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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ISMAEL CRUZ,

Plaintiff,

vs.

NOBEL TEXTILE, INC.; MASOUD
ENAYATI; and DOES 1 to 25, inclusive,

Defendants.

CASE NO.: 22STCV22797

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 PROVIDE REST BREAKS;**
- 8) FAILURE TO PROVIDE MEAL BREAKS;**
- 9) PRIVATE ATTORNEYS GENERAL ACT ("PAGA")**
- 10) FAILURE TO REIMBURSE 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 BUSINESS AND
) PROFESSIONS CODE SECTION
) 17200
)
)
)
) JURY TRIAL DEMANDED

COMES NOW Plaintiff ISMAEL CRUZ (hereinafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, and VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants NOBEL TEXTILE, INC.; MASOUD ENAYATI and DOES 1 to 25, inclusive, (hereinafter collectively known as "Defendant(s)" or "NOBEL"), do business in the County of Los Angeles, and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff's damages sought herein exceed \$25,000.

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

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

1 NOBEL TEXTILE, INC. is a California Corporation, doing business in the County of Los
2 Angeles, State of California, and which employed Plaintiff.

3 4. Defendant MASOUD ENAYATI ("ENAYATI") is an individual, who at all relevant
4 times and on information and belief resided in the State of California. Plaintiff is informed and
5 believes that Defendant MASOUD ENAYATI was acting on behalf of and was the managing
6 agent and owner of NOBEL TEXTILE, INC. In relevant part, California Labor Code § 558.1
7 states:
8

9 (a) Any employer or other person acting on behalf of an employer, who violates, or
10 causes to be violated, any provision regulating minimum wages or hours and days of
11 work in any order of the Industrial Welfare Commission, or violates, or causes to be
violated, §§ 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer
for such violation.

12 (b) For purposes of this section, the term "other person acting on behalf of an employer"
13 is limited to a natural person who is an owner, director, officer, or managing agent of
14 the employer, and the term "managing agent" has the same meaning as in subdivision
(b) of § 3294 of the Civil Code.

15 Based on Plaintiff's information and belief, Defendant ENAYATI is the CEO of
16 Defendant NOBEL, INC. and controls and is intimately involved in the day-to-day operations of
17 NOBEL. Defendant ENAYATI is typically present at the corporate office daily throughout the
18 work week and is managing and supervising his employees and monitoring them throughout the
19 workday. Defendant ENAYATI hires friends and family members to work for Defendant
20 NOBEL. Defendant ENAYATI has a policy in place for NOBEL's staff/employees to speak to
21 him directly regarding any work-related issues, which would include wage and hour/payroll
22 issues. Therefore, Defendant ENAYATI is liable to Plaintiff and similarly situated aggrieved
23 employees for his violations of, or causing Defendant NOBEL to violate the Labor Code and the
24 Wage Order pursuant to Labor Code section 558.1 in that ENAYATI controlled the wages, hours
25 and/or working conditions of Plaintiff and other aggrieved employees.
26

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

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

13 **GENERAL ALLEGATIONS**

14 7. Plaintiff started working for NOBEL over a decade ago. Plaintiff's employment ended
15 on or around March 1, 2022. During his employment tenure, Plaintiff was supposed to be
16 classified as an hourly, non-exempt employee. Plaintiff generally worked approximately 5 days
17 per week.

18
19 8. NOBEL has committed the below labor code violations against Plaintiff and other
20 hourly, non-exempt employees, including technicians. In the case of Huff v. Securitas Sec.
21 Servs. USA, Inc., 23 Cal. App. 5th 745 (2018), Plaintiff, Huff, was employed as a security
22 guard for the Defendant Employer, Securitas Security Services USA, Inc., an onsite security
23 provider. After about a year of employment, Huff resigned. Huff then filed suit against
24 Securitas under PAGA. In his claim, Huff specifically alleged violations to the Labor Code
25 requiring immediate payment of wages upon termination of employment and weekly payment
26 of wages to temporary employees. The trial court determined Huff was not a temporary
27 employee, and therefore, lacked standing to bring the claim. Thus, Securitas was granted a
28

1 motion for summary judgement. Later, the trial court granted Huff a new trial. Securitas then
2 appealed the grant of a new trial. On appeal, the issue was whether Huff could bring a PAGA
3 claim and sue for Labor Code violations that did not directly affect him. Securitas
4 unsuccessfully argued that the PAGA statute only allows the PAGA representative to sue for
5 violations that the representative has personally suffered. The PAGA statute states that an
6 “aggrieved employee” is able to file suit on behalf of themselves and others. The statute also
7 states that an “aggrieved employee” is “any person who was employed by the alleged violator
8 and against whom one or more of the alleged violations was committed.” Because at least one
9 of the violations that Huff had alleged had affected him personally, the Court of Appeal denied
10 Securitas’ motion.

11 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
12 other employees, it allows for suits broader than the specific violations the named employee
13 experienced. Therefore, even if the employee did not personally experience the Labor Code
14 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff’s
15 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
16 other hourly employees, including hourly non-exempt employees.

17 10. Furthermore, it is Plaintiff’s position that NOBEL has committed the following labor
18 code violations against Plaintiff and other hourly, non-exempt employees who worked for
19 NOBEL at any of their California locations during the relevant PAGA period:

20 11. NOBEL did not provide Plaintiff and other similarly situated aggrieved employees with
21 the minimum wages to which they were entitled for all work performed and did not
22 compensate him and others for all hours worked pursuant to California Labor Code sections
23 1194, 1197 and 1197.1. Plaintiff and others were not paid for all hours worked and consistently
24 worked “off the clock” in that the company had a policy and practice of rounding down work
25 hours to the detriment of employees, which is akin to a minimum wage violation. In the same
26 vein, it seemed like Plaintiff was paid a daily wage or salary as opposed to an hourly rate and
27 this daily wage was not connected in any reasonable way to the total number of hours worked,
28 including overtime (see below). This is so because the company apparently classified Plaintiff

1 as a salaried, exempt employee which is a wrong classification. Plaintiff did not meet the
2 executive, professional, or administrative exemptions and was a laborer. He did not have the
3 ability to hire and fire and was not managing any individuals. Moreover, Plaintiff's "salary"
4 does not meet the salary test in California as it is too low of a salary. Based on the latter,
5 Plaintiff and others should have been compensated on an hourly basis and Plaintiff and others
6 should have been classified as hourly, non-exempt employees, who are entitled to overtime
7 compensation. In fact, one look at Plaintiff's paystubs reveal that the "hours/units" category is
8 0.0. Moreover, to the extent employees such as Plaintiff and others worked through their meal
9 periods or their meal periods were interrupted, they were not compensated for that time, which
10 would be akin to a minimum wage violation. To the extent, Plaintiff was paid on a piece-rate
11 basis, California Labor Code section 226.2, effective January 1, 2016, provides that employees
12 shall be compensated for rest and recovery periods and other non-productive time separate
13 from any piece-rate compensation. Section 226.2 further requires that employees must be
14 compensated for these time periods at a rate no less than the highest federal, state, or local
15 minimum wage that is applicable to the employment. The latter was unequivocally not done
16 and Plaintiff and others were not paid for rest and recovery periods and other non-productive
17 time as evidenced by his paystubs.

18 12. NOBEL also violated Labor Code §510 because it failed to pay Plaintiff and others
19 similarly situated overtime compensation, even though they worked more than 8 hours per day,
20 12 hours per day and/or 40 hours per week throughout their employment. As alluded to above,
21 Plaintiff and others were not paid on an hourly basis, were misclassified as "exempt", and
22 consistently worked overtime that was not compensated at 1.5 times or 2-times their regular rate
23 of pay. Overtime compensation was simply not part of the company culture as evidenced by
24 Plaintiff's and others' pay stubs. Moreover, NOBEL did not factor in the bonuses (end of the
25 year bonus of \$600) in deciphering Plaintiff's regular rate of pay for purposes of figuring out the
26 overtime rate of pay.

27 13. NOBEL violated Labor Code § 226.7 along with Industrial Welfare Commission Wage
28 Order no. 1/4 because it failed to provide Plaintiff and other similarly situated aggrieved

1 employees 10-minute rest periods for every four hours of work, or majority portion thereof,
2 throughout their employment. NOBEL did not completely relieve Plaintiff of all duty during
3 said rest periods. NOBEL did not pay to Plaintiff one additional hour of pay at Plaintiff's regular
4 rate of compensation for each workday that one or more statutory rest periods was not provided.
5 Rest breaks were not authorized or enforced at the company. In fact, it was not part of NOBEL's
6 culture for employees such as Plaintiff and others to take at least one 10-minute rest break every
7 day wherein they are relieved of all work duties. As rest breaks were not enforced and were not
8 taken by Plaintiff and other similarly situated aggrieved employees.

9 14. NOBEL also violated Labor Code §§ 512 and 226.7 along with Industrial Welfare
10 Commission Wage Order No. 1/4 because it failed to provide Plaintiff and other similarly
11 situated aggrieved employees the requisite 30-minute, uninterrupted meal periods for every five
12 (5) hours of work throughout their employment, and Plaintiff did not validly waive said meal
13 periods. NOBEL did not completely relieve Plaintiff of all duties during said meal periods.
14 NOBEL did not pay to Plaintiff one additional hour of pay at Plaintiff's regular rate of
15 compensation for each workday that one or more statutory meal periods was not provided. If
16 NOBEL had Plaintiff sign a meal period waiver, it would not be valid and enforceable since
17 Plaintiff and others generally worked more than a 6-hour shift. If NOBEL had Plaintiff sign an
18 on-duty meal period agreement wherein Plaintiff agreed to work through his meal period, it
19 would also be invalid and unenforceable because the nature of Plaintiff's job does not prevent
20 him from taking a meal period. As such, Plaintiff and others did not consistently receive
21 statutory, timely meal periods during their employment. In other words, there wasn't always an
22 uninterrupted and timely 30-minute meal period for any employees, including Plaintiff, that was
23 taken before the 5th hour worked. In fact, if Plaintiff was able to take a meal break, it was often
24 interrupted almost all the time because his help was needed in the warehouse. As was the case
25 with rest periods, consistent meal breaks were definitively not part of the NOBEL's culture. The
26 meal periods were not always authorized and were not enforced.

27 15. Furthermore, even if NOBEL did in fact provide meal or rest period penalties to Plaintiff
28 and others for late, short, interrupted, or no meal or rest periods, that does not absolve NOBEL

1 of PAGA penalties. In *Kirby v. Immoos Fire Protection, Inc.* (2012) 53 Cal.4th 1244, 1256, the
2 Court stated that “section 226.7 does not give employers a lawful choice between
3 providing *either* meal and rest breaks *or* an additional hour of pay” (emphasis in original). Thus,
4 the extra hour of pay does not excuse the violation; the employer has still committed a violation
5 even if the remedy for the violation has been paid. See also *Wert v. U.S. Bancorp* (S.D. Cal. Mar.
6 22, 2016, 2016 WL 1110302 at *4).

7 16. Furthermore, during the relevant time period, and due to the above-cited labor code
8 violations, NOBEL failed to pay Plaintiff and other similarly situated aggrieved employees all
9 wages due to them within any time period specified by California Labor Code section 204,
10 including the minimum wages and overtime as described above as well as meal/rest break
11 premiums. NOBEL was also in violation of California Labor Code section 226(a) by not
12 providing access to paystubs and failing to include pertinent information on the wage statements,
13 including but not limited to, all hours worked, gross wages earned, net wages earned, all
14 deductions, premium payments for meal and rest breaks, overtime compensation, the correct
15 legal name and address of employing, the correct beginning and end of the pay period, all
16 applicable hourly rates, and all identifying employee information, among other items. As such,
17 NOBEL did not provide Plaintiff and other similarly situated aggrieved employees with
18 complete, accurate itemized wage statements.

19 17. NOBEL violated Labor Code § 203 because it willfully failed to pay Plaintiff and other
20 similarly situated aggrieved employees earned and due wages upon separation of employment,
21 either immediately upon involuntary termination, or within 72 hours of resignation. These earned
22 but unpaid wages include compensation for all hours worked including minimum wages,
23 overtime, and premiums for the missed meal and rest breaks.

24 18. During the relevant time period, NOBEL also failed to keep accurate and complete
25 payroll records showing the actual hours worked per day (including the time for meal periods)
26 and the wages paid to Plaintiff and other aggrieved employees pursuant to California Labor Code
27 sections 1174(d).
28

1 19. Additionally, during the relevant time period, Plaintiff and others incurred necessary,
2 business-related expenses and costs that were not reimbursed by NOBEL. These costs include,
3 but are not limited to, use of personal cell phones for work purposes. Accordingly, NOBEL was
4 in violation of California Labor Code sections 2800 and 2802.

5 20. Moreover, NOBEL failed to provide sick pay pursuant to Labor Code sections 232 and
6 246 and also failed to provide Worker's Compensation coverage for Plaintiff and other aggrieved
7 employees in violation of Labor Code Section 3700.5. In addition, NOBEL failed to provide a
8 suitable rest break area for employees such as Plaintiff and others in contravention of Industrial
9 Welfare Commission Wage Order no. 1-2001/4-2001.

10 21. Additionally, Plaintiff would also have claims against NOBEL for wrongful termination
11 based on Plaintiff being terminated for alleged attendance issues after getting authorization to be
12 off work and/or leave early from work. Moreover, Plaintiff had been complaining for some time
13 about on-the-job injuries that he had sustained, specifically to his right eye, back, and shoulder.
14 NOBEL refused to send Plaintiff to a worker's compensation doctor or to open up a worker's
15 compensation claim on his behalf after he unequivocally told the company he was injured on-
16 the-job. Plaintiff was treated different and discriminated against due to his disabilities, which he
17 had informed Defendants about and eventually wrongfully terminated from his employment.
18 Plaintiff has exhausted his administrative remedies. Prior to the filing of this lawsuit,
19 Plaintiff filed a complaint with the Department of Fair Employment and Housing ("DFEH"),
20 alleging claims in this complaint. The DFEH immediately issued to Plaintiff a right to sue
21 letter.

22 **FIRST CAUSE OF ACTION**

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

24 **(California Industrial Welfare Commission Order 4-2001/1-2001, California Code of**
25 **Regulations Title 8 Section 11040/11010, and California Labor Code Section 1198)**

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

27 22. Plaintiff re-alleges and incorporates by reference each and every allegation in
28

1 paragraphs 1 through 21, inclusive, of this Complaint as though fully set forth herein.

2 23. At all times relevant herein, Defendants were required to compensate its employees for
3 all hours worked upon reporting for work at the appointed time stated by the employer
4 pursuant to Industrial Welfare Commission Order 4-2001, California Code of Regulations,
5 Title 8, Section 11040 and/or Industrial Welfare Commission Order 1-2001, California Code of
6 Regulations, Title 8, Section 11010.

7 24. For the three (3) years preceding filing of this action, Defendants failed to compensate
8 Plaintiff for all hours worked.

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

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

15 27. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and
16 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is
17 entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus
18 reasonable attorney's fees and costs of suit.

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

23 **SECOND CAUSE OF ACTION**

24 **FAILURE TO PAY MINIMUM WAGES**

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

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

27 29. Plaintiff re-alleges and incorporates by reference each and every allegation in
28

1 paragraphs 1 through 28, inclusive, of this Complaint as though fully set forth herein.

2 30. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
3 to suffer or permit a California employee to work without paying wages at the minimum wage
4 rate for all hours worked as required by the applicable Industrial Welfare Commission
5 (hereinafter "IWC") Wage Order No. 4-2001, codified at California Code of Regulations, Title
6 8, Section 11040, subdivision 4 and/or Wage Order No. 1-2001, codified at California Code of
7 Regulations, Title 8, Section 11010, subdivision 4.

8 31. Pursuant to IWC Wage Order no. 4-2001 and/or 1-2001, subdivision 2(K)/2(G), at all
9 relevant times, "hours worked" included "the time during which an employee is subject to the
10 control of an employer, and includes all the time the employee is suffered or permitted to work,
11 whether or not required to do so..."

12 32. During his employment, Plaintiff was regularly required as a matter of uniform
13 policy and practice to work, and in fact worked, as an employee of Defendants and Plaintiff
14 was paid less than the minimum wage rate by Defendants for hours worked in violation of
15 California Labor Code Section 1197 and the applicable California Industrial Wage
16 Commission wage order(s).

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

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

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

FAILURE TO PAY OVERTIME

(Plaintiff against all named defendants and all DOE defendants)

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 forty (40) in a week.

1 44. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's regular
2 rate of pay for hours worked past twelve (12) in a day.

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

5 46. Defendants know or should know the actual dates of overtime worked, the amount of
6 overtime worked, and the amount of unpaid overtime due. Plaintiff worked more than 8 hours
7 per day and/or 40 hours per week, however, he was not compensated for his overtime hours due
8 to being forced to clock out and continue working "off the clock" as described above in the
9 factual allegations section, which is incorporated herein. Management and ownership would see
10 Plaintiff and others clocking out but continuing to clean up as it was company policy and
11 standard operating procedure. Moreover, when Plaintiff worked on the weekends, he was paid
12 cash, but did not actually receive overtime pay. As such, the company paid workers cash instead
13 of actually paying employees overtime and reporting it on their paystubs and NOBEL was
14 unequivocally aware that Plaintiff's work hours on Saturday as well as all of the "off the clock"
15 work entitled Plaintiff to overtime, but willfully and purposefully did not compensate Plaintiff
16 for any overtime hours worked at the overtime rates.

17 47. As a proximate result of Defendants' 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 48. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
21 Regulations, Title 8, Sections 11040 and/or 11010, Plaintiff is entitled to recover damages for
22 the nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
23 reasonable attorney's fees and costs of suit.

24 49. 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.

27 ///

FOURTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(California Labor Code Section 226)

(Plaintiff against all named defendants and all DOE defendants)

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

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

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

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

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

1 and attorney's fees pursuant to statute.

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

5 **FIFTH CAUSE OF ACTION**

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

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

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

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

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

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

16 59. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
17 without abatement or reduction, any wages of an employee whose employment ends, the wages
18 of the employee shall continue as a penalty from the due date at the same rate until paid or until
19 an action is commenced; however, the wages shall not continue for more than 30 days for
20 failure to pay an employee owed wages. Defendants unequivocally knew that Plaintiff was
21 owed additional wages at the end of his employment because they were aware that Plaintiff had
22 worked "off the clock" as alleged above and had worked overtime hours on Saturday without
23 being compensated at the overtime rate. As such, when Plaintiff's employment ended,
24 Defendants knew that Plaintiff was owed money above and beyond the hours worked for that
25 final pay period and willfully and knowingly did not pay Plaintiff all wages owed at the end of
26 his employment.

27 60. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
28

1 continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

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

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

9 63. 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 **SIXTH CAUSE OF ACTION**

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

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

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

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

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

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

22 67. Defendants failed to pay Plaintiff all wages earned each pay period since Plaintiff
23 alleges that he did not receive compensation for all hours worked and did not receive overtime
24 compensation for overtime hours worked. Plaintiff is informed, believes, and thereon alleges,
25 that all times relevant during the liability period, Defendants maintained a policy or practice of
26 not paying Plaintiff wages for all hours worked, including overtime hours and the minimum
27 wage as well as premiums for missed rest breaks and meal breaks.
28

1 68. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
2 amount, subject to proof, to the extent he 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 69. 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 70. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 69, inclusive, of this Complaint as though fully set forth herein.

13 71. 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 11010(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
21 b. Title 8 of the California Code of Regulations Sections 11040(12)(B) and/or
22 11010(12)(B), which provides that if an employer fails to provide an employee a
23 rest period in accordance with the applicable provisions of this order, the employer
24 shall pay the employee one (1) hour of pay at employee's regular rate of
25 compensation for each workday that the rest period is not provided;
26
27 c. Title 8 of the California Code of Regulations sections 11040(20)(A) and/or
28

1 11010(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 72. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute
13 rest break after every four (4) hours of work or major fraction thereof, as required by California
14 law. Defendants and its management did not make rest breaks available and did not authorize
15 Plaintiff to take rest breaks because it was not company policy to take uninterrupted, off-duty
16 rest breaks. In addition, Plaintiff was instructed that he was not allowed to leave the warehouse
17 unattended at any point and always had to be monitoring the warehouse, which meant that
18 Plaintiff was never "off duty" and was never able to take two ten-minute rest breaks during any
19 of his shifts. As such, company policy and standard practice dictated that rest breaks were not
20 enforced since none of the other employees took rest breaks.
21

22 73. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
23 regulations, and wage orders alleged in this cause of action along with any allowable interest,
24 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
25 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.
26

27 74. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
28

1 fees as well as interest under Labor Code section 218.6.

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

5 **EIGHTH CAUSE OF ACTION**

6 **FAILURE TO GIVE MEAL BREAKS**

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

8
9 76. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 75, inclusive, of this Complaint as though fully set forth herein.

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

- 12 a. California Labor Code section 512(a), which requires that employees be given a 30-
13 minute uninterrupted meal break after five (5) hours of work, and a second
14 uninterrupted meal break after ten (10) hours of work;
15
16 b. California Labor Code section 226.7, which states that (a) no employer shall require
17 any employee to work during any meal period mandated by an applicable order of
18 the Industrial Welfare Commission, and (b) if any employer fails to provide an
19 employee a meal period in accordance with an applicable order of the Industrial
20 Welfare Commission, the employer shall pay the employee one (1) additional hour
21 of pay at the employee's regular rate of compensation for each workday that the
22 meal period is not provided;
23
24 c. California Industrial Welfare Commission Order No. 4 and/or 1 section 11(A) and
25 (D), as codified under Title 8 of the California Code of Regulations Section 11040
26 and/or 11010, which state that if an employer fails to provide an employee a meal
27 period in accordance with the applicable provisions of the Wage Order, the
28

1 employer shall pay the employee one (1) hour of pay at the employee's regular rate
2 of compensation for each workday that the meal period is not provided;

3 d. California Industrial Welfare Commission Wage Order No. 4 and/or 1 Section
4 7(A)(3), as codified under Title 8 of the California Code of Regulations Section
5 11040 and/or 11010, which require an employer to maintain records documenting
6 its employees' meal periods;

7 e. California Industrial Welfare Commission wage order No. 4 and/or 1 Section
8 20(A), as codified under California Code of Regulations Section 11040 and/or
9 11010, which penalizes the employer \$50.00 for each initial violation, per
10 employee, of any provision of the Wage Order, and \$100.00 for each additional
11 violation thereafter per employee; and
12

13 f. California Labor Code section 1171 and 1173, which have given the California
14 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order nos. 4
15 and/or 1) as enforceable law.
16

17 78. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
18 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
19 take a second relieved meal break after ten (10) hours of work, as required by California law.
20 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
21 4 and/or 1, as codified under California Code of Regulations Sections 11040 and/or 11010 et.
22 seq., require that employees receive uninterrupted meal periods every five (5) hours of
23 consecutive work, and that the meal period be at least 30 minutes in length, wherein employee
24 is relieved of all work duty. California Labor Code section 226.7 provides that employers may
25 not require their employees to work through their meal periods. California Labor Code section
26 226.7 and California Code of Regulations section 11040 and/or 11010 require that if the
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1 employer fails to provide the employee with an uninterrupted meal period, the employer must
2 pay the employee one (1) hour of pay for each workday that the meal period is not given.
3 Defendants and its management did not make meal breaks available for Plaintiff and instructed
4 Plaintiff to unload items from the trucks when the pallet drop-offs would occur during the
5 lunch break. As such, Defendant and its management were unequivocally aware that Plaintiff
6 was "off the clock" and trying to eat his lunch when they instructed him to help with the
7 unloading of the pallets. As such, it was company policy and practice for Plaintiff to stop
8 eating, help unload, and then come back and resume eating if time permitted.
9

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

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

16 81. 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
20 **NINTH CAUSE OF ACTION**

21 **PRIVATE ATTORNEYS GENERAL ACT**

22 **Individual and Representative Claim for PAGA penalties under California Labor Code**
23 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.2, 226.3, 226.7, 246, 510, 512, 558,**
1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5, and provisions of IWC Wage Order no. 1/4)

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

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

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

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

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

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

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

15 87. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
16 violator and had one or more of the alleged violations committed against him, and therefore is
17 properly suited to represent the interests of other current and former employees, including all
18 hourly, non-exempt employees who worked for NOBEL in California during the PAGA
19 period.

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

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

27 90. California Labor Code section 2699 et seq. imposes penalties upon culpable
28

1 Defendants for violating the Labor Code.

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

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

14 93. Specifically, Plaintiff seek penalties under California Labor Code section 2699, for
15 the following:

16 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
17 226.3, 226.7, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5 via
18 2698 and 2699 and any other Labor Codes and Industrial Welfare Commission Wage Order
19 Provisions (nos. 4 and/or 1) violated based on the facts alleged in this Complaint.

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

24 **TENTH CAUSE OF ACTION**

25 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

26 **(Plaintiff against all Defendants and DOE Defendants, and each of them)**

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

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

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

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

11 **ELEVENTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE PERSONNEL RECORDS**

13
14 **(Plaintiff against All Named Defendants and all DOE Defendants)**

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

17 100. Labor Code section 1198.5 dictates “every current and former employee, or his
18 or her representative, has the right to inspect and receive a copy of the personnel records that
19 the employer maintains relating to the employee’s performance or to any grievance concerning
20 the employee.”

21 101. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, “the
22 employer shall make the contents of those personnel records available for inspection to the
23 current or former employee, or his or her representative, at reasonable intervals and at
24 reasonable times...” On information and belief, Defendants intentionally failed to provide
25 Plaintiff with personnel records when requested by Plaintiff via letter on March 2, 2022, as
26 required by law. Plaintiff requested his personnel records in accordance with California Labor
Code section 1198.5(k) on March 2, 2022, via U.S. mail.

27 102. Defendants failed to provide Plaintiff with an opportunity to inspect or copy his
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1 records within 30 days. As a direct result of Defendants' violations alleged herein, Plaintiff has
2 suffered and continues to suffer substantial losses related to Defendants' failure to provide
3 personnel records.

4 103. Plaintiff seeks all available remedies for Defendants' violations including, but
5 not limited penalties, and costs to the extent permitted by law and according to proof at trial.
6 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
7 amount of \$750.00, along with costs and attorney's fees.

8 **TWELFTH CAUSE OF ACTION**
9 **FAILURE TO PROVIDE PAY RECORDS**

10 **(Plaintiff against All Named Defendants and all DOE Defendants)**

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

13 105. Labor Code section 226 sub-section (b) dictates "an employer...shall afford
14 current and former employees the right to inspect or copy records pertaining to their
15 employment, upon reasonable request to the employer..."

16 106. Moreover, pursuant to sub-section (c) of Labor Code section 226, "an employer
17 who receives a written or oral request to inspect or copy records pursuant to subdivision (b)
18 pertaining to a current or former employee shall comply with the request as soon as
19 practicable, but no later than 21 calendar days from the date of the request." On information
20 and belief, Defendants intentionally failed to provide Plaintiff with pay records when requested
21 by Plaintiff via letter, on March 2, 2022, and as required by law. Plaintiff requested his pay
22 records in accordance with California Labor Code section 226 on March 2, 2022, via mail.
23 Defendants failed to provide Plaintiff with an opportunity to inspect or copy his pay records
24 within 21 days.

25 107. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered
26 and continues to suffer substantial losses related to Defendants' failure to provide pay records.
27 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants in the
28 amount of \$750.00, along with costs and attorney's fees.

108. Plaintiff seeks all available remedies for Defendants' violations including, but

not limited penalties, and costs to the extent permitted by law and according to proof at trial.

THIRTEENTH CAUSE OF ACTION

DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION

OF FEHA

(Plaintiff against Nobel Textile, Inc. and all DOE Defendants)

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

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

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

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

113. Plaintiff’s injuries to his right eye, back, and shoulder, which were debilitating, and which limited a major life activity, qualify as a disability under the FEHA, and Plaintiff was entitled to its protection.

114. Defendants knew of Plaintiff’s disability. Defendants violated California Government Code section 12940 et. seq. by discriminating against Plaintiff on the basis of his disability.

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

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

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

17 **FOURTEENTH CAUSE OF ACTION**

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

19 **FEHA**

20 **(Plaintiff against Nobel Textile, Inc. and all DOE Defendants)**

21 118. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 117, inclusive, of this Complaint as though fully set forth herein.

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

26 120. Defendants knew of Plaintiff's physical injuries and disability as they were
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1 informed as such by Plaintiff.

2 121. Defendants failed to make reasonable accommodation of Plaintiff's physical
3 disability

4 122. 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
10 123. The foregoing conduct engaged in by Defendants and each of their directors,
11 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
12 ratified, and carried on with a conscious and willful disregard of their workers' right to receive
13 reasonable accommodations, so as to justify the imposition of punitive damages to punish and
14 set an example of said Defendants.

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

19 **FIFTEENTH CAUSE OF ACTION**

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

21 **(Plaintiff against Nobel Textile, Inc. and all DOE Defendants)**

22 125. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 124, inclusive, of this Complaint as though fully set forth herein.

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

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

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

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

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

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21 **SIXTEENTH CAUSE OF ACTION**

22 **RETALIATION IN VIOLATION OF FEHA**

23 **(Plaintiff against Nobel Textile, Inc. and all DOE Defendants)**

24 131. Plaintiff re-alleges and incorporates by reference each and every allegation in
25 paragraphs 1 through 130, inclusive, of this Complaint as though fully set forth herein.

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

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

13 134. As a further direct and proximate result of the conduct of Defendants, and each
14 of them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish
15 and emotional distress, and has been harmed in mind and body. As a result, Plaintiff has
16 suffered such damages in an amount according to proof.
17

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

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

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

12 **SEVENTEENTH CAUSE OF ACTION**

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

14 **OF FEHA**

15 **(Plaintiff against Nobel Textile, Inc. and all DOE Defendants)**

16 138. Plaintiff re-alleges and incorporates by reference each and every allegation in
17 paragraphs 1 through 137, inclusive, of this Complaint as though fully set forth herein.
18

19 139. At all times herein mentioned, FEHA, California Government Code section
20 12940(k), was in full force and effect and was binding on Defendants. According to
21 Government Code § 12940(k), it is an unlawful employment practice for an employer to fail to
22 take all reasonable steps necessary to prevent disability discrimination from occurring.
23

24 140. As described above, Defendants knew that Plaintiff suffered from a physical
25 Disability. Defendants failed to engage in any kind of interactive process with Plaintiff in order
26 to determine whether it could provide Plaintiff with reasonable accommodations. Instead,
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1 Defendants pursued discriminatory actions against Plaintiff, including terminating Plaintiff's
2 employment.

3 141. During the course of Plaintiff's employment, Defendants failed to prevent their
4 employees, including management, from engaging in intentional actions that resulted in
5 Plaintiff being treated less favorably and eventually being terminated because of Plaintiff's
6 protected status (i.e., his physical disability and request for time off). During the course of
7 Plaintiff's employment, Defendants failed to prevent their employees from engaging in
8 unjustified employment practices against employees in such protected classes. During the
9 course of Plaintiff's employment, Defendants failed to prevent a pattern and practice by its
10 employees of intentional discrimination and retaliation on the basis of physical disability,
11 and/or other protected status and/or protected activity.
12

13 142. Plaintiff believes and, on that basis, alleges that his physical disability,
14 and taking time off/requesting time off work to treat and evaluate his injuries, were substantial
15 motivating factors in Defendants' employees' discriminating against him and retaliating
16 against him.
17

18 143. As a direct and proximate result of the aforementioned acts and omissions of
19 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
20 loss of income (past and future), loss of employment benefits (past and future), general and
21 compensatory damages (past and future), mental pain and anguish and emotional distress (past
22 and future), and will continue to suffer in the future, in an amount to be proved at trial.
23

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

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

6 **EIGHTEENTH CAUSE OF ACTION**

7 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC**
8 **POLICY**

9 **(Plaintiff Against Nobel Textile, Inc. and DOE Defendants)**

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

12 147. At all times during his employment with Defendants, Plaintiff performed his
13 duties with the utmost diligence and competence.

14 148. Plaintiff is informed and believes and thereon alleges that Defendants' decision
15 to discriminate against him and retaliate against him, as alleged herein, was motivated by
16 Plaintiff's physical disability, and Plaintiff having to miss work and request time off due to his
17 disability. Plaintiff is further informed and believes and thereon alleges that any other reasons
18 proffered by Defendants were and are pretextual in nature. Defendants intentionally created the
19 aforementioned discrimination and retaliation and failed to reasonably accommodate Plaintiff's
20 physical disability, thereby not giving Plaintiff an opportunity to work in an environment free
21 of discrimination and retaliation.

22 149. The employment of Plaintiff was wrongfully terminated on or around late
23 February/early March 2022 in violation of the fundamental public policy of the State of
24 California with respect to discriminating against an employee on account of his physical
25 disability as well as denying reasonable accommodations to Plaintiff. Plaintiff was forced
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1 to hire an attorney to assist him to end these illegal activities. Said conduct violated statutory
2 and constitutional expressions of public policy including, but not limited to, California
3 Government Code sections 12940 et seq., and the California Constitution, Article 1
4 section 8.

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

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

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

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

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

5 **(Plaintiff against Nobel Textile, Inc. and all DOE defendants)**

6 153. Plaintiff re-alleges and incorporates by reference each and every allegation in
7 paragraphs 1 through 152, inclusive, of this Complaint as though fully set forth herein.

8 154. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
9 constitute unfair and unlawful business practices under California Business and Professions
10 Code Section 17200, et seq.

11 155. Defendants' violations of California labor laws and FEHA constitutes a business
12 practice because it was done repeatedly over a significant period of time in a systematic
13 manner that was detrimental to Plaintiff and other similarly situated aggrieved employees.

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

18 **PRAYER FOR RELIEF**

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

- 21 1. For compensatory damages including lost past and future wages, loss of earning
22 capacity, overtime, commissions, and all other sums of money, including employment
23 benefits, together with interest on said amounts, and any other economic injury to
24 Plaintiff, according to proof;
25
26 2. For general damages according to proof at trial;
27
28 3. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
at trial;

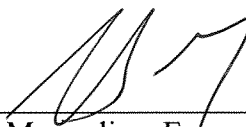
4. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
5. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to proof at trial;
6. For restitution and disgorgement for all unfair business practices by Nobel Textile, Inc. against Plaintiff in an amount subject to proof at trial;
7. For an order enjoining Defendant Nobel Textile, Inc. 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 special, liquidated, and consequential damages to the extent allowed by law;
11. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint and representative PAGA claims;
12. 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;
13. For punitive damages against Defendant NOBEL TEXTILE, INC. according to proof;
14. For the imposition of civil penalties and/or statutory penalties;
15. For all interest as allowed by law;
16. For all costs and disbursements incurred in this suit;

1 17. Reasonable attorney's fees where available by law, including but not limited to,
2 pursuant to Labor Code section 2698 et seq., FEHA, California Labor Code generally,
3 and/or other applicable laws; and

4 18. For such other and further relief as this Court may deem proper.

5
6 DATED: July 14, 2022

MESSRELIAN LAW INC.

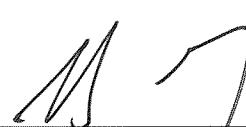
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8 By 
9 Harout Messrelian, Esq.
Attorneys for Plaintiff ISMAEL CRUZ

10
11 **DEMAND FOR JURY TRIAL**

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

13
14 DATED: July 14, 2022

MESSRELIAN LAW INC.

15
16 By 
17 Harout Messrelian, Esq.
18 Attorneys for Plaintiff ISMAEL CRUZ
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