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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

KATARINA DANIELS,

Plaintiff,

vs.

FLYHOMES, INC and DOES 1 to 25,
inclusive,

Defendants.

) CASE NO.: 22STCV26593

) **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) FAILURE TO REIMBURSE FOR**
) **BUSINESS EXPENSES;**
) **10) PRIVATE ATTORNEYS GENERAL**
) **ACT ("PAGA");**
) **11) RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 1102.5;**
) **12) RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 98.6;**
) **13) WRONGFUL TERMINATION IN**
) **VIOLATION OF PUBLIC POLICY;**
) **14) VIOLATION OF CALIFORNIA**
) **BUSINESS AND PROFESSIONS**
) **CODE SECTION 17200.**

) **DEMAND FOR JURY TRIAL**

COMES NOW Plaintiff, KATARINA DANIELS (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 Defendants FLYHOMES, INC and DOES 1 to 25, inclusive, do business in the County of Los Angeles and because Defendants' obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff's damages sought herein exceed \$25,000.

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

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant FLYHOMES, INC. is and was a Delaware corporation doing business in Los Angeles, California, and which employed Plaintiff. FLYHOMES, INC and DOES 1 to 25, inclusive, are hereinafter collectively referred to as "Defendant(s)", "or "FLYHOMES".

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.

GENERAL ALLEGATIONS

6. Plaintiff started working at FLYHOMES on or around October 2021. Plaintiff was classified as an exempt, salaried employee and her official job title was "Partner Recruitment

1 Manager". It is Plaintiff's position that Plaintiff was misclassified as an exempt, salaried
2 employee. Under California law, in order for Plaintiff to be an exempt employee, she would
3 have to fit in one of the following categories: Executive, Professional, or Administrative.

4 7. Plaintiff' job duties included checking emails and slack messages, setting up
5 introductory meetings, answering agent phone calls and emails, database clean up, locating
6 agents' contact information, answer incoming calls from agents interested in using Flyhomes,
7 fielding daily escalation emails and calls from angry agents, educating agents about Flyhomes
8 products, going to sales meetings once per week, manually going through the database to find
9 out what agents submitted offers or referred clients, and making manual entries in the database.

10 8. Plaintiff did not fit under the Executive exemption because she was NOT "primarily
11 engaged in" (more than 50%) duties which met the test of exemption. Despite the term
12 "manager" being in her job title, Plaintiff did not manage or oversee anyone and did not have
13 the ability to hire and fire other employees. Work tasks are either exempt or nonexempt as
14 determined by the objective purpose for which the tasks are undertaken. *See Heyen v. Safeway*
15 *Inc.* (2013) 216 CA4th 795, 826-827. In the *Heyen* case, *supra*, a grocery store assistant
16 manager who spent more than half of her time bagging groceries or checking out customers
17 was deemed to be engaged in nonexempt activities despite concurrently watching over her
18 subordinates' work. Plaintiff did not spend the majority of her time in a managerial or
19 supervisory position.

20 9. Plaintiff did not fit under the Professional Exemption because her work did not fit into
21 one of the enumerated professions and is not considered a "learned or artistic profession." The
22 Administrative Exemption also does not apply to Plaintiff either.

23 10. The overall important thing to note is that Plaintiff could not have possibly been a
24 salaried, exempt employee because she simply did not have the independent judgment and
25 discretion. All of her actions were micromanaged and there is a great deal of oversight.

26 11. FLYHOMES has committed the below labor code violations against Plaintiff and other
27 hourly, non-exempt employees. In the case of *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal.
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1 App. 5th 745 (2018), Plaintiff, Huff, was employed as a security guard for the Defendant
2 Employer, Securitas Security Services USA, Inc., an onsite security provider. After about a
3 year of employment, Huff resigned. Huff then filed suit against Securitas under PAGA. In his
4 claim, Huff specifically alleged violations to the Labor Code requiring immediate payment of
5 wages upon termination of employment and weekly payment of wages to temporary
6 employees. The trial court determined Huff was not a temporary employee, and therefore,
7 lacked standing to bring the claim. Thus, Securitas was granted a motion for summary
8 judgement. Later, the trial court granted Huff a new trial. Securitas then appealed the grant of a
9 new trial. On appeal, the issue was whether Huff could bring a PAGA claim and sue for Labor
10 Code violations that did not directly affect him. Securitas unsuccessfully argued that the PAGA
11 statute only allows the PAGA representative to sue for violations that the representative has
12 personally suffered. The PAGA statute states that an “aggrieved employee” is able to file suit
13 on behalf of themselves and others. The statute also states that an “aggrieved employee” is
14 “any person who was employed by the alleged violator and against whom one or more of the
15 alleged violations was committed.” Because at least one of the violations that Huff had alleged
16 had affected him personally, the Court of Appeal denied Securitas’ motion.

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

23 13. Furthermore, it is Plaintiff’s position that FLYHOMES has committed numerous labor
24 code violations against Plaintiff and other hourly, non-exempt employees who worked for
25 FLYHOMES at any of their California locations during the relevant PAGA period.

26 14. FLYHOMES did not provide Plaintiff and other similarly situated aggrieved
27 employees, including hourly, non-exempt employees with the minimum wages to which they
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1 were entitled for all work performed and did not compensate her and others for all hours
2 worked pursuant to California Labor Code sections 1194, 1197 and 1197.1. Plaintiff and others
3 were not paid for all hours worked and consistently worked “off the clock” in that the company
4 had a policy and practice of rounding down work hours to the detriment of employees, which is
5 akin to a minimum wage violation. In addition, Plaintiff would consistently work from home
6 and outside of normal business hours but would not be paid for such time since she
7 misclassified as a salaried, exempt employee and would always have 80.00 hours noted on her
8 paystubs, even though she worked far in excess of those hours. Moreover, to the extent hourly
9 employees worked through their meal periods or their meal periods were interrupted, they were
10 not compensated for that time, which would be akin to a minimum wage violation.

11 15. Due to the above “off the clock” work, FLYHOMES also violated Labor Code §510
12 because it failed to pay Plaintiff and others overtime compensation, even though they worked
13 more than 8 hours per day, 12 hours per day and/or 40 hours per week throughout their
14 employment. Moreover, FLYHOMES did not factor in any bonuses or incentive payments in
15 deciphering Plaintiff’s and others’ regular rate of pay for purposes of figuring out the correct
16 overtime rate of pay.

17 16. FLYHOMES violated Labor Code § 226.7 along with Industrial Welfare Commission
18 Wage Order no. 4 because it failed to provide Plaintiff and other similarly situated aggrieved
19 employees, including hourly, non-exempt employees, 10-minute rest periods for every four
20 hours of work, or majority portion thereof, throughout their employment. FLYHOMES did not
21 completely relieve Plaintiff of all duty during said rest periods. FLYHOMES did not pay to
22 Plaintiff one additional hour of pay at Plaintiff’s regular rate of compensation for each workday
23 that one or more statutory rest periods was not provided. Rest breaks were not consistently
24 authorized or enforced at the company. In fact, it was not part of FLYHOMES’ culture for
25 employees such as Plaintiff and others to consistently take at least one 10-minute rest break every
26 day wherein they are relieved of all work duties.

27 17. FLYHOMES also violated Labor Code §§ 512 and 226.7 along with Industrial Welfare
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Commission Wage Order No. 4 because it failed to provide Plaintiff and other similarly situated aggrieved employees, including hourly, non-exempt employees, the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout their employment, and Plaintiff did not validly waive said meal periods. FLYHOMES did not completely relieve Plaintiff of all duties during said meal periods. FLYHOMES did not pay to Plaintiff one additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or more statutory meal periods was not provided. If FLYHOMES had Plaintiff and others sign a meal period waiver, it would not be valid and enforceable since Plaintiff and others generally worked more than a 6-hour shift. If FLYHOMES had Plaintiff and others sign an on-duty meal period agreement wherein Plaintiff agreed to work through her meal period, it would also be invalid and unenforceable because the nature of Plaintiff's job does not prevent her from taking a meal period. As such, Plaintiff and others did not consistently receive statutory, timely meal periods during their employment. In other words, there wasn't always an uninterrupted and timely 30-minute meal period for any employees, including Plaintiff, that was taken before the 5th hour worked. As was the case with rest periods, consistent meal breaks were definitively not part of the FLYHOMES's culture. The meal periods were not always authorized and were not enforced.

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

19. Furthermore, during the relevant time period, and due to the above-cited labor code violations, FLYHOMES failed to pay Plaintiff and other similarly situated aggrieved employees

1 all wages due to them within any time period specified by California Labor Code section 204,
2 including the minimum wages and overtime as described above as well as meal/rest break
3 premiums. FLYHOMES was also in violation of California Labor Code section 226(a) by not
4 providing access to paystubs and failing to include pertinent information on the wage statements,
5 including but not limited to, all hours worked, gross wages earned, net wages earned, all
6 deductions, premium payments for meal and rest breaks, overtime compensation, the correct
7 legal name and address of employing, the correct beginning and end of the pay period, all
8 applicable hourly rates, and all identifying employee information, among other items. As such,
9 FLYHOMES did not provide Plaintiff and other similarly situated aggrieved employees with
10 complete, accurate itemized wage statements.

11 20. FLYHOMES violated Labor Code § 203 because it willfully failed to pay our aggrieved
12 employees earned and due wages upon separation of employment, either immediately upon
13 involuntary termination, or within 72 hours of resignation. These earned but unpaid wages
14 include compensation for all hours worked including minimum wages, overtime, and premiums
15 for the missed meal and rest breaks.

16 21. During the relevant time period, FLYHOMES also failed to keep accurate and complete
17 payroll records showing the actual hours worked per day (including the time for meal periods)
18 and the wages paid to Plaintiff and other aggrieved employees pursuant to California Labor Code
19 sections 1174(d).

20 22. Additionally, during the relevant time period, Plaintiff and others incurred necessary,
21 business-related expenses and costs that were not reimbursed by FLYHOMES. These costs
22 include, but are not limited to, use of personal cell phones for work purposes and use of home
23 computer and internet to effectuate job duties. FLYHOMES was unequivocally aware that
24 Plaintiff was working at home and “off the clock” and utilizing her own equipment and did not
25 fully and accurately reimburse her for her business expenses. To the extent FLYHOMES
26 provided an allocation, it was not based on actual expenses incurred and was arbitrary and
27 insufficient. Accordingly, FLYHOMES was in violation of California Labor Code sections 2800
28

and 2802.

23. In addition, FLYHOMES failed to provide a suitable rest break area for employees such as Plaintiff and others in contravention of Industrial Welfare Commission Wage Order no. 4-2001.

24. Plaintiff sent out her PAGA notice to Defendant outlining Defendant's violations of California's wage and hour laws on or around April 14, 2022. As a retaliatory measure and due to Plaintiff's wage and hour complaints, Plaintiff was wrongfully terminated in the form of a lay off in July 2022. It is Plaintiff's belief that Plaintiff would not have been part of the lay off process had she not instituted a PAGA claim against Defendant and complained about wage and hour violations at the workplace.

FIRST CAUSE OF ACTION

FAILURE TO COMPENSATE FOR ALL HOURS WORKED

(California Industrial Welfare Commission Order 4-2001, California Code of Regulations Title 8 Section 11040, and California Labor Code Section 1198)
(Plaintiff against all named defendants and all DOE defendants)

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

26. At all times relevant herein, Defendants were required to compensate their 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.

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

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

29. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of

1 this Court.

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

6 31. 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 which will equal an
8 amount known to Plaintiff once she has obtained all of her payroll records from
9 Defendants.

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO PAY MINIMUM WAGES**

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

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

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

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

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

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

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

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

10 38. 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 **THIRD CAUSE OF ACTION**

14 **FAILURE TO PAY OVERTIME**

15 **(California Industrial Welfare Commission Order 4-2001, California Code of
16 Regulations Title 8 Section 11040; California Labor Code Section 510)**

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

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

20 40. Pursuant to Industrial Welfare Commission Order No. 4-2001, Cal. Code of Regs., Title
21 8, Section 11040, for the period of Plaintiff's employment, Defendants were required to
22 compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5) times the
23 regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week,
24 and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a
25 day or hours worked in excess of eight (8) on the seventh consecutive work day in a week.

26 41. Plaintiff was a non-exempt employee entitled to the protections of the California
27 Industrial Welfare Commission Order No. 4-2001, California Code of Regulations, Title 8,
28 Section 11040.

42. Plaintiff worked more than eight (8) hours in a single workday, twelve (12) hours in a

1 single workday or forty (40) hours in a single workweek on numerous occasions.

2 43. Plaintiff was entitled to the above overtime premiums.

3 44. Defendants did not pay Plaintiff premium wages of at least one and one-half times
4 Plaintiff's regular rate of pay for hours worked past eight (8) in a day. Defendants did not pay
5 Plaintiff premium wages of at least twice Plaintiff's regular rate of pay for hours worked past
6 twelve (12) in a day.

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

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

11 47. Defendants know or should know the actual dates of overtime worked, the amount of
12 overtime worked, and the amount of unpaid overtime due.

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

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

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

23 **FOURTH CAUSE OF ACTION**

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

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

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

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

52. Pursuant to California Labor Code Section 226, every employer must furnish each

1 employee an itemized statement of wages and deductions at the time of payment of wages.

2 53. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
3 accurately reflected all information required by Labor Code Section 226, including but not
4 limited to, all hours worked, gross wages earned, including overtime, minimum wages, and
5 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the
6 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed to
7 maintain and provide accurate itemized wage statements to Plaintiff in accordance with
8 California Labor Code Section 226(a).

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

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

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

23 **FIFTH CAUSE OF ACTION**

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

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

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

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

58. Pursuant to California Labor Code Section 201(a), an employer who discharges an

1 employee must immediately pay for all compensation due and owing.

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

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

10 61. After Plaintiff's employment with Defendants ended and after Plaintiff was terminated
11 from her employment, Defendants willfully refused and continue to refuse to pay her unpaid
12 wages as required by Labor Code Section 203.

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

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

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

23 **SIXTH CAUSE OF ACTION**

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

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

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

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

66. California Labor Code Section 204 establishes the fundamental right of all employees

1 in the State of California to be paid wages in a timely fashion for their work.

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

4 68. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is informed,
5 believes, and thereon alleges, that all times relevant during the liability period, Defendants
6 maintained a policy or practice of not paying Plaintiff wages for all hours worked, including
7 overtime hours, the minimum wage, and premium pay for missed meal and rest breaks.

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

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

15 **SEVENTH CAUSE OF ACTION**

16 **FAILURE TO GIVE REST BREAKS**

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

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

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

- 21 a. Title 8 of the California Code of Regulations Sections 11040(12)(A), which provides
22 that every employer shall authorize and permit all employees to take rest periods,
23 which insofar as practicable shall be in the middle of each work period. The
24 authorized rest period time shall be based on the total hours worked daily at the rate
25 of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
- 26 b. Title 8 of the California Code of Regulations Sections 11040(12)(B), which provides
27 that if an employer fails to provide an employee a rest period in accordance with the
28 applicable provisions of this order, the employer shall pay the employee one (1) hour
of pay at employee's regular rate of compensation for each workday that the rest

period is not provided;

- c. Title 8 of the California Code of Regulations sections 11040(20)(A), which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- d. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any rest period mandated by an applicable order of the Industrial Welfare Commission, and (b) if an employer fails to provide an employee a rest 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 employee's regular rate of compensation for each work day that the rest period is not provided.

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

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

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

76. 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.

EIGHTH CAUSE OF ACTION

FAILURE TO GIVE MEAL BREAKS

(Plaintiff against all named defendants and all DOE defendants)

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

78. 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-

1 minute uninterrupted meal break after five (5) hours of work, and a second
2 uninterrupted meal break after ten (10) hours of work;

- 3 b. California Labor Code section 226.7, which states that (a) no employer shall require
4 any employee to work during any meal period mandated by an applicable order of
5 the Industrial Welfare Commission, and (b) if any employer fails to provide an
6 employee a meal period in accordance with an applicable order of the Industrial
7 Welfare Commission, the employer shall pay the employee one (1) additional hour
8 of pay at the employee's regular rate of compensation for each workday that the meal
9 period is not provided;
- 10 c. California Industrial Welfare Commission Order No. 4 section 11(B), as codified
11 under Title 8 of the California Code of Regulations Section 11040, which states that
12 if an employer fails to provide an employee a meal period in accordance with the
13 applicable provisions of the Wage Order, the employer shall pay the employee one
14 (1) hour of pay at the employee's regular rate of compensation for each workday that
15 the meal period is not provided;
- 16 d. California Industrial Welfare Commission Wage Order No. 4 Section 7(A)(3), as
17 codified under Title 8 of the California Code of Regulations Section 11040, which
18 requires an employer to maintain records documenting its employees' meal periods;
- 19 e. California Industrial Welfare Commission wage order No. 4 Section 20(A), as
20 codified under California Code of Regulations Section 11040 , which penalizes the
21 employer \$50.00 for each initial violation, per employee, of any provision of the
22 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- 23 f. California Labor Code section 1171 and 1173, which have given the California Labor
24 Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4) as
25 enforceable law.

26 79. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
27 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
28 to take a second relieved meal break after ten (10) hours of work, as required by California law.
California Labor Code section 512(a) and California Industrial Welfare Commission Order No.

1 4, as codified under California Code of Regulations Sections 11040 et. seq. requires that
2 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that
3 the meal period be at least 30 minutes in length, wherein employee is relieved of all work duty.
4 California Labor Code section 226.7 provides that employers may not require their employees
5 to work through their meal periods. California Labor Code section 226.7 and California Code of
6 Regulations section 11040 requires that if the employer fails to provide the employee with an
7 uninterrupted meal period, the employer must pay the employee one (1) hour of pay for each
8 work day that the meal period is not given.

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

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

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

18 **NINTH CAUSE OF ACTION**

19 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

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

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

26 85. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
27 her duties for Defendants, Plaintiff incurred reasonable and necessary expenses in the course
28 of completing her job duties, which were not reimbursed by Defendants. These expenses include,
but are not limited to, use of personal cell phones for work purposes and use of home

1 computer and internet to effectuate job duties. FLYHOMES was unequivocally aware that
2 Plaintiff was working at home and “off the clock” and utilizing her own equipment and did not
3 fully and accurately reimburse her for her business expenses. To the extent FLYHOMES
4 provided an allocation, it was not based on actual expenses incurred and was arbitrary and
5 insufficient.

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

8 **TENTH CAUSE OF ACTION**

9 **PRIVATE ATTORNEYS GENERAL ACT**

10 **Individual and Representative Claim for PAGA penalties under California Labor Code**

11 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 246, 510, 512, 558, 558.1,**

12 **1174, 1174.5, 1194, 1197, 1198, 2802 and IWC Wage Order Nos. 4)**

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

14 87. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs
15 1 through 86, inclusive, of this Complaint as though fully set forth herein.

16 88. 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 and DOE
18 defendants have violated and continue to violate.

19 89. 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 90. 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 91. 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 departments,
27 divisions, commissions, boards, agencies, or employees for violation of the code may, as an
28 alternative, be recovered through a civil action brought by an Aggrieved Employee on behalf of

1 himself or herself and other current or formal employees pursuant to the procedures specified in
2 California Labor Code section 2699.3.

3 92. Plaintiff is an “Aggrieved Employee” because Plaintiff was employed by the alleged
4 violator and had one or more of the alleged violations committed against her, and therefore is
5 properly suited to represent the interests of other current and former employees, including all
6 hourly, non-exempt employees and all of those salaried, exempt employees who were
7 misclassified, who worked for FLYHOMES at any of their California locations during the
8 applicable PAGA period.

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

12 94. 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 95. California Labor Code section 2699 et seq. imposes penalties upon culpable
17 Defendants for violating the Labor Code.

18 96. 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 violated,
20 a section of this chapter or any provision regulating hours and days of work in any order of the
21 Industrial Welfare Commission (including the “Hours and Days of Work” section of the Wage
22 Order) shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for
23 each underpaid employee for each pay period for which the employee was underpaid ...; (2) for
24 each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay
25 period for which
26 the employee was underpaid ...;

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

1 98. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted
2 by law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
3 the following:

4 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
5 226.3, 226.7, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1197, 1198, 2802 via 2698 and
6 2699, and any other Labor Codes and Industrial Welfare Commission Wage Order (Order
7 Nos. 4) violated based on the facts alleged in this Complaint.

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

12 **ELEVENTH CAUSE OF ACTION**

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

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

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

17 101. At all times material to this Complaint, California Labor Code § 1102.5 was in
18 effect and binding on Defendants. This section requires Defendants to refrain from retaliating
19 against an employee for disclosing information to a person with authority over the employee if
20 the employee has reasonable cause to believe that the information discloses a violation of state
21 or federal statute, or a violation of or noncompliance with a local, state, or federal rule or
22 regulation, regardless of whether disclosing the information is part of the employee's job
23 duties.

24 102. As discussed fully above, Plaintiff complained to Defendants (through a letter
25 from counsel to the California Labor and Workforce Development Agency and to Defendant
26 FLYHOMES) about the labor code violations being committed against her and others by
27 instituting an action against Defendant under the Private Attorneys General Act (PAGA) in
28 April 2022.

103. FLYHOMES retaliated against Plaintiff for her complaints, as alleged above,

1 and wrongfully terminated Plaintiff's employment in July 2022 in violation of Labor Code §
2 1102.5.

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

8 105. Plaintiff requests all available relief under Labor Code § 1102.5 including
9 damages and the imposition of civil penalties of \$10,000 for each violation as well as attorney's
10 fees.

11 **TWELFTH CAUSE OF ACTION**

12 **RETALIATION IN VIOLATION OF LABOR CODE SECTION 98.6**

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

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

16 107. California Labor Code section 98.6 provides, in pertinent part, as follows:

17 "A person shall not discharge an employee or in any manner discriminate, retaliate, or
18 take any adverse action against any employee or applicant for employment because the
19 employee or applicant engaged in any conduct delineated in this chapter...or because the
20 employee or applicant...made a written or oral complaint that he or she is owed unpaid
21 wages...

22 108. Defendants violated Labor Code Section 98.6 in that they retaliated against
23 Plaintiff by terminating her employment for complaining about wage and hour and labor code
24 violations (in the form of a PAGA notice) that were being committed by Defendants in the
25 workplace.

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

1 110. Moreover, pursuant to Labor Code section 98.6, an employer who violates this
2 section is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) per employee
3 for each violation of this section.

4 111. The foregoing conduct engaged in by Defendants and each of its directors,
5 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
6 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
7 an environment free of retaliation, so as to justify the imposition of punitive damages to punish
8 and set an example of said Defendants.

9 **THIRTEENTH CAUSE OF ACTION**

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

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

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

14 113. At all times during her employment with FLYHOMES, Plaintiff performed her
15 duties with the utmost diligence and competence.

16 114. Plaintiff is informed and believes and thereon alleges that Defendants' decisions
17 to retaliate against her, as alleged herein, was motivated by Plaintiff's complaints in writing to
18 the California Labor and Workforce Development Agency and to Defendant regarding the
19 labor code violations being committed against her. Defendants intentionally created the
20 aforementioned retaliation, thereby not giving Plaintiff an opportunity to work in an environment
21 free of retaliation.

22 115. The employment of Plaintiff was wrongfully terminated in or around July 2022
23 in violation of the fundamental public policy of the State of California with respect to
24 retaliation against an employee for complaining about labor code violations. Plaintiff was
25 forced to hire an attorney to assist her to end these illegal activities. Said conduct violated
26 statutory and constitutional expressions of public policy including, but not limited to,
27 California Labor Code sections 98.6 and 1102.5, and the California Constitution, Article 1
28 section 8.

116. As set forth above, said actions by Defendants were wrongful and in violation of

1 the fundamental principles of the public policy of the State of California as reflected in its laws,
2 objectives and policies. Said statutes and constitutional expressions of public policy include, but
3 are not limited to, California Labor Code and the California Constitution, Article 1 section 8.
4 These laws inure to the benefit of the public at large, and not just the private interests of the
5 employers and employees whom they govern or protect.

6 117. 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.

11 118. 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 work in
14 an environment free of retaliation and labor code violations, so as to justify the imposition of
15 punitive damages to punish and set an example of said Defendants.

16 **FOURTEENTH CAUSE OF ACTION**

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

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

19 **(Plaintiff against All Defendants and all DOE defendants)**

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

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

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

28 122. California Business and Professions Code section 17200 et seq. prohibits unfair
business practices by employers including, but not limited to, widespread violations of

1 California laws as well as misclassifying employees, and retaliating against and terminating
2 employees for complaining about labor code violations.

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

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

13 125. As a result of the acts of Defendants, as alleged herein, Plaintiff is entitled to
14 multiple damages as specifically provided in California Business and Professions Code section
15 17200 et seq.

16 126. For the four years preceding the filing of this action, Plaintiff has suffered
17 damages 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 general and compensatory damages including lost past wages, regular wages,
23 overtime, and all other sums of money, together with interest on said amounts, and any
24 other economic injury to Plaintiff, according to proof;
- 25 2. For special, liquidated, and consequential damages to the extent allowed by law;
- 26 3. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
27 at trial;
- 28 4. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
subject to proof at trial;

- 1 5. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
2 proof at trial;
- 3 6. For restitution and disgorgement for all unfair business practices by Defendants
4 against Plaintiff in an amount subject to proof at trial;
- 5 7. For an order enjoining Defendants from further unfair and unlawful business
6 practices in violation of Business and Professions Code Sections 17200, et seq.;
- 7 8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
8 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 9 9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
10 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 11 10. For maximum civil penalties available under the Labor Code and applicable Wage
12 Order against Defendants as described more particularly in the Complaint and
13 representative PAGA claim;
- 14 11. For all remedies available to Plaintiff under the applicable Wage Order and the
15 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
16 liquidated damages, damages, penalties, and waiting time penalties according to proof
17 to the extent permitted by law;
- 18 12. For the imposition of civil penalties and/or statutory penalties;
- 19 13. For all interest as allowed by law;
- 20 14. For all costs and disbursements incurred in this suit;
- 21 15. Reasonable attorney's fees where available by law, including but not limited to,
22 pursuant to Labor Code section 2698 et seq., and the California Labor Code, including
23 Labor Code section 1102.6 and/or other applicable laws;
- 24 16. For an award of punitive and exemplary damages against Defendants according to
25 proof; and

26 ///

27 ///

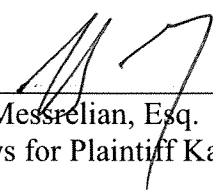
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1 17. For such other and further relief as this Court may deem proper.

2
3 DATED: August 16, 2022

MESSRELIAN LAW INC.

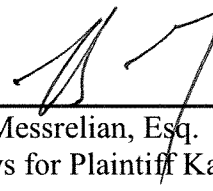
4 By 
5 Harout Messrelian, Esq.
6 Attorneys for Plaintiff Katarina Daniels

7 **DEMAND FOR JURY TRIAL**

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

9
10
11 DATED: August 16, 2022

MESSRELIAN LAW INC.

12 By 
13 Harout Messrelian, Esq.
14 Attorneys for Plaintiff Katarina Daniels