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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF SANTA CLARA**

13 JUAN RAMOS,

14 Plaintiff,

15 vs.

16 BEAR SCAFFOLD AND SERVICES; and
17 DOES 1 to 25, inclusive,

18 Defendants.

19 CASE NO.: 22CV400988

20 **COMPLAINT FOR DAMAGES FOR:**

- 21 1) RETALIATION IN VIOLATION OF
22 LABOR CODE 1102.5;
23 2) WRONGFUL TERMINATION IN
24 VIOLATION OF PUBLIC POLICY;
25 3) INTENTIONAL INFLICTION OF
26 EMOTIONAL DISTRESS;
27 4) NEGLIGENT INFLICTION OF
28 EMOTIONAL DISTRESS;
5) VIOLATION OF CALIFORNIA
BUSINESS AND PROFESSIONS
CODE SECTION 17200.

DEMAND FOR JURY TRIAL

E-FILED
7/8/2022 12:28 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
22CV400988
Reviewed By: A. Fisher

COMES NOW Plaintiff, JUAN RAMOS (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 Santa Clara in this judicial district because Defendants BEAR SCAFFOLD AND SERVICES, and DOES 1 to 25, inclusive, do business in the County of Santa Clara and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Santa Clara is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

2. Plaintiff is a male resident of the city of Salinas, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant BEAR SCAFFOLD AND SERVICES is and was a California corporation, doing business in Santa Clara County, California, and which employed Plaintiff. BEAR SCAFFOLD AND SERVICES and DOES 1 to 25, are hereinafter collectively referred to as “BEAR SCAFFOLD” or “Defendants.”

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

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

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GENERAL ALLEGATIONS

6. Plaintiff started working for BEAR SCAFFOLD in or around 2013. Defendants wrongfully terminated Plaintiff's employment on or around January 2022. During his employment tenure, Plaintiff was classified as an hourly, non-exempt employee and his last rate of pay was approximately \$55 per hour as a foreman.

7. During Plaintiff's employment, there was a violent incident at work wherein Mr. Agustin Vasquez physically assaulted and battered Plaintiff by punching him in the face, kicking him in the stomach and threatening Plaintiff by stating, "I'm going to finish you". This happened directly in front of the supervisor, Oscar Sandoval, who did nothing at all about the incident. Defendants allegedly terminated Mr. Vasquez's employment, however, after some time off, re-hired Mr. Vasquez to come back to work for BEAR SCAFFOLD. Defendants never obtained Plaintiff's approval nor did they ask Plaintiff, a ten year employee, how he might feel about Mr. Vasquez's return to work. Upon Mr. Vasquez's return back to work, he once again started threatening Plaintiff's life by stating "I'm going to finish you". Plaintiff immediately notified his manager about the illegal conduct at the workplace. Plaintiff urged his supervisor to make a written report about Plaintiff's complaints and provide Plaintiff with a copy of said report.

8. Following Plaintiff's complaints of such illegal conduct in the workplace, BEAR SCAFFOLD retaliated against Plaintiff in violation of Labor Code Section 1102.5 and wrongfully terminated his employment in violation of public policy. Plaintiff was terminated on or around January 11, 2022 for allegedly working on another companies' scaffolding. In addition, Defendants alleged that Plaintiff had a bad temper and would have altercations with other employees. The truth of the matter was that Plaintiff was the victim and the one that had complained about illegal conduct in the workplace, including receiving criminal threats from a co-worker in violation of Penal Code Section 422 and being assaulted and battered by the same co-worker in violation of Penal Code section 242 and other statutes. Despite this, BEAR SCAFFOLD wrongfully terminated Plaintiff's employment based on his complaints.

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1 **FIRST CAUSE OF ACTION**

2 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5**

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

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

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

16 11. As discussed fully above, Plaintiff complained to Defendants about the illegal conduct
17 in the workplace.

18 12. Defendants retaliated against Plaintiff for his complaints, as alleged above, and
19 terminated Plaintiff's employment, all in violation of Labor Code § 1102.5.

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

25 14. Plaintiff requests all available relief under Labor Code § 1102.5 including damages
26 and the imposition of civil penalties of \$10,000 for each violation as well as attorney's fees under
27 Labor Code Section 1102.6.

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1 **SECOND CAUSE OF ACTION**

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

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

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

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

8 17. Plaintiff is informed and believes and thereon alleges that Defendants' decisions to
9 retaliate against him, as alleged herein, was motivated by Plaintiff's complaints about the illegal
10 conduct at the workplace. Plaintiff is further informed and believes and thereon alleges that any
11 other reasons proffered by Defendants were and are pretextual in nature. Defendants
12 intentionally created the aforementioned harassment and retaliation, thereby not giving Plaintiff
13 an opportunity to work in an environment free of harassment and retaliation.

14 18. The employment of Plaintiff was wrongfully terminated approximately on or around
15 January 11, 2022 in violation of the fundamental public policy of the State of California with
16 respect to retaliation for complaining about illegal conduct at the workplace. Plaintiff was forced
17 to hire an attorney to assist him to end these illegal activities. Said conduct violated statutory and
18 constitutional expressions of public policy including, but not limited to, California Government
19 Code sections 12940 et seq., and the California Constitution, Article 1 section 8.

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

26 20. As a direct and proximate result of the aforementioned acts and omissions of Defendants,
27 Plaintiff suffered general and compensatory damages, including but not limited to, loss of
28 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

1 (past and future), and will continue to suffer in the future, in an amount to be proved at trial.

2 21. The foregoing conduct engaged in by Defendants and each of their directors, officers
3 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
4 and carried on with a conscious and willful disregard of their workers' right to work in an
5 environment free of retaliation, and where workers do not get retaliated against for complaining
6 about illegal activities at the workplace, so as to justify the imposition of punitive damages to
7 punish and set an example of said Defendants.

8 **THIRD CAUSE OF ACTION**

9 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

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

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

13 23. Defendants' retaliatory actions against Plaintiff constituted severe and outrageous
14 misconduct and caused Plaintiff extreme emotional distress.

15 24. Defendants were aware that treating Plaintiff in the manner alleged above, including
16 terminating his employment, would devastate Plaintiff and cause Plaintiff extreme hardship.

17 25. As a direct and proximate result of the aforementioned acts and omissions of Defendants,
18 Plaintiff has been caused to and did in fact suffer severe and extreme mental and emotional
19 distress, including but not limited to, anguish, humiliation, embarrassment, loss of confidence,
20 fright, depression, and anxiety, the exact nature and extent of which are not now known to him,
21 but in an amount to be proved at trial.

22 26. Defendants' misconduct was done intentionally, in a malicious, fraudulent, oppressive
23 manner, entitling Plaintiff to punitive damages.

24 **FOURTH CAUSE OF ACTION**

25 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

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

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

28 28. As an employee of Defendants, Plaintiff was owed a duty of care by Defendants, and

1 each of them, to ensure that Plaintiff was not exposed to foreseeable harms.

2 29. Defendants, and each of them, knew, or should have known, that Plaintiff was receiving
3 criminal threats from a co-worker, was assaulted and battered by the same co-worker, and
4 retaliated against for his complaints of such illegal activity at the workplace , and that the failure
5 to exercise due care to prevent a retaliatory course of conduct could and would cause Plaintiff
6 to suffer severe emotional distress.

7 30. Defendants, and each of them, failed to exercise their duty of care to prevent their
8 employees, managers, supervisors, and/or officers from retaliating against Plaintiff based on
9 his complaints of illegal activity at the workplace.

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

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

17 **FIFTH CAUSE OF ACTION**

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

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

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

21 33. Plaintiff re-alleges and incorporates by reference each and every allegation in
22 paragraphs 1 through 32, inclusive, of this Complaint as though fully set forth herein.

23 34. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants
24 constitutes unfair and unlawful business practices under California Business and Professions
25 Code Section 17200, et seq.

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

36. California Business and Professions Code section 17200 et seq. prohibits unfair business

1 practices by employers including, but not limited to, widespread violations of California laws as
2 well as retaliating against employees for complaining about illegal conduct at the workplace.

3 37. The aforementioned acts of Defendants was willful, wanton, malicious, intentional,
4 oppressive, and despicable and was done in willful and conscious disregard of the rights, welfare,
5 and safety of Plaintiff, and was done by managerial agents and employees of Defendant and
6 DOES 1 to 25, and with the express knowledge, consent, and ratification of managerial agents
7 and employees of Defendants and DOES 1 to 25, thereby justifying the awarding of punitive and
8 exemplary damages in an amount to be determined at the time of trial.

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

12 39. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to multiple
13 damages as specifically provided in California Business and Professions Code section 17200 et
14 seq.

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

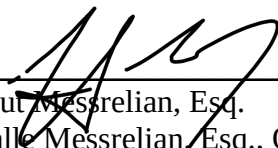
18 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
19 follows:

- 20 1. For compensatory damages including lost past and future wages, overtime, and all other
21 sums of money, including employment benefits, together with interest on said amounts,
22 and any other economic injury to Plaintiff, according to proof;
- 23 2. For general damages according to proof;
- 24 3. For special and consequential damages to the extent allowed by law;
- 25 4. For restitution and disgorgement for all unfair business practices by Defendants against
26 Plaintiff in an amount according to proof;
- 27 5. For an award of punitive and exemplary damages against Defendants according to
28 proof;

6. For the imposition of civil penalties and/or statutory penalties;
7. Reasonable attorney's fees where available by law, including but not limited to, pursuant to the California Code of Civil Procedure Section 1021.5, California Labor Code section 1102.6, and/or other applicable laws;
8. Costs and expenses of suit incurred herein;
9. For all interest as allowed by law; and
10. For such other and further relief as the Court deems just and proper.

DATED: July 8, 2022

MESSRELIAN LAW INC.

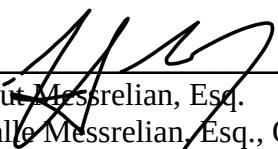
By 
Harout Messrelian, Esq.
Maralle Messrelian, Esq., Of Counsel
Attorneys for Plaintiff Juan Ramos

DEMAND FOR JURY TRIAL

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

DATED: July 8, 2022

MESSRELIAN LAW INC.

By 
Harout Messrelian, Esq.
Maralle Messrelian, Esq., Of Counsel
Attorneys for Plaintiff Juan Ramos