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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

RAQUEL CASTANEDA,

Plaintiff,

vs.

JEFFREY METZ TRAINING STABLE;
JEFFREY METZ; and DOES 1 to 25,
inclusive,

Defendants.

) CASE NO.: 22STCV18418

) **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) DISCRIMINATION ON THE BASIS**
) **OF PHYSICAL DISABILITY IN**
) **VIOLATION OF FAIR**
) **EMPLOYMENT AND HOUSING**
) **ACT ("FEHA");**
) **11) FAILURE TO ACCOMMODATE**
) **PHYSICAL DISABILITY IN**
) **VIOLATION OF FEHA;**
) **12) FAILURE TO ENGAGE IN**
) **INTERACTIVE PROCESS TO**
) **DETERMINE REASONABLE**
) **ACCOMMODATION IN**
) **VIOLATION OF FEHA;**

) **13) RETALIATION IN VIOLATION OF**
) **FEHA;**
) **14) FAILURE TO PREVENT**
) **DISCRIMINATION AND**
) **RETALIATION IN VIOLATION OF**
) **FEHA;**
) **15) WRONGFUL TERMINATION IN**
) **VIOLATION OF PUBLIC POLICY;**
) **16) VIOLATION OF CALIFORNIA**
) **BUSINESS AND PROFESSIONS**
) **CODE SECTION 17200.**
) **DEMAND FOR JURY TRIAL**

COMES NOW Plaintiff, RAQUEL CASTANEDA (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 Los Angeles in this judicial district because JEFFREY METZ TRAINING STABLE; JEFFREY METZ; and DOES 1 to 25, inclusive (hereinafter collectively known as "Defendant(s)" or "METZ"), 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 was a female resident of the State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant JEFFREY METZ TRAINING STABLE is and was a California business, form unknown, doing business in Los Angeles County, California, and which employed Plaintiff.

4. Defendant JEFFREY METZ is an individual, who at all relevant times and on information and belief resided in Los Angeles County, California. Plaintiff is informed and believes that Defendant JEFFREY METZ was acting on behalf of and was the managing agent

1 and owner of JEFFREY METZ TRAINING STABLE and was also Plaintiff's main supervisor.
2 JEFFREY METZ controlled the day-to-day operations of JEFFREY METZ TRAINING
3 STABLE and exerted control over the wages, hours, and working conditions of Plaintiff and
4 other similarly situated aggrieved employees. Plaintiff is also including Defendant JEFFREY
5 METZ in this Complaint pursuant to California Labor Code section 558.1.

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

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

20 **GENERAL ALLEGATIONS**

21 7. Plaintiff started working for METZ as a horse walker on or around June 2021.
22 Plaintiff's employment ended on or around September 2021. Castaneda was supposed to be
23 classified as an hourly, non-exempt worker; however, she was not paid as such. Plaintiff's
24 duties included washing, cleaning, and walking the horses. She would also have to sweep the
25 stables. Plaintiff's typical schedule was 5am to 1pm. It is Plaintiff's position that METZ has
26 violated numerous Labor Code Sections against Plaintiff and other similarly situated aggrieved
27 employees.

1 8. METZ violated Labor Code section 226.8. Pursuant to Labor Code section 226.8(a)(1),
2 it is unlawful for any person or employer to willfully misclassify an individual as an independent
3 contractor. “Willful misclassification means avoiding employee status for an individual by
4 voluntarily and knowingly misclassifying that individual as an independent contractor.” Cal.
5 Lab. Code Section 226.8(i)(4). If a person or employer has willfully misclassified an individual
6 as an independent contractor, the person or employer shall be subject to a civil penalty of not
7 less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for
8 each violation, in addition to any other penalties or fines permitted by law. Cal. Lab. Code
9 Section 226.8(b). If the person or employer has engaged in or is engaging in a pattern or practice
10 of willfully misclassifying individuals as independent contractors, the person or employer shall
11 be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than
12 twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or
13 fines permitted by law. Cal. Lab. Code Section 226.8(c).

14 9. In a very important decision, Dynamex Operations v. Superior Court (2018) 4 Cal. 5th
15 903, the Supreme Court developed the “ABC TEST” to determine whether an independent
16 contractor is an employee. Under the ABC TEST, a worker will be deemed to have been
17 “suffered or permitted to work,” and thus, an employee for wage order purposes, unless the
18 putative employer proves:

19 (A) that the worker is free from the control and direction of the hiring entity in connection with
20 the performance of the work, both under the contract for the performance of the work and in fact;

21 (B) that the worker performs work that is outside the usual course of the hiring entity’s business;
22 and

23 (C) that the worker is customarily engaged in an independently established trade, occupation, or
24 business of the same nature as the work performed.

25 Note that each of these requirements need to be met in order for the presumption that a worker
26 is an employee to be rebutted, and for a court to recognize that a worker has been properly
27 classified as an independent contractor.

28 Here, it is unequivocally clear that METZ would not be able to get past the second part

1 of the test since Plaintiff and others, who were employed as horse walkers or horse groomers,
2 were unequivocally doing work related to METZ's core business of horse training. As such,
3 METZ willfully misclassified Plaintiff and other aggrieved employees as independent
4 contractors. Moreover, there was plenty of control by METZ as it related to Plaintiff's and other
5 aggrieved employees' schedules and working conditions in terms of scheduling and work duties.
6 Moreover, the tools and instrumentalities used to do the grooming and horse walking was
7 provided by METZ.

8 10. As alluded to above, METZ did not provide Plaintiff and other similarly situated
9 aggrieved employees compensation for all hours worked and did not provide them with the
10 minimum wages to which they were entitled for work performed pursuant to California Labor
11 Code sections 1194, 1197 and 1197.1. This is so because Plaintiff was not paid for all hours
12 worked and was paid approximately \$750 per check every 15 days or so, on Fridays, no matter
13 how many hours she worked. Plaintiff was not paid hourly and she should have been paid as
14 such under California law. In addition, Plaintiff and others actually clocked in and clocked out
15 in terms of their work hours (via a pin number and fingerprint). Despite the clock-in and clock-
16 out system, there were occasions wherein Plaintiff and others would walk the horses for 2-3
17 hours and not be paid at all for that time in violation of California's minimum wage laws.

18 11. Due to the above, including the "off the clock" work, METZ also violated Labor Code
19 §510 because it failed to pay Plaintiff and other similarly situated aggrieved employees overtime,
20 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
21 throughout their employment. This is so because Plaintiff and others were paid \$750 per pay
22 period no matter how many hours they worked. There was no set hourly rate and, as such, no
23 overtime rate of pay. METZ did not have a policy on paying overtime compensation as it simply
24 was not part of the company practice and culture. As mentioned above, Plaintiff and other
25 similarly situated aggrieved employees worked more than 8 hours per day, 12 hours per day,
26 and/or 40 hours per week, however, they were not compensated for their overtime hours at all.
27 Overtime compensation did not exist since Plaintiff and the others were not even paid on an
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1 hourly basis.

2 12. METZ also violated Labor Code § 226.7 and the appropriate Industrial Welfare
3 Commission Wage Order no. 4/10 because it failed to provide Plaintiff and others with 10-
4 minute rest periods for every four hours of work, or majority portion thereof, throughout their
5 employment. METZ did not completely relieve Plaintiff and others of all duty during said rest
6 periods. METZ did not pay to Plaintiff and others one additional hour of pay at Plaintiff's regular
7 rate of compensation for each workday that one or more statutory rest periods was not provided.
8 It was not company policy and not part of the company culture for employees such as Plaintiff
9 and others to take rest breaks. As such, the culture at METZ did not lend itself to the employees
10 receiving statutory breaks every 4 hours worked wherein they were relieved of all work duties.
11 It was the normal practice and custom of METZ not to authorize, permit, and enforce statutory
12 rest periods. As such, the environment and culture at METZ was not conducive to receiving
13 statutory rest breaks under California law. In fact, Plaintiff did not receive a single timely,
14 uninterrupted rest period during her entire employment tenure at METZ.

15 13. METZ violated Labor Code §§ 512 and 226.7 along with the appropriate Industrial
16 Welfare Commission Wage Order no. 4/10 because it failed to provide Plaintiff and others the
17 requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout their
18 employment. METZ did not completely relieve Plaintiff and others of all duty during said meal
19 periods. METZ did not pay to Plaintiff and others one additional hour of pay at Plaintiff's regular
20 rate of compensation for each workday that one or more statutory meal periods was not provided.
21 Like the rest breaks, receiving a thirty-minute uninterrupted meal break was not part of the
22 company culture and was not enforced by METZ. It was the normal practice and custom of
23 METZ not to authorize, permit, and enforce statutory meal periods. In fact, Plaintiff and others
24 never received any meal breaks whatsoever, despite their shifts being longer than 5 hours.
25 Furthermore, there was no meal break waiver signed and there was no agreement to waive meal
26 breaks. Presumably, METZ assumed that employees like Plaintiff and others were not entitled
27 to statutory meal or rest breaks because they were "independent contractors". As alluded to
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1 above, Plaintiff and others were unequivocally misclassified as independent contractors and
2 should have been classified as W-2 employees who were entitled to overtime as well as meal
3 and rest breaks.

4 14. Furthermore, during the relevant time period, and due to the above enumerated labor
5 code violations, METZ failed to pay Plaintiff and others all wages due to them within any time
6 period specified by California Labor Code section 204, including compensation for all hours
7 worked, minimum wages, and premium pay for missed rest breaks and meal breaks. METZ was
8 also in violation of California Labor Code section 226(a), by failing to include pertinent
9 information on the wage statements, including but not limited to, all hours worked, all hourly
10 rates in effect, overtime hours worked, gross wages earned, premium pay for missed meal and
11 rest breaks, all deductions, net wages earned, gross wages earned, all deductions, the correct
12 name and address of the employing entity, the start and end of the pay period, among others. In
13 fact, due to Plaintiff and others being misclassified as independent contractors, METZ did not
14 provide Plaintiff and other aggrieved employee with any paystubs at all. As such, METZ did not
15 provide Plaintiff and other similarly situated aggrieved employees with complete, accurate
16 itemized wage statements during the PAGA period. During the relevant time period, METZ also
17 failed to keep accurate and complete payroll records showing the actual hours worked per day
18 and the wages paid to Plaintiff and others pursuant to California Labor Code sections 1174(d).

19 15. METZ also violated Labor Code § 203 because it willfully failed to pay Plaintiff and
20 other similarly situated aggrieved employees earned and due wages upon separation of
21 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
22 After Plaintiff stopped working at METZ and after Plaintiff's employment with METZ ended,
23 METZ failed and refused to pay all wages earned and due immediately upon separation. These
24 earned but unpaid wages include minimum wages and compensation for all hours worked as well
25 as premium pay for missed meal and rest breaks. Additionally, we believe that METZ did not
26 carry or have Worker's Compensation coverage for Plaintiff and other similarly situated
27 aggrieved employees in violation of Labor Code section 3700.5 and did not provide sick pay
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pursuant to Labor Code section 246.

16. It is also important to note that Plaintiff would have individual claims for wrongful termination in violation of public policy and in violation of the Fair Employment and Housing Act (FEHA) in that Plaintiff was terminated from her employment due to suffering on-the-job injuries as a result of a violent horse. As soon as Plaintiff reported her serious injuries to METZ, which included a broken rib, ripped tendons in her left shoulder, and bruising and injuries to her shoulders and hands, she was terminated in contravention of California law. Plaintiff was retaliated against and terminated based on her physical disabilities and the threat of her filing a worker's compensation action. Pursuant to California Government Code section 12960, Plaintiff has exhausted her administrative remedies. Plaintiff filed a complaint with the Department of Fair Employment and Housing ("DFEH"), alleging claims in this complaint. The DFEH immediately issued to Plaintiff a right to sue letter.

FIRST CAUSE OF ACTION

FAILURE TO COMPENSATE FOR ALL HOURS WORKED

(California Industrial Welfare Commission Order 4-2001/10-2001, California Code of Regulations Title 8 Section 11040/11100, and California Labor Code Section 1198)

(Plaintiff against all named defendants and all DOE defendants)

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

18. At all times relevant herein, Defendants were required to compensate its employees for all hours worked upon reporting for work at the appointed time stated by the employer pursuant to Industrial Welfare Commission Order 4-2001, California Code of Regulations, Title 8, Section 11040 and/or Industrial Welfare Commission Order 10-2001, California Code of Regulations, Title 8, Section 11100.

19. For the three (3) years preceding filing of this action, Defendants failed to compensate Plaintiff for all hours worked, including "off the clock" work as described above.

20. Under the aforementioned wage order and regulations, Plaintiff is to recover

1 compensation for all hours worked but not paid by Defendants for the three (3) years
2 preceding the filing of this Complaint.

3 21. As a proximate result of the aforementioned violations, Plaintiff has been damaged in
4 an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of
5 this Court.

6 22. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
7 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
8 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
9 reasonable attorney's fees and costs of suit.

10 23. 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 which will equal an
12 amount known to Plaintiff once she has obtained all of her payroll records from
13 Defendants.

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

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

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

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

20 25. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
21 to suffer or permit a California employee to work without paying wages at the minimum wage
22 rate for all hours worked as required by the applicable Industrial Welfare Commission
23 (hereinafter "IWC") Wage Order No. 4-2001, codified at California Code of Regulations, Title
24 8, Section 11040, subdivision 4 and/or Wage Order No. 10-2001, codified at California Code
25 of Regulations, Title 8, Section 11100, subdivision 4.

26 26. Pursuant to IWC Wage Order no. 4-2001 and/or 10-2001, subdivision 2(K)/2(H), at all
27 relevant times, "hours worked" included "the time during which an employee is subject to the
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control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so...”

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

28. 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.

29. For all hours worked by Plaintiff for which she 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.

30. 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.

THIRD CAUSE OF ACTION

FAILURE TO PAY OVERTIME

(California Industrial Welfare Commission Order 4-2001/10-2001, California Code of Regulations Title 8 Section 11040/11100)

(Plaintiff against all named defendants and all DOE defendants)

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

32. Pursuant to Industrial Welfare Commission Order No. 4-2001, California Code of

1 Regulations, Title 8, Section 11040 and/or Industrial Welfare Commission Order No. 10-2001,
2 California Code of Regulations, Title 8, Section 11100, for the period of Plaintiff's
3 employment, Defendants were required to compensate Plaintiff for all overtime, which is
4 calculated at one and one-half (1.5) times the regular rate of pay for hours worked in excess of
5 eight (8) in a day or forty (40) hours in a week, and two (2) times the regular rate of pay for
6 hours worked in excess of twelve (12) hours in a day or hours worked in excess of eight (8) on
7 the seventh consecutive work day in a week.

8 33. Plaintiff was a non-exempt employee entitled to the protections of the California
9 Industrial Welfare Commission Order No. 4-2001, California Code of Regulations, Title 8,
10 Section 11040 and/or California Industrial Welfare Commission Order No. 10-2001, California
11 Code of Regulations, Title 8, Section 11100.

12 34. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
13 single workweek on numerous occasions.

14 35. Plaintiff worked more than twelve (12) hours in a single workday and worked for a
15 period of seven (7) consecutive days.

16 36. Plaintiff was entitled to the above overtime premiums.

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

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

21 39. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's regular
22 rate of pay for hours worked past twelve (12) in a day and for hours worked in excess of eight
23 hours on the seventh consecutive day.

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

26 41. Defendants know or should know the actual dates of overtime worked, the amount of
27 overtime worked, and the amount of unpaid overtime due.
28

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

4 43. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
5 Regulations, Title 8, Sections 11040 and/or 11100 , Plaintiff is entitled to recover damages for
6 the nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
7 reasonable attorney's fees and costs of suit.

8 44. 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 **FOURTH CAUSE OF ACTION**

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

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

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

15 45. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 44, inclusive, of this Complaint as though fully set forth herein.

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

19 47. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
20 accurately reflected all information required by Labor Code Section 226, including but not
21 limited to, accurate figures for gross wages earned, net wages earned, total hours worked by
22 the employee (regular and overtime), all deductions, and premium pay for missed rest breaks
23 and meal breaks. Therefore, Defendants failed to maintain and provide accurate itemized wage
24 statements to Plaintiff in accordance with California Labor Code Section 226(a).

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

4 49. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
5 sustained damages, including loss of earnings, in an amount to be established at trial. As a
6 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
7 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
8 and attorney's fees pursuant to statute.

9 50. 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 **FIFTH CAUSE OF ACTION**

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

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

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

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

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

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

23 54. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
24 without abatement or reduction, any wages of an employee whose employment ends, the wages
25 of the employee shall continue as a penalty from the due date at the same rate until paid or until
26 an action is commenced; however, the wages shall not continue for more than 30 days for
27 failure to pay an employee owed wages.
28

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

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

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

10 58. 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.

13 **SIXTH CAUSE OF ACTION**

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

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

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

17 59. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.

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

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

23 62. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
24 informed, believes, and thereon alleges, that all times relevant during the liability period,
25 Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked,
26 including overtime hours and the minimum wage as well as premiums for missed rest breaks
27 and meal breaks.
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1 63. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
2 amount, subject to proof, to the extent she was not paid all wages each pay period. The precise
3 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
4 from Defendants' records or indirectly based on information from Defendants' records.

5 64. 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 according to proof at
7 trial.

8 **SEVENTH CAUSE OF ACTION**

9 **FAILURE TO GIVE REST BREAKS**

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

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

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

- 14 a. Title 8 of the California Code of Regulations Sections 11040(12)(A) and/or
15 11100(12)(A), which provide that every employer shall authorize and permit all
16 employees to take rest periods, which insofar as practicable shall be in the middle of
17 each work period. The authorized rest period time shall be based on the total hours
18 worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major
19 fraction thereof;
20 b. Title 8 of the California Code of Regulations Sections 11040(12)(B) and/or
21 11100(12)(B), which provides that if an employer fails to provide an employee a
22 rest period in accordance with the applicable provisions of this order, the employer
23 shall pay the employee one (1) hour of pay at employee's regular rate of
24 compensation for each workday that the rest period is not provided;
25 c. Title 8 of the California Code of Regulations sections 11040(20)(A) and/or
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1 11100(20)(A), which penalizes the employer \$50.00 for each initial violation, per
2 employee, of any provision of the Wage Order, and \$100.00 for each additional
3 violation thereafter per employee; and

- 4 d. California Labor Code section 226.7, which states that (a) no employer shall require
5 any employee to work during any rest period mandated by an applicable order of
6 the Industrial Welfare Commission, and (b) if an employer fails to provide an
7 employee a rest period in accordance with an applicable order of the Industrial
8 Welfare Commission, the employer shall pay the employee one (1) additional hour
9 of pay at employee's regular rate of compensation for each work day that the rest
10 period is not provided.
11

12 67. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute rest
13 break after every four (4) hours of work or major fraction thereof, as required by California
14 law.
15

16 68. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
17 regulations, and wage orders alleged in this cause of action along with any allowable interest,
18 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
19 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
20

21 69. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
22 fees as well as interest under Labor Code section 218.6.
23

24 70. 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 according to proof at
26 trial.
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EIGHTH CAUSE OF ACTION

FAILURE TO GIVE MEAL BREAKS

(Plaintiff against all named defendants and all DOE defendants)

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

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

- a. California Labor Code section 512(a), which requires that employees be given a 30-minute uninterrupted meal break after five (5) hours of work, and a second uninterrupted meal break after ten (10) hours of work;
- b. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any meal period mandated by an applicable order of the Industrial Welfare Commission, and (b) if any employer fails to provide an employee a meal period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- c. California Industrial Welfare Commission Order No. 4 and/or 10 section 11(B)/11(D), as codified under Title 8 of the California Code of Regulations Section 11040 and/or 11100, which state that if an employer fails to provide an employee a meal period in accordance with the applicable provisions of the Wage Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided;
- d. California Industrial Welfare Commission Wage Order No. 4 and/or 10 Section 7(A)(3), as codified under Title 8 of the California Code of Regulations Section

1 11040 and/or 11100, which require an employer to maintain records documenting
2 its employees' meal periods;

3 e. California Industrial Welfare Commission wage order No. 4 and/or 10 Section
4 20(A), as codified under California Code of Regulations Section 11040 and/or
5 11100, which penalizes the employer \$50.00 for each initial violation, per
6 employee, of any provision of the Wage Order, and \$100.00 for each additional
7 violation thereafter per employee; and

8 f. California Labor Code section 1171 and 1173, which have given the California
9 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order nos. 4
10 and/or 10) as enforceable law.
11

12 73. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks
13 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
14 to take a second relieved meal break after ten (10) hours of work, as required by California
15 law. California Labor Code section 512(a) and California Industrial Welfare Commission
16 Order No. 4 and/or 10, as codified under California Code of Regulations Sections 11040 and/or
17 11100 et. seq., require that employees receive uninterrupted meal periods every five (5) hours
18 of consecutive work, and that the meal period be at least 30 minutes in length, wherein
19 employee is relieved of all work duty. California Labor Code section 226.7 provides that
20 employers may not require their employees to work through their meal periods. California
21 Labor Code section 226.7 and California Code of Regulations section 11040 and/or 11100
22 require that if the employer fails to provide the employee with an uninterrupted meal period,
23 the employer must pay the employee one (1) hour of pay for each workday that the meal period
24 is not given.
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27 74. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
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1 regulations, and wage orders alleged in this cause of action along with any allowable interest,
2 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
3 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

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

6 76. 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 **NINTH CAUSE OF ACTION**

10 **PRIVATE ATTORNEYS GENERAL ACT**

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

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

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

16 78. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
17 Defendants of the specific violations of the California Labor Code that Defendants
18 and DOE defendants have violated and continue to violate.

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

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

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

4 82. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
5 violator and had one or more of the alleged violations committed against her, and therefore is
6 properly suited to represent the interests of other current and former employees who worked
7 for JEFFREY METZ at any location in the state of California during the relevant PAGA
8 period.

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

12 84. Plaintiff therefore has exhausted all administrative remedies required of her 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 85. California Labor Code section 2699 et seq. imposes penalties upon culpable
17 Defendants for violating the Labor Code.

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

26 87. 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
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1 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
2 employees in this specific cause of action under the Private Attorneys General Act.

3 88. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
4 the following:

5 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
6 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 3700.5, via 2698
7 and 2699 and any other Labor Codes and Industrial Welfare Commission Wage Order
8 Provisions (nos. 4 and/or 10) violated based on the facts alleged in this Complaint.

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

13 **TENTH CAUSE OF ACTION**

14 **DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION**
15 **OF FEHA**

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

17 90. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 89, inclusive, of this Complaint as though fully set forth herein.

19 91. At all times mentioned herein, the FEHA, Government Code section 12900 et
20 seq., was in full force and effect and binding upon Defendants and each of them.

21 92. Government Code section 12940(a) provides that it is an unlawful employment
22 practice for an employer to discharge a person from employment because of "[r]ace, religious
23 creed, color, national origin, ancestry, physical disability, mental disability, medical condition,
24 genetic information, marital status, sex, age, sexual orientation, or military and veteran status."
25

26 93. California Government Code section 12926(m) has established a "broad
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1 definition” of physical disability: disability protections under the Fair Employment and
2 Housing Act (“FEHA”) even extend to “perceived” physical disabilities. *Id.* Under the law of
3 this state, “working” is a major life activity. *See* section 12926.1(c).

4 94. Plaintiff’s broken rib, ripped tendons in her left shoulder and injury to her hands, which
5 was debilitating, and which limited a major life activity, qualifies as a disability under the
6 FEHA, and Plaintiff was entitled to its protection.

7 95. Defendants knew of Plaintiff’s disability Defendants violated California Government
8 Code section 12940 et. seq. by discriminating against Plaintiff on the basis of her disabilities.

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

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

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

23 **ELEVENTH CAUSE OF ACTION**

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

25 **FEHA**

(Plaintiff against all named Defendants and all DOE Defendants)

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

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

101. Defendants knew of Plaintiff's disabilities as Plaintiff reported it directly to management/ownership.

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

103. As a direct and proximate result of the aforementioned acts and omissions of 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 compensatory damages (past and future), mental pain and anguish and emotional distress (past and future), and will continue to suffer in the future, in an amount to be proved at trial.

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

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

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TWELFTH CAUSE OF ACTION

FAILURE TO ENGAGE IN INTERACTIVE PROCESS IN VIOLATION OF FEHA

(Plaintiff against all named Defendants and all DOE Defendants)

106. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 105, inclusive, of this Complaint as though fully set forth herein.

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

108. As described above, Defendants knew that Plaintiff suffered from physical disabilities. Defendants failed to engage in any kind of interactive process with Plaintiff in order to determine whether they could provide Plaintiff with reasonable accommodations. Instead, Defendants pursued discriminatory actions against Plaintiff, including terminating Plaintiff's employment.

109. As a direct and proximate result of the aforementioned acts and omissions of 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 compensatory damages (past and future), mental pain and anguish and emotional distress (past and future), and will continue to suffer in the future, in an amount to be proved at trial.

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

111. As a proximate result of the foregoing conduct, which violated the provisions of

1 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
2 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

3 **THIRTEENTH CAUSE OF ACTION**

4 **RETALIATION IN VIOLATION OF FEHA**

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

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

8 113. At all times herein mentioned, Government Code section 12940 et. seq. was in
9 full force and effect and was binding upon Defendants and each of them. Said statute imposes
10 certain duties upon Defendants concerning discrimination and retaliation against persons, such
11 as Plaintiff, on the basis of physical disability or on the basis of Plaintiff requesting time off of
12 work/missing time from work due to a physical disability. Said statutes were intended to
13 prevent the type of injury and damage set forth herein. Plaintiff was, at all times herein
14 mentioned, a member of the class of persons intended to be protected by said statutes. As
15 alleged above, Plaintiff was retaliated against and terminated from her employment as a result
16 of her physical disability and for requesting time off as a result of her physical disability.

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

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

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

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

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

21 **FOURTEENTH 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)**

25 119. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 118, inclusive, of this Complaint as though fully set forth herein.
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1 120. At all times herein mentioned, FEHA, California Government Code section
2 12940(k), was in full force and effect and was binding on Defendants. According to
3 Government Code § 12940(k), it is an unlawful employment practice for an employer to fail to
4 take all reasonable steps necessary to prevent disability discrimination from occurring.

5 121. As described above, Defendants knew that Plaintiff suffered from a physical
6 Disability. Defendants failed to engage in any kind of interactive process with Plaintiff in order
7 to determine whether it could provide Plaintiff with reasonable accommodations. Instead,
8 Defendants pursued discriminatory actions against Plaintiff, including terminating Plaintiff's
9 employment.
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11 122. During the course of Plaintiff's employment, Defendants failed to prevent their
12 employees, including management, from engaging in intentional actions that resulted in
13 Plaintiff being treated less favorably and eventually being terminated because of Plaintiff's
14 protected status (i.e., her physical disability). During the course of Plaintiff's employment,
15 Defendants failed to prevent their employees from engaging in unjustified employment
16 practices against employees in such protected classes. During the course of Plaintiff's
17 employment, Defendants failed to prevent a pattern and practice by its employees of
18 intentional discrimination and retaliation on the basis of physical disability, and/or other
19 protected status and/or protected activity.
20

21 123. Plaintiff believes and, on that basis, alleges that her physical disability
22 was a substantial motivating factors in Defendants' employees' discriminating against her and
23 retaliating against her.
24

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

3 125. The foregoing conduct engaged in by Defendants and DOES 1 to 25, inclusive,
4 and each of their directors, officers and/or managing agents, constitutes malice, fraud, and
5 oppression and was authorized, ratified, and carried on with a conscious and willful disregard
6 of their workers' right to work in an environment in which personnel decisions and company
7 policies are made without regard to physical disability, so as to justify the imposition of
8 punitive damages to punish and set an example of said Defendants.
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10 126. As a proximate result of the foregoing conduct, which violated the provisions of
11 Government Code section 12940, et seq., Plaintiff has been forced to and will incur attorney's
12 fees and costs in the prosecution of this claim, in an amount to be proven at trial.

13 **FIFTEENTH CAUSE OF ACTION**

14 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC**
15 **POLICY**

16 **(Against All Named and DOE Defendants)**

17 127. Plaintiff re-alleges and incorporates by reference each and every allegation in
18 paragraphs 1 through 126 inclusive, of this Complaint as though fully set forth herein.

19 128. At all times during her employment with Defendants, Plaintiff performed her
20 duties with the utmost diligence and competence.

21 129. Plaintiff is informed and believes and thereon alleges that Defendants' decision
22 to discriminate against her and retaliate against her, as alleged herein, was motivated by
23 Plaintiff's physical disabilities. Plaintiff is further informed and believes and thereon alleges
24 that any other reasons proffered by Defendants were and are pretextual in nature. Defendants
25 intentionally created the aforementioned discrimination and retaliation and failed to reasonably
26 accommodate Plaintiff's physical disability, thereby not giving Plaintiff an opportunity to work
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1 in an environment free of discrimination and retaliation.

2 130. The employment of Plaintiff was wrongfully terminated on or around
3 September 2021 in violation of the fundamental public policy of the State of California with
4 respect to discriminating against an employee on account of her physical disability
5 as well as denying reasonable accommodations to Plaintiff. Plaintiff was forced to hire an
6 attorney to assist her to end these illegal activities. Said conduct violated statutory and
7 constitutional expressions of public policy including, but not limited to, California Government
8 Code sections 12940 et seq., and the California Constitution, Article 1 section 8.

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

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

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

3 **SIXTEENTH CAUSE OF ACTION**

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

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

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

7
8 134. Plaintiff re-alleges and incorporates by reference each and every allegation in
9 paragraphs 1 through 133, inclusive, of this Complaint as though fully set forth herein.

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

13 136. Defendant's violations of California labor laws and FEHA constitutes a business
14 practice because it was done repeatedly over a significant period of time in a systematic
15 manner that was detrimental to Plaintiff and other similarly situated aggrieved employees.

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

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

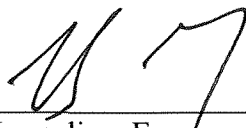
- 22 1. For compensatory damages to Plaintiff in an amount subject to proof at trial;
23 2. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
24 at trial;
25 3. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
26 subject to proof at trial;
27 4. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
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- 1 proof at trial;
- 2 5. For restitution and disgorgement for all unfair business practices by Defendants against
- 3 Plaintiff in an amount subject to proof at trial;
- 4 6. For an order enjoining Defendants from further unfair and unlawful business
- 5 practices in violation of Business and Professions Code Sections 17200, et seq.;
- 6 7. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
- 7 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 8 8. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
- 9 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 10 9. For maximum civil penalties available under the Labor Code and applicable Wage
- 11 Order against Defendants as described more particularly in the Complaint and
- 12 representative PAGA claims;
- 13 10. For all remedies available to Plaintiff under the applicable Wage Order and the
- 14 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
- 15 liquidated damages, damages, penalties, and waiting time penalties according to proof
- 16 to the extent permitted by law;
- 17 11. For the imposition of civil penalties and/or statutory penalties;
- 18 12. For general damages in an amount subject to proof at trial;
- 19 13. For punitive damages in an amount subject to proof at trial;
- 20 14. For all interest as allowed by law;
- 21 15. For all costs and disbursements incurred in this suit;
- 22 16. Reasonable attorney's fees where available by law, including but not limited to,
- 23 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5,
- 24 California Labor Code, FEHA, and/or other applicable laws; and
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1 17. For such other and further relief as this Court may deem proper.

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3 DATED: June 5, 2022

MESSRELIAN LAW INC.

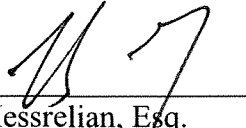
4 By 
5 Harout Messrelian, Esq.
6 Attorneys for Plaintiff Raquel Castaneda

7 **DEMAND FOR JURY TRIAL**

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

9
10 DATED: June 5, 2022

MESSRELIAN LAW INC.

11 By 
12 Harout Messrelian, Esq.
13 Attorneys for Plaintiff Raquel Castaneda
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