reasons proffered by Defendants were
12 and are pretextual in nature. Defendants intentionally created the aforementioned discrimination
13 and retaliation and failed to reasonably accommodate Plaintiff's physical disability, thereby not
14 giving Plaintiff an opportunity to work in an environment free of discrimination and retaliation.

15 145. The employment of Plaintiff was wrongfully terminated on or around February 22, 2022
16 in violation of the fundamental public policy of the State of California with respect to
17 discriminating against an employee on account of his physical disabilities as well as denying
18 reasonable accommodations to Plaintiff. Plaintiff was forced to hire an attorney to assist him to
19 end these illegal activities. Said conduct violated statutory and constitutional expressions of
20 public policy including, but not limited to, California Government Code sections 12940 et seq.,
21 and the California Constitution, Article 1 section 8.

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

28 147. As a direct and proximate result of the aforementioned acts and omissions of

1 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
2 loss of income (past and future), loss of employment benefits (past and future), general and
3 compensatory damages (past and future), mental pain and anguish and emotional distress (past
4 and future), and will continue to suffer in the future, in an amount to be proved at trial.

5 148. The foregoing conduct engaged in by Defendants and each of their directors, officers
6 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
7 and carried on with a conscious and willful disregard of their workers' right to work in an
8 environment free of discrimination and retaliation based on physical disability and where
9 workers receive reasonable accommodations for their physical disabilities, and where workers
10 do not get retaliated against due to issues related to their physical disabilities, so as to justify the
11 imposition of punitive damages to punish and set an example of said Defendants.

12 **NINETEENTH CAUSE OF ACTION**

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

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

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

16 149. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 148, inclusive, of this Complaint as though fully set forth herein.

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

21 151. Defendant's violations of California labor laws and the Labor Code constitutes a
22 business practice because it was done repeatedly over a significant period of time in a
23 systematic manner that was detrimental to Plaintiff and others.

24 152. California Business and Professions Code section 17200 et seq. prohibits unfair
25 business practices by employers including, but not limited to, widespread violations of
26 California laws as well as retaliating against and terminating employees due to a physical
27 disability, and requesting time off work due to a physical disability.

28 153. The aforementioned acts of Defendants was willful, wanton, malicious, intentional,
oppressive, and despicable and was done in willful and conscious disregard of the rights, welfare,

1 and safety of Plaintiff, and was done by managerial agents and employees of Defendant and
2 DOES 1 to 25, and with the express knowledge, consent, and ratification of managerial agents
3 and employees of Defendants and DOES 1 to 25, thereby justifying the awarding of punitive and
4 exemplary damages in an amount to be determined at the time of trial.

5 154. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to reasonable
6 attorneys' fees and costs of said suit as specifically provided in California Code of Civil
7 Procedure Section 1021.5 and California Business and Professions Code section 17200 et seq.

8 155. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to multiple
9 damages as specifically provided in California Business and Professions Code section 17200 et
10 seq.

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

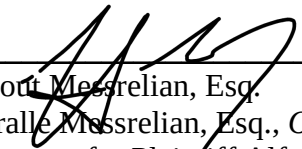
14 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
15 follows:

- 16 1. For general and compensatory damages including lost past wages, regular wages,
17 overtime, and all other sums of money, together with interest on said amounts, and any
18 other economic injury to Plaintiff, according to proof;
- 19 2. For special, liquidated, and consequential damages to the extent allowed by law;
- 20 3. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
21 at trial;
- 22 4. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
23 subject to proof at trial;
- 24 5. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
25 proof at trial;
- 26 6. For restitution and disgorgement for all unfair business practices by Defendants
27 against Plaintiff in an amount subject to proof at trial;
- 28 7. For an order enjoining Defendants from further unfair and unlawful business
practices in violation of Business and Professions Code Sections 17200, et seq.;

8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
10. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claim;
11. 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;
12. For the imposition of civil penalties and/or statutory penalties;
13. For all interest as allowed by law;
14. For all costs and disbursements incurred in this suit;
15. Reasonable attorney's fees where available by law, including but not limited to, pursuant to Labor Code section 2698 et seq., and the California Labor Code and/or other applicable laws;
16. For an award of punitive and exemplary damages against Defendants according to proof; and
17. For such other and further relief as this Court may deem proper.

DATED: June 17, 2022

MESSRELIAN LAW INC.

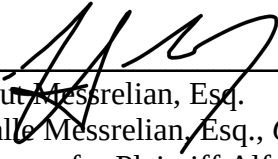
By 
Harout Messrelian, Esq.
Maralle Messrelian, Esq., Of Counsel
Attorneys for Plaintiff Alfredo Valdovinos

DEMAND FOR JURY TRIAL

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

DATED: June 17, 2022

MESSRELIAN LAW INC.

By 
Haroun Messrelian, Esq.
Maralle Messrelian, Esq., *Of Counsel*
Attorneys for Plaintiff Alfredo Valdovinos