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Clerk of Court

Superior Court of CA,

County of Santa Clara

22CV400192

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Attorneys for Plaintiff Jorge Toscano

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

22CV400192

JORGE TOSCANO,

Plaintiff,

vs.

OTO DEVELOPMENT, LLC; and
DOES 1 to 25, inclusive,

Defendants.

) CASE NO.:

) **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 1102.5;**

) **12) RETALIATION IN VIOLATION OF**
) **LABOR CODE SECTION 6310;**

) **13) AGE DISCRIMINATION IN**
) **VIOLATION OF THE FAIR**

) **EMPLOYMENT AND HOUSING**
) **ACT ("FEHA");**

) **14) RETALIATION IN VIOLATION OF**

1) FEHA;
2) 15) FAILURE TO PREVENT
3) DISCRIMINATION AND
4) RETALIATION IN VIOLATION OF
5) FEHA;
6) 16) WRONGFUL TERMINATION IN
7) VIOLATION OF PUBLIC POLICY;
8) 17) VIOLATION OF CALIFORNIA
9) BUSINESS AND PROFESSIONS
10) CODE SECTION 17200.

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DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, JORGE TOSCANO (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 OTO DEVELOPMENT, LLC, 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 45 year old male resident of the city of San Jose, County of Santa Clara, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant OTO DEVELOPMENT, LLC (hereafter "OTO") is and was a Delaware limited liability company, doing business in Santa Clara County, California, and which employed Plaintiff.

4. The "aggrieved employees" are all current and former hourly non-exempt or hourly paid employees who worked for OTO at any and all of their California locations during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 ("PAGA").

5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or

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 responsible
4 for the conduct alleged herein. Upon discovering the true names and capacities of these
5 fictitiously named defendants, Plaintiff will amend this complaint to show the true names and
6 capacities of these fictitiously named defendants.

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

12 **GENERAL ALLEGATIONS**

13 7. Plaintiff worked for OTO at Hilton Garden Inn Palo Alto starting in 2017. His last date
14 worked was on March 21, 2022. During his employment tenure, Plaintiff was initially “Captain
15 of Banquets” and later a “House Attendant”. Plaintiff was classified as an hourly, non-exempt
16 employee.

17 8. It is Plaintiff’s position that OTO has violated numerous California Labor Code sections
18 against Plaintiff and the other aggrieved employees during the relevant PAGA period.

19 9. OTO did not provide Plaintiff and other aggrieved employees with compensation for all
20 hours worked and did not pay Plaintiff and others the minimum wages to which they were
21 entitled for work performed pursuant to California Labor Code sections 1194, 1197 and 1197.1.
22 This is so because OTO had a policy of rounding down the hours worked by Plaintiff and other
23 aggrieved employees which translated to Plaintiff and others not being paid for all hours worked,
24 including minimum wages. In addition, since Plaintiff’s meal periods were consistently
25 interrupted due to understaffing and work obligations, he was not paid the minimum wage for
26 these “off the clock” hours. Moreover, Plaintiff and others did not receive split shift premiums
27 for having to report back to work after a several hour break.

28 10. Due to the above “off the clock” hours, OTO also violated Labor Code §510 because it
failed to pay Plaintiff and other aggrieved employees any overtime even though they worked

1 more than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their
2 employment. Plaintiff's and other aggrieved employees' actual work hours entitled them to
3 overtime compensation, however, OTO did not compensate its hourly, non-exempt employees
4 with the correct amount of overtime. Moreover, the company did not include bonuses/incentive
5 pay in calculating the regular rate of pay of employees for purposes of deciphering the overtime
6 rate of pay.

7 11. OTO also violated Labor Code § 226.7 and the appropriate Industrial Welfare
8 Commission Wage Order no. 5 because it failed to provide Plaintiff and others with 10-minute
9 rest periods for every four hours of work, or majority portion thereof, throughout their
10 employment. OTO did not completely relieve Plaintiff and others of all duty during said rest
11 periods. OTO did not pay to Plaintiff and others one additional hour of pay at our client's regular
12 rate of compensation for each workday that one or more statutory rest periods was not provided.
13 It was not part of the company policy for employees such as Plaintiff and others to take
14 uninterrupted rest breaks every 4 hours worked. As such, the culture at OTO did not lend itself
15 to the employees receiving statutory rest breaks wherein they were relieved of all work duties.
16 Due to understaffing and there not being enough personnel to relieve Plaintiff and others,
17 Plaintiff and others would either not receive the rest breaks or their rest breaks were short and
18 interrupted due to having to tend to immediate housekeeping duties. As such, the environment
19 at OTO was not conducive to receiving statutory rest breaks under California law and timely,
20 statutory rest breaks were not authorized or enforced.

21 12. OTO violated Labor Code §§ 512 and 226.7 along with Industrial Welfare Commission
22 Wage Order no. 5 because it failed to provide hourly, non-exempt employees, including Plaintiff
23 and others, the requisite 30-minute, uninterrupted meal periods for every five (5) hours of work
24 throughout their employment. OTO did not completely relieve employees of all duty during said
25 meal periods. OTO did not pay to Plaintiff and its hourly, non-exempt employees one additional
26 hour of pay at their regular rate of compensation for each workday that one or more statutory
27 meal periods was not provided. Like the rest breaks, receiving a timely, uninterrupted thirty-
28 minute meal break was not part of the company culture and was not enforced by OTO especially
due to the understaffing and lack of employees to relieve Plaintiff of his job duties. As such, it

1 was the normal practice and custom of OTO not to authorize, permit, and enforce timely,
2 uninterrupted statutory meal periods.

3 13. Furthermore, during the relevant time period, and due to the labor code violations cited
4 above, OTO failed to pay Plaintiff and others all wages due to them within any time period
5 specified by California Labor Code section 204. OTO was also in violation of California Labor
6 Code section 226(a), by failing to include pertinent information on the wage statements,
7 including but not limited to, the full and correct name of the legal employer along with the
8 employer's address, all hours worked (including "off the clock" hours and overtime), all
9 applicable hourly rates, gross wages earned, net wages earned, the correct start and end time of
10 the pay period, all deductions, the employee's identifying information, and premium pay for the
11 missed meal and rest breaks. As such, OTO did not provide Plaintiff and other similarly situated
12 aggrieved employees with complete, accurate itemized wage statements.

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

16 15. OTO also violated Labor Code § 203 because it willfully failed to pay Plaintiff and other
17 similarly situated aggrieved employees earned and due wages upon separation of employment,
18 either immediately upon involuntary termination, or within 72 hours of resignation. These earned
19 but unpaid wages include payment for all hours worked (including the minimum wage), overtime
20 compensation, and premium pay for missed meal and rest breaks.

21 16. Also, during the relevant time period, Plaintiff and other aggrieved employees incurred
22 necessary, business-related expenses and costs that were not reimbursed by OTO. These costs
23 include, but are not limited to, uniforms (having to wear personal clothes/shoes for work
24 purposes) mileage since Plaintiff would have to drive to the store to buy items/supplies for the
25 company with his own money. If Plaintiff was even reimbursed for that money, he would have
26 taxes taken out from that amount. Accordingly, OTO was in violation of California Labor Code
27 sections 2800 and 2802.

28 17. In addition, OTO failed to provide a suitable rest break area for employees such as

1 Plaintiff and others in contravention of Industrial Welfare Commission Wage Order no. 5-2001,
2 section 13(b).

3 18. Moreover, Plaintiff was terminated after consistent complaints to management about
4 safety concerns, including safety issues with the AC unit and lack of protective gear and safety
5 training as it related to blood/vomit/needles found in hotel rooms and the proper way to discard
6 of those items. The latter is a very real safety concern under OSHA and the company violated
7 numerous laws in that regard. Plaintiff's complaints about that illegal conduct was a substantial
8 factor in OTO terminating Plaintiff's employment in a retaliatory fashion. Despite Plaintiff's
9 complaints, OTO did not ensure that Plaintiff and others were working in a safe, healthy
10 environment in violation of Labor Code Section 6400 et seq.

11 19. Plaintiff was 44 years old when OTO terminated his employment. Plaintiff was
12 discriminated against due to being over 40 years old and was replaced by a much younger
13 employee.

14 20. Plaintiff has exhausted his administrative remedies. Prior to the filing of this lawsuit,
15 Plaintiff filed a complaint with the Department of Fair Employment and Housing ("DFEH"),
16 alleging claims in this complaint. The DFEH immediately issued to Plaintiff a right to sue letter.

17 **FIRST CAUSE OF ACTION**

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

19 **(California Industrial Welfare Commission Order 5-2001, California Code of
20 Regulations Title 8 Section 11050, and California Labor Code Section 1198)**

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

22 21. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
23 alleged herein.

24 22. At all times relevant herein, Defendants were required to compensate their employees for
25 all hours worked upon reporting for work at the appointed time stated by the employer pursuant
26 to Industrial Welfare Commission Order 5-2001, California Code of Regulations, Title 8, Section
27 11050.

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

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

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

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

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

14 **SECOND CAUSE OF ACTION**

15 **FAILURE TO PAY MINIMUM WAGES**

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

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

18 28. Plaintiff incorporates by reference each and every paragraph of this Complaint as if
19 fully alleged herein.

20 29. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer
21 to suffer or permit a California employee to work without paying wages at the minimum wage
22 rate for all hours worked as required by the applicable Industrial Welfare Commission
23 (hereinafter "IWC") Wage Order No. 5-2001, codified at California Code of Regulations, Title
24 8, Section 11050, subdivision 4.

25 30. Pursuant to IWC Wage Order no. 5-2001, subdivision 2(K), at all relevant times, "hours
26 worked" included "the time during which an employee is subject to the control of an employer,
27 and includes all the time the employee is suffered or permitted to work, whether or not required
28 to do so..."

31. During his employment, Plaintiff was regularly required as a matter of uniform policy

1 and practice to work, and in fact worked, as an employee of Defendants and Plaintiff was paid
2 less than the minimum wage rate by Defendants for hours worked in violation of California
3 Labor Code Section 1197 and the applicable California Industrial Wage Commission wage
4 order(s).

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

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

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

17 **THIRD CAUSE OF ACTION**

18 **FAILURE TO PAY OVERTIME**

19 **(California Industrial Welfare Commission Order 5-2001, California Code of**
20 **Regulations Title 8 Section 11050; California Labor Code Section 510)**
21 **(Plaintiff against all named defendants and all DOE defendants)**

22 35. Plaintiff incorporates by reference each and every paragraph of this Complaint as if
23 fully alleged herein.

24 36. Pursuant to Industrial Welfare Commission Order No. 5-2001, Cal. Code of Regs., Title
25 8, Section 11050, for the period of Plaintiff's employment, Defendants were required to
26 compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5) times the
27 regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours in a week,
28 and two (2) times the regular rate of pay for hours worked in excess of twelve (12) hours in a
day or hours worked in excess of eight (8) on the seventh consecutive work day in a week.

1 37. Plaintiff was a non-exempt employee entitled to the protections of the California
2 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations, Title 8,
3 Section 11050.

4 38. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in
5 a single workweek on numerous occasions.

6 39. Plaintiff was entitled to the above overtime premiums.

7 40. 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 eight (8) in a day.

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

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

13 43. Defendants know or should know the actual dates of overtime worked, the amount of
14 overtime worked, and the amount of unpaid overtime due.

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

18 45. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
19 Regulations, Title 8, Sections 11050, Plaintiff is entitled to recover damages for the
20 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
21 reasonable attorney's fees and costs of suit.

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

25 **FOURTH CAUSE OF ACTION**

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

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

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

47. Plaintiff incorporates by reference each and every paragraph of this Complaint as if

1 fully alleged herein.

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

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

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

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

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

25 **FIFTH CAUSE OF ACTION**

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

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

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

53. Plaintiff incorporates by reference each and every paragraph of this Complaint as if

1 fully alleged herein.

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

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

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

12 57. After Plaintiff's employment with Defendants ended and after Plaintiff was terminated
13 from his employment, Defendants willfully refused and continue to refuse to pay his unpaid
14 wages as required by Labor Code Section 203.

15 58. 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 trial.
17 Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
18 preceding the filing of this lawsuit.

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

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

25 **SIXTH CAUSE OF ACTION**

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

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

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

61. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully

1 alleged herein.

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

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

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

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

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

17 **SEVENTH CAUSE OF ACTION**

18 **FAILURE TO GIVE REST BREAKS**

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

20 67. Plaintiff incorporates by reference each and every paragraph of this Complaint as if
21 fully alleged herein.

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

- 23 a. Title 8 of the California Code of Regulations Sections 11050(12)(A), which provides
24 that every employer shall authorize and permit all employees to take rest periods,
25 which insofar as practicable shall be in the middle of each work period. The
26 authorized rest period time shall be based on the total hours worked daily at the rate
27 of ten (10) minutes net rest time per four (4) hours or major fraction thereof;
- 28 b. Title 8 of the California Code of Regulations Sections 11050(12)(B), which provides
that if an employer fails to provide an employee a rest period in accordance with the

1 applicable provisions of this order, the employer shall pay the employee one (1) hour
2 of pay at employee's regular rate of compensation for each workday that the rest
3 period is not provided;

- 4 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which penalizes
5 the employer \$50.00 for each initial violation, per employee, of any provision of the
6 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
7 d. California Labor Code section 226.7, which states that (a) no employer shall require
8 any employee to work during any rest period mandated by an applicable order of the
9 Industrial Welfare Commission, and (b) if an employer fails to provide an employee
10 a rest period in accordance with an applicable order of the Industrial Welfare
11 Commission, the employer shall pay the employee one (1) additional hour of pay at
12 employee's regular rate of compensation for each work day that the rest period is not
13 provided.

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

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

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

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

26 **EIGHTH CAUSE OF ACTION**

27 **FAILURE TO GIVE MEAL BREAKS**

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

73. Plaintiff incorporates by reference each and every paragraph of this Complaint as if

1 Fully alleged herein.

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

- 3 a. California Labor Code section 512(a), which requires that employees be given a 30-
- 4 minute uninterrupted meal break after five (5) hours of work, and a second
- 5 uninterrupted meal break after ten (10) hours of work;
- 6 b. California Labor Code section 226.7, which states that (a) no employer shall require
- 7 any employee to work during any meal period mandated by an applicable order of
- 8 the Industrial Welfare Commission, and (b) if any employer fails to provide an
- 9 employee a meal period in accordance with an applicable order of the Industrial
- 10 Welfare Commission, the employer shall pay the employee one (1) additional hour
- 11 of pay at the employee's regular rate of compensation for each workday that the meal
- 12 period is not provided;
- 13 c. California Industrial Welfare Commission Order No. 5 sections 11(B) and 11(D), as
- 14 codified under Title 8 of the California Code of Regulations Section 11050, which
- 15 states that if an employer fails to provide an employee a meal period in accordance
- 16 with the applicable provisions of the Wage Order, the employer shall pay the
- 17 employee one (1) hour of pay at the employee's regular rate of compensation for each
- 18 workday that the meal period is not provided;
- 19 d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as
- 20 codified under Title 8 of the California Code of Regulations Section 11050, which
- 21 requires an employer to maintain records documenting its employees' meal periods;
- 22 e. California Industrial Welfare Commission Wage Order No. 5 Section 20(A), as
- 23 codified under California Code of Regulations Section 11050, which penalizes the
- 24 employer \$50.00 for each initial violation, per employee, of any provision of the
- 25 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
- 26 f. California Labor Code section 1171 and 1173, which have given the California Labor
- 27 Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5) as
- 28 enforceable law.

75. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks

1 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
2 take a second relieved meal break after ten (10) hours of work, as required by California law.
3 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
4 5, as codified under California Code of Regulations Sections 11050 et. seq. requires that
5 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and that
6 the meal period be at least 30 minutes in length, wherein employee is relieved of all work duty.
7 California Labor Code section 226.7 provides that employers may not require their employees
8 to work through their meal periods. California Labor Code section 226.7 and California Code of
9 Regulations section 11050 requires that if the employer fails to provide the employee with an
10 uninterrupted meal period, the employer must pay the employee one (1) hour of pay for each
11 work day that the meal period is not given.

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

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

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

21 **NINTH CAUSE OF ACTION**

22 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

24 79. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
25 alleged herein.

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

81. Beginning at least 3 years prior to the filing of this complaint, in order to discharge his

1 duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
2 of completing his job duties, which were not reimbursed by Defendants. These costs include, but
3 are not limited to, uniforms (having to wear personal clothes/shoes for work purposes) mileage
4 since Plaintiff would have to drive to the store to buy items/supplies for the company with his
5 own money. If Plaintiff was even reimbursed for that money, he would have taxes taken out from
6 that amount. 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, 226, 226.3, 226.7, 510, 512, 558, 1102.5, 1174,**
12 **1174.5, 1194, 1197, 1198, 2802, 6310, 6311, 6400, 6401, 6402, 6403, 6404)**

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

14 82. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully
15 alleged herein.

16 83. 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 84. Pursuant to California Labor code section 2699.3, no response was received from
20 the LWDA within 65 days of the postmark date of the above-alleged letter.

21 85. Plaintiff therefore has exhausted all administrative remedies required of him 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 86. Pursuant to California Labor Code section 2699, any provisions of the Labor
26 Code that provides for a civil penalty to be assessed and collected by the LWDA or any of its
27 departments, divisions, commissions, boards, agencies, or employees for violation of the code
28 may, as an alternative, be recovered through a civil action brought by an aggrieved employee on
behalf of himself or herself and other current or formal employees pursuant to the procedures

1 specified in California Labor Code section 2699.3.

2 87. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
3 violator and had one or more of the alleged violations committed against him, and therefore is
4 properly suited to represent the interests of other current and former employees.

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

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

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

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

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

26 93. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted
27 by law. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
28 the following:

Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,

1 226.3, 226.7, 232, 246, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197, 1198, 2802, 6310,
2 6311, 6400, 6401, 6402, 6403, 6404 via 2698 and 2699, and any other Labor Codes and
3 Industrial Welfare Commission Wage Orders (no. 5) violated based on the facts alleged in
4 this Complaint.

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

9 **ELEVENTH CAUSE OF ACTION**

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

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

12 95. Plaintiff incorporates by reference each and every paragraph of this Complaint as if
13 fully alleged herein.

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

24 97. During Plaintiff's employment, Plaintiff complained to Defendants, of what he
25 reasonably and in good faith believed were violations of State and/or Federal law by Defendants,
26 including but not limited to, unsafe working conditions.

27 98. Plaintiff had a reasonable belief that Defendant was violating state and federal laws,
28 and brought up those violations on several different occasions to Defendants' management as

1 alleged hereinabove.

2 99. Defendant OTO retaliated against Plaintiff for his complaints about unsafe working
3 conditions, as alleged above, and terminated Plaintiff's employment, all in violation of Labor
4 Code § 1102.5. When Plaintiff was wrongfully terminated, Plaintiff's complaints of violations
5 of State and/or Federal law was/were a contributing factor and/or reason in Plaintiff's
6 termination. Plaintiff was terminated for his constant complaints regarding the unsafe and
7 unhealthy working conditions that placed him at future risk of harm.

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

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

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

21 **TWELFTH CAUSE OF ACTION**

22 **RETALIATION IN VIOLATION OF LABOR CODE SECTIONS 6310**

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

24 103. Plaintiff incorporates by reference each and every paragraph of this Complaint
25 as if fully alleged herein.

26 104. At all times material to this Complaint, California Labor Code § 6310 was in
27 effect and binding on Defendants. California Labor Code section 6310 prohibits employers from
28

1 firing or discriminating against any employee because the employee has informed their employer
2 about unsafe working conditions.

3 105. As discussed fully above, Plaintiff complained to Defendants about unsafe
4 working conditions at the workplace.

5 106. Defendants willfully and/or with reckless indifference violated California Labor
6 Code section 6310 by retaliating against Plaintiff for complaining of unsafe working conditions.

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

12 108. Pursuant to Labor Code Section 6310, Defendants are liable for statutory
13 damages, including reimbursement for lost wages and work benefits.

14 109. Defendants' conduct described herein was undertaken, authorized and/or ratified
15 by Defendants' officers, directors and/or managing agents. The aforementioned conduct of said
16 officers, directors and/or managing agents and individuals was therefore undertaken on behalf
17 of Defendants.

18 110. Defendants committed the acts herein alleged maliciously, fraudulently, and
19 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
20 punitive damages from Defendants in an amount according to proof.

21 111. As a result of the conduct of Defendants and each of them, Plaintiff was forced
22 to retain an attorney in order to protect her rights.

23 112. Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff is entitled to recover
24 civil penalties for Defendants' violations of Labor Code section 6310.

25 113. Plaintiff further demands reasonable attorney's fees and costs pursuant to
26 Labor Code section 2699, subdivision (g)(1).

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1 **THIRTEENTH CAUSE OF ACTION**

2 **AGE DISCRIMINATION IN VIOLATION OF THE FEHA**

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

4 114. Plaintiff incorporates by reference each and every paragraph of this Complaint as
5 if fully alleged herein.

6 115. Plaintiff was and is at all times relevant hereto an employee covered by
7 Government Code § 12926(c).

8 116. Defendants were at all times relevant hereto employers who employed five or
9 more persons within the meaning of Government Code § 12926(d), and California Government
10 Code §§ 12940, et seq., was in full force and effect and was binding on Defendants.

11 117. The Fair Employment and Housing Act prohibits an employer and its agents
12 from discriminating against employees, on the basis of their age. Cal. Gov. Code § 12940(a).

13 118. Plaintiff was born in 1977 and was 44 years old when OTO terminated his
14 employment. Plaintiff's age was a substantial motivating reason for Defendants' decision to
15 terminate his employment. Plaintiff was replaced by a much younger employee.

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

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

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

FOURTEENTH CAUSE OF ACTION
RETALIATION IN VIOLATION OF FEHA

(Plaintiff against all named Defendants and all DOE Defendants)

122. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully alleged herein.

123. At all times herein mentioned, Government Code section 12940 et. seq. was in full force and effect and was binding upon Defendants and each of them. Said statute imposes certain duties upon Defendants concerning discrimination and retaliation against persons, such as Plaintiff, on the basis of age. Said statutes were intended to prevent the type of injury and damage set forth herein. Plaintiff was, at all times herein mentioned, a member of the class of persons intended to be protected by said statutes. As alleged above, Plaintiff was retaliated against and was eventually terminated from his employment as a result of his age.

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

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

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

127. The acts of oppression, fraud, and/or malice, were engaged in by employees of Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the wrongful conduct for which an award of punitive damages is sought, and/or was personally guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard, authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on part

1 of an officer, director, or managing agent of each of the Defendants, thereby entitling Plaintiff
2 to punitive and exemplary damages against each of the Defendants in accordance with California
3 Civil Code section 3294 in a sum appropriate to punish and make an example of each Defendant

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

9 **FIFTEENTH CAUSE OF ACTION**

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

11 **OF FEHA**

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

13 129. Plaintiff incorporates by reference each and every paragraph of this Complaint as
14 if fully alleged herein.

15 130. At all times herein mentioned, FEHA, California Government Code section
16 12940(k), was in full force and effect and was binding on Defendants. This statute states that it
17 is an unlawful employment practice in California for an employer to "fail to take all reasonable
18 steps necessary to prevent discrimination and harassment from occurring."

19 131. During the course of Plaintiff's employment, Defendants failed to prevent their
20 employees, including management, from engaging in intentional actions that resulted in Plaintiff
21 being treated less favorably and eventually being terminated because of Plaintiff's protected
22 status (i.e. his age). During the course of Plaintiff's employment, Defendants failed to prevent
23 their employees from engaging in unjustified employment practices against employees in such
24 protected classes. During the course of Plaintiff's employment, Defendants failed to prevent a
25 pattern and practice by its employees of intentional discrimination and retaliation on the basis of
26 age, and/or other protected status and/or protected activity.

27 132. Plaintiff believes and, on that basis, alleges that his age and other protected status
28 and/or protected activity was a substantial motivating factor in Defendants' employees'
discriminating against him and retaliating against him.

1 133. 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.

6 134. 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 of
9 their workers' right to work in an environment in which personnel decisions and company
10 policies are made without regard to age, so as to justify the imposition of punitive damages to
11 punish and set an example of said Defendants.

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

15 **SIXTEENTH CAUSE OF ACTION**

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

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

18 136. Plaintiff incorporates by reference each and every paragraph of this Complaint
19 as if fully alleged herein.

20 137. At all times during his employment with Defendants, Plaintiff performed his
21 duties with the utmost diligence and competence.

22 138. Plaintiff is informed and believes and thereon alleges that Defendants' decision
23 to retaliate against him and terminate him, as alleged herein, was motivated by Plaintiff's age
24 and his constant complaints to management about the unsafe and unhealthy working conditions.

25 139. Plaintiff's employment was wrongfully terminated on or around March 21, 2022
26 in violation of the fundamental public policy of the State of California with respect to
27 discriminating and retaliating against an employee on account of his age and his complaints
28 about unsafe and unhealthy working conditions.

1 140. Moreover, Plaintiff was forced to hire an attorney to assist him to end these illegal
2 activities.

3 141. Said conduct violated statutory and constitutional expressions of public policy
4 including, but not limited to, the FEHA, California Labor Code Sections 1102.5, 6310, and 6311
5 and the California Constitution, Article 1 section 8.

6 142. As set forth above, said actions by Defendants were wrongful and in violation of
7 the fundamental principles of the public policy of the State of California as reflected in its laws,
8 objectives and policies. Said statutes and constitutional expressions of public policy include,
9 but are not limited to, the FEHA, California Labor Code sections 1102.5, 6310, 6311, and the
10 California Constitution, Article 1 section 8. These laws inure to the benefit of the public at large,
11 and not just the private interests of the employers and employees whom they govern or protect.

12 143. 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.

17 144. 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 retaliation, so as to justify the imposition of punitive damages to punish
21 and set an example of said Defendants.

22 **SEVENTEENTH CAUSE OF ACTION**

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

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

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

26 145. Plaintiff incorporates by reference each and every paragraph of this Complaint
27 as if fully alleged herein.

28 146. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants

1 constitute unfair and unlawful business practices under California Business and Professions
2 Code Section 17200, et seq.

3 147. Defendants' violations of the FEHA, California labor laws and the Labor Code
4 constitutes a business practice because it was done repeatedly over a significant period of time
5 in a systematic manner that was detrimental to Plaintiff.

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

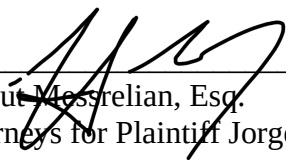
10 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
11 follows:

- 12 1. For compensatory damages including lost past and future wages, regular wages,
13 overtime, and all other sums of money, including employment benefits, together
14 with interest on said amounts, and any other economic injury to Plaintiff, according to
15 proof;
- 16 2. For general damages according to proof;
- 17 3. For special and consequential damages to the extent allowed by law;
- 18 4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof
19 at trial;
- 20 5. For an award of punitive damages against Defendants according to proof;
- 21 6. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
22 subject to proof at trial;
- 23 7. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
24 proof at trial;
- 25 8. For restitution and disgorgement for all unfair business practices by Defendants
26 against Plaintiff in an amount subject to proof at trial;
- 27 9. For an order enjoining Defendants from further unfair and unlawful business
28 practices in violation of Business and Professions Code Sections 17200, et seq.;
10. For one hour of wages due to Plaintiff for each work period of more than five (5) hours

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

17 DATED: June 14, 2022

MESSRELIAN LAW INC.

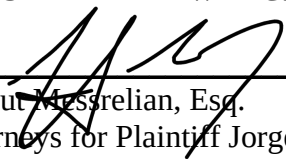
18 By 
19 Harout Messrelian, Esq.
20 Attorneys for Plaintiff Jorge Toscano

21 **DEMAND FOR JURY TRIAL**

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

23
24 DATED: June 14, 2022

MESSRELIAN LAW INC.

25 By 
26 Harout Messrelian, Esq.
27 Attorneys for Plaintiff Jorge Toscano