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FILED
Superior Court of California
County of Los Angeles

09/06/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: N. Osollo Deputy

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

JAIME GUZMAN PORTILLO, an individual,
Plaintiff,

v.

GREAT CENTRAL TRANSPORT, INC., a
California corporation; JESSICA DOE, an
individual; ARLENE DOE, an individual; and
DOES 1 through 20, inclusive,

Defendants.

Case No. 22STCV23273

**FIRST AMENDED COMPLAINT FOR
DAMAGES FOR:**

1. **DISCRIMINATION IN VIOLATION OF
GOV'T CODE §§ 12940 ET SEQ.;**
2. **RETALIATION IN VIOLATION OF
GOV'T CODE §§ 12940 ET SEQ.;**
3. **FAILURE TO PREVENT
DISCRIMINATION AND RETALIATION
IN VIOLATION OF GOV'T CODE §
12940(k);**
4. **FAILURE TO PROVIDE REASONABLE
ACCOMMODATIONS IN VIOLATION OF
GOV'T CODE §§ 12940 ET SEQ.;**
5. **FAILURE TO ENGAGE IN A GOOD
FAITH INTERACTIVE PROCESS IN
VIOLATION OF GOV'T CODE §§ 12940
ET SEQ.;**
6. **RETALIATION (LAB. CODE §98.6);**
7. **RETALIATION (LAB. CODE §§1102.5,
1102.6, 6310);**
8. **WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**
9. **FOR DECLARATORY JUDGMENT;**
10. **FAILURE TO PAY WAGES (CAL. LABOR
CODE §§201, 1194);**

1 11. FAILURE TO PROVIDE MEAL AND REST
2 PERIODS (CAL. LABOR CODE §§226.7,
3 512);

4 12. FAILURE TO PROVIDE ITEMIZED
5 WAGE AND HOUR STATEMENTS (CAL.
6 LABOR CODE §§226, 226.3, 1174 ET SEQ.);

7 13. WAITING TIME PENALTIES (CAL.
8 LABOR CODE §§201-203);

9 14. PRIVATE ATTORNEY GENERAL ACT
10 (CAL. LABOR CODE §§2699, ET. SEQ.);

11 15. FAILURE TO INDEMNIFY FOR
12 NECESSARY BUSINESS EXPENSES (CAL.
13 LABOR CODE §2802);

14 16. FAILURE TO PERMIT INSPECTION OF
15 PERSONNEL AND PAYROLL RECORDS
16 (CAL. LABOR CODE §§226, 1198.5); AND

17 17. UNFAIR COMPETITION (BUS. & PROF.
18 CODE §17200 ET SEQ.).

19 DEMAND OVER \$25,000

20 [DEMAND FOR JURY TRIAL]

21 COMES NOW PLAINTIFF, JAIME GUZMAN PORTILLO, and for causes of action against
22 the Defendants and each of them, alleges as follows:

23 **JURISDICTION**

24 1. This Court is the proper court, and this action is properly filed in Los Angeles County
25 because Defendants' obligations and liability arise therein, because Defendants maintain offices and
26 transact business within Los Angeles County, and because the work that is the subject of this action was
27 performed by Plaintiff in Los Angeles County.

28 **THE PARTIES**

2. Plaintiff, JAIME GUZMAN PORTILLO, is and at all times relevant hereto was a resident
of the County of Los Angeles, State of California.

1 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
2 hereto, Defendant GREAT CENTRAL TRANSPORT, INC., (hereinafter referred to as “GCT” or
3 “EMPLOYERS”) was and is a California corporation doing business at 255 West Carob Street, Compton,
4 CA 90220 in the County of Los Angeles, State of California.

5 4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
6 hereto, GCT owned and operated a business that was engaged in trucking.

7 5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
8 hereto, Defendant JESSICA DOE (hereinafter referred to as “JESSICA”) was and is an individual
9 resident of the County of Los Angeles, State of California. JESSICA was Plaintiff’s manager, corporate
10 agent, supervisor, and/or coworker at GCT.

11 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
12 hereto, Defendant ARLENE DOE (hereinafter referred to as “ARLENE”) was and is an individual
13 resident of the County of Los Angeles, State of California. ARLENE was Plaintiff’s manager, corporate
14 agent, supervisor, and/or coworker at GCT.

15 7. JESSICA and ARLENE are hereinafter referred to as “INDIVIDUAL DEFENDANTS”.

16 8. GCT, JESSICA and ARLENE are hereinafter collectively referred to as
17 “DEFENDANTS”.

18 9. At all times relevant herein, INDIVIDUAL DEFENDANTS and DOES 1-20 were
19 “supervisors” within the meaning of Government Code section 12926, subdivision (t). Plaintiff is
20 informed and believes, and thereon alleges that at all time relevant to this action, INDIVIDUAL
21 DEFENDANTS and DOES 1-20 were managers and/or supervisors of EMPLOYERS, acting as
22 managing agents for EMPLOYERS; INDIVIDUAL DEFENDANTS and DOES 1-20 were each acting
23 within the course and scope of their employment and on behalf of Defendants such that their acts or
24 omissions are imputed to EMPLOYERS under the doctrine of *respondeat superior*; or, alternatively, at
25 all times relevant to this action, EMPLOYERS cloaked INDIVIDUAL DEFENDANTS and DOES 1-20
26 with the appearance of actual authority, such that Plaintiff was justified in relying thereon, and therefore
27 their acts or omissions are imputed to EMPLOYERS under the doctrine of *respondeat superior*.

1 10. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint
2 employers and/or special employers within the meaning of Government Code §§12926, subdivision (d),
3 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more
4 persons and are therefore subject to the jurisdiction of this Court.

5 11. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint
6 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
7 Commission Order No. 9-2001, and are each an "employer or other person acting on behalf of an
8 employer" as such term is used in Labor Code sections 558, 558.1, and 1197.1, and liable to Plaintiff on
9 that basis.

10 12. The true names and capacities, whether individual, corporate, associate, or otherwise, of
11 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
12 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
13 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
14 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
15 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
16 alleged hereinafter.

17 13. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
18 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors, co-
19 conspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the other
20 Defendants, and each of them, and in doing the things alleged herein, were acting at least in part within
21 the course and scope of said agency, employment, conspiracy, joint employer, alter ego status, successor
22 status and/or joint venture and with the permission and consent of each of the other Defendants.

23 14. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
24 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit
25 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
26 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code
27 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and
28 each of them, including those defendants named as DOES 1-20, and each of them, formed and executed

1 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,
2 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and
3 actually causing Plaintiff harm.

4 15. Whenever and wherever reference is made in this complaint to any act or failure to act by
5 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
6 and/or failures to act by each Defendant acting individually, jointly and severally.

7
8 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

9 16. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
10 of interest and ownership between EMPLOYERS and DOES 1-20 that the individuality and separateness
11 of defendants have ceased to exist.

12 17. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
13 purported corporate existence, EMPLOYERS and DOES 1-20 are, in reality, one and the same, including,
14 but not limited to because:

15 a. EMPLOYERS are completely dominated and controlled by one another and
16 DOES 1-20, who personally committed the frauds and violated the laws as set forth in this complaint,
17 and who have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or
18 accomplish some other wrongful or inequitable purpose.

19 b. EMPLOYERS and DOES 1-20 derive actual and significant monetary benefits by
20 and through one another's unlawful conduct, and by using one another as the funding source for their
21 own personal expenditures.

22 c. EMPLOYERS and DOES 1-20, while really one and the same, were segregated to
23 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
24 accomplishing some other wrongful or inequitable purpose.

25 d. EMPLOYERS do not comply with all requisite corporate formalities to maintain
26 a legal and separate corporate existence.

27 e. The business affairs of EMPLOYERS and DOES 1-20 are, and at all times relevant
28 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in

1 inextricable confusion. EMPLOYERS are, and at all times relevant hereto were, used by one another
2 and DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and
3 were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of
4 Defendants would not promote justice, in that it would permit Defendants to insulate themselves from
5 liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate
6 existence of EMPLOYERS and DOES 1-20 should be disregarded in equity and for the ends of justice
7 because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

8 18. Accordingly, EMPLOYERS constitute the alter ego of one another and DOES 1-20, and
9 the fiction of their separate corporate existence must be disregarded.

10 19. As a result of the aforementioned facts, Plaintiff is informed and believes, and based
11 thereon alleges that EMPLOYERS and DOES 1-20 are Plaintiff's joint employers by virtue of a joint
12 enterprise, and that Plaintiff was an employee of EMPLOYERS and DOES 1-20. Plaintiff performed
13 services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all
14 Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the manner in
15 which Defendants' business was and is conducted.

16 20. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
17 between DOES 1-20, EMPLOYERS, or any of them, (1) there is an express or implied agreement of
18 assumption pursuant to which EMPLOYERS and/or DOES 1-20 agreed to be liable for the debts of the
19 other Defendants, (2) the transaction between EMPLOYERS and/or DOES 1-20 and the other Defendants
20 amounts to a consolidation or merger of the two corporations, (3) EMPLOYERS and/or DOES 1-20 are
21 a mere continuation of the other Defendants, or (4) the transfer of assets to EMPLOYERS and/or DOES
22 1-20 is for the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, EMPLOYERS
23 and/or DOES 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

24 25 **FACTUAL ALLEGATIONS**

26 21. In or about June 2021, EMPLOYERS hired Plaintiff to work as a driver. Plaintiff's job
27 duties required him to take cargo to the warehouse and out to EMPLOYERS' yard.

22. JESSICA was Plaintiff's supervisor and ARLENE was Plaintiff's Human Resources manager at EMPLOYERS.

WAGE AND HOUR ALLEGATIONS

23. At all relevant times, Plaintiff was a full-time, non-exempt employee.

24. From on or around June 2021 through September 30, 2021, EMPLOYERS promised to pay Plaintiff \$29.00 per hour; and, from on or around October 2021 through February 23, 2022, EMPLOYERS promised to pay Plaintiff \$30.00 per hour. EMPLOYERS did not issue Plaintiff a set schedule, and as a result, Plaintiff often worked between twelve (12) to fourteen (14) hours per day; Plaintiff regularly worked from Monday through Friday, beginning his day between 5 a.m. and 7 p.m. each day.

25. Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of Plaintiffs' right to take one or more of their statutory 10-minute rest breaks for every four hours worked or major fraction thereof, and Plaintiff tended to work twelve (12) hours days at a minimum, meaning he was entitled to a second 10-minute rest break on days she worked more than eight (8) hours, but Defendants did not provide nor advise Plaintiff of one or more of his required rest breaks.

26. Throughout Plaintiff's employment, Plaintiff was not permitted to, and not advised of Plaintiffs' right to take one or more of their statutory 30-minute meal breaks for every five hours worked or major fraction thereof, and Plaintiff tended to work twelve (12) hours days at a minimum, meaning he was entitled to a second 30-minute meal break on days he worked more than ten (10) hours, but Defendants did not provide nor advise Plaintiff of one or more of his required meal breaks.

27. At all relevant times, EMPLOYERS maintained a policy where it automatically rounded time punches for meal periods, which is inconsistent with the purpose of the Labor Code and IWC wage order, and EMPLOYERS records show Plaintiff worked over five (5) hours in several shifts, creating a rebuttable presumption that Plaintiff was not relieved of duty and no meal was provided. *Donohue v. AMN Servs.*, 11 Cal. 5th 58 (2021).

28. Furthermore, throughout Plaintiff's employment, Defendants violated Labor § 2802 by failing to reimburse Plaintiff for work-related expenses. Plaintiff was not paid for using his personal cell phone for work-related purposes, despite being required to communicate with his supervisor by phone.

1 29. Throughout Plaintiff's employment, Plaintiff was not provided with paystubs that
2 complied with Labor Code § 226, as EMPLOYERS consistently provided incorrect and inaccurate
3 paystubs.

4 30. Throughout Plaintiff's employment, EMPLOYERS violated Labor Code § 221 by
5 collecting and/or receiving from Plaintiff, and other aggrieved employees, part of their wages paid by
6 EMPLOYERS to said employees.

7 31. Defendants violated Labor Code §§ 204 and 223 because Defendants failed to pay wages
8 for all hours worked paid at least twice during each calendar month to employees as required "by
9 contract" under Labor Code section 223, as well as an improper collection of wages paid to an employee
10 under Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist.
11 Mar. 6, 2013); *Naranjo v. Spectrum Sec. Servs.* (May 23, 2022, S258966.

12 32. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and other employees
13 were subject to the same violations and, therefore, are aggrieved employees within the meaning of
14 California Labor Code §2699. Thus, Plaintiffs, as aggrieved employees, brings an action against
15 Defendants, on behalf of themselves and other current and former employees.

16 33. *Additionally, pursuant to Huff v. Securitas Security Services USA, Inc.* (2018) 23
17 Cal.App.5th 745, as aggrieved employees, Plaintiffs may investigate and pursue claims and penalties on
18 behalf of other aggrieved employees for other violations that they were not personally "aggrieved" by.

19 **FEHA AND RETALIATION UNDER THE LABOR CODE ALLEGATIONS**

20 34. In or around November 2021, Plaintiff complained to ARLENE that EMPLOYERS were
21 auto-deducting Plaintiff's lunch every day that Plaintiff worked, despite the fact that Plaintiff did not have
22 the ability to receive lunch breaks.

23 35. Plaintiff ate lunch while driving the work truck nearly every single day that Plaintiff
24 worked for EMPLOYERS, due to the fact that Plaintiff spent most of his time working, and was always
25 on the go.

26 36. On or around December 31, 2021, Plaintiff tested positive for COVID-19, was required to
27 quarantine, and requested a week off from work. Plaintiff informed both JESSICA and ARLENE that
28

1 Plaintiff was positive for COVID. This limited Plaintiff's ability to perform the major life activity of
2 working and therefore constituted a disability.

3 37. On or about January 14, 2022, Plaintiff returned to work from his COVID leave.

4 38. On or about February 9, 2022, EMPLOYERS switched Plaintiff's job position and was
5 redirected to work in the yard.

6 39. On information and belief, Plaintiff was transferred to the yard and given almost no cargo
7 to handle because EMPLOYERS intended to fire Plaintiff, and it was easy to do so if Plaintiff was not
8 working or appeared to not be working.

9 40. Thereafter, in a retaliatory fashion for Plaintiff's complaints about missed meal periods,
10 and for exercising protected leave, Defendants terminated Plaintiff's employment on or about February
11 23, 2022.

12 41. Plaintiff's termination was substantially motivated by Plaintiff engaging in protected
13 activities, and Defendants' retaliatory animus is evidenced by the previously mentioned facts.

14 **GENERAL ALLEGATIONS**

15 42. Defendants' conduct described herein was undertaken, authorized, and/or ratified
16 Defendants' officers, directors and/or managing agents, including, but not limited to those identified
17 herein as DOES 1 through 20, who were authorized and empowered to make decisions that reflect and/or
18 create policy for Defendants. The aforementioned conduct of said managing agents and individuals was
19 therefore undertaken on behalf of Defendants who further had advanced knowledge of the actions and
20 conduct of said individuals whose actions and conduct were ratified, authorized, and approved by
21 managing agents whose precise identities are unknown to Plaintiff at this time and are therefore identified
22 and designated herein as DOES 1 through 20, inclusive.

23 43. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer general
24 and special damages, including severe and profound pain and emotional distress, anxiety, depression,
25 headaches, tension, and other physical ailments, as well as medical expenses, expenses for psychological
26 counseling and treatment, and past and future lost wages and benefits.

27 44. As a result of the above, Plaintiff is entitled to past and future lost wages, bonuses,
28 commissions, benefits and loss or diminution of earning capacity.

45. Plaintiff claims general damages for emotional and mental distress and aggravation in a sum in excess of the jurisdictional minimum of this Court.

46. Because the acts taken toward Plaintiff were carried out by officers, directors and/or managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this Court.

FIRST CAUSE OF ACTION
FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

47. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as though set forth in full herein.

48. At all times hereto, the FEHA was in full force and effect and was binding upon Defendants and each of them.

49. As such term is used under FEHA, “on the bases enumerated in this part” means or refers to discrimination on the bases of one or more of the protected characteristics under FEHA.

50. FEHA requires Defendants to refrain from discriminating against an employee on the basis of disability, real or perceived; medical condition, real or perceived; use of or anticipated use of medical leave; and engagement in protected activities, and to prevent from occurring discrimination, harassment, and retaliation on the same bases.

51. Plaintiff was a member of multiple protected classes as a result of Plaintiff's disability, real or perceived; medical condition, real or perceived; use of or anticipated use of medical leave; and engagement in protected activities.

52. At all times relevant hereto, Plaintiff was performing competently in the position Plaintiff held with Defendants.

1 53. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination,
2 failure to accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate
3 and/or return to work, and termination, and was harmed thereby.

4 54. Plaintiff is informed and believes that Plaintiff's disability, real or perceived; medical
5 condition, real or perceived; use of or anticipated use of medical leave; and engagement in protected
6 activities, and/or some combination of these protected characteristics under Government Code § 12926(j)
7 were motivating reasons and/or factors in the decisions to subject Plaintiff to the aforementioned adverse
8 employment actions.

9 55. Said conduct violates the FEHA, and such violations were a proximate cause in Plaintiff's
10 damage as stated below.

11 56. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
12 by reference.

13 57. The foregoing conduct of Defendants individually, or by and through their officers,
14 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
15 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
16 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
17 such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
18 punitive damages in an amount appropriate to punish or make an example of Defendants.

19 58. Pursuant to Government Code § 12965(b), Plaintiff requests a reasonable award of
20 attorneys' fees and costs, including expert fees pursuant to the FEHA.

21
22 **SECOND CAUSE OF ACTION**
23 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**
24 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

25 59. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
26 though set forth in full herein.

27 60. At all times hereto, the FEHA was in full force and effect and was binding upon
28 Defendants and each of them.

1 61. These laws set forth in the preceding paragraph require Defendants to refrain from
2 retaliating against an employee for engaging in protected activity.

3 62. Plaintiff engaged in the protected activities of requesting accommodation, requesting
4 medical leave and/or exercising Plaintiff's right to medical leave, and complaining about and protesting
5 Defendants' discriminatory and harassing conduct towards Plaintiff based upon Plaintiff's disability, real
6 or perceived; medical condition, real or perceived; use of or anticipated use of medical leave; and
7 engagement in protected activities, as well as complaining about unhygienic and unsafe working
8 conditions, including employees not wearing protective face masks although there was a state-wide
9 mandate enforcing the rule.

10 63. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination,
11 failure to accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate
12 and/or return to work, and termination, and was harmed thereby.

13 64. Plaintiff is informed and believes that Plaintiff's conduct of requesting accommodation,
14 requesting medical leave and/or exercising Plaintiff's right to medical leave, complaining about and
15 protesting about Defendants' discriminatory conduct, complaining about unsafe working conditions,
16 and/or some combination of these factors, were motivating reasons and/or factors in the decisions to
17 subject Plaintiff to the aforementioned adverse employment actions.

18 65. Defendants violated the FEHA by retaliating against Plaintiff and terminating Plaintiff for
19 attempting to exercise Plaintiff's protected rights, as set forth hereinabove.

20 66. Plaintiff is informed and believes, and based thereon alleges, that the above acts of
21 retaliation committed by Defendants were done with the knowledge, consent, and/or ratification of, or at
22 the direction of, each other Defendant and the other Managers.

23 67. The above said acts of Defendants constitute violations of the FEHA, and were a
24 proximate cause in Plaintiff's damage as stated below.

25 68. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
26 by reference.

27 69. The foregoing conduct of Defendants individually, or by and through their officers,
28 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was

1 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
2 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
3 such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
4 punitive damages in an amount appropriate to punish or make an example of Defendants.

5 70. Pursuant to Government Code § 12965(b), Plaintiff requests a reasonable award of
6 attorneys' fees and costs, including expert fees pursuant to the FEHA.

7
8 **THIRD CAUSE OF ACTION**

9 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION**

10 **IN VIOLATION OF GOV'T CODE § 12940(k)**

11 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

12 71. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
13 though set forth in full herein.

14 72. At all times hereto, the FEHA, including in particular Government Code § 12940(k), was
15 in full force and effect and was binding upon Defendants. This subsection imposes a duty on Defendants
16 to take all reasonable steps necessary to prevent discrimination, harassment, and retaliation from
17 occurring. As alleged above, Defendants violated this subsection and breached their duty by failing to
18 take all reasonable steps necessary to prevent discrimination, harassment and retaliation from occurring.

19 73. The above said acts of Defendants constitute violations of the FEHA, and were a
20 proximate cause in Plaintiff's damage as stated below.

21 74. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
22 by reference.

23 75. The foregoing conduct of Defendants individually, or by and through their officers,
24 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
25 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
26 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
27 such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
28 punitive damages in an amount appropriate to punish or make an example of Defendants.

1 76. Pursuant to Government Code § 12965(b), Plaintiff requests a reasonable award of
2 attorneys' fees and costs, including expert fees pursuant to the FEHA.

3
4 **FOURTH CAUSE OF ACTION**
5 **FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS**
6 **IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**
7 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

8 77. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
9 though set forth in full herein.

10 78. At all times hereto, the FEHA, including in particular Government Code § 12940(m), was
11 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on
12 Defendants to make reasonable accommodation for the known physical disability and/or medical
13 condition of an employee.

14 79. At all relevant times, Plaintiff was a member of a protected class within the meaning of,
15 in particular, Government Code §§ 12940(a) & 12986(1) et seq. because Plaintiff had a disability, a
16 physical condition that affected Plaintiff's major life activities, and medical condition of which
17 Defendants had both actual and constructive knowledge.

18 80. At all times herein, Plaintiff was willing and able to perform the duties and functions of
19 the position in which Plaintiff was employed, or could have performed the duties and functions of that
20 position with reasonable accommodations. At no time would the performance of the functions of the
21 employment position, with a reasonable accommodation for Plaintiff's disability or medical condition,
22 actual or as it was perceived by Defendants, have been a danger to Plaintiff's or any other person's health
23 or safety. Accommodation of Plaintiff's disability or disability or medical condition, real or perceived
24 by Defendants, would not have imposed an undue hardship on Defendants. Defendants failed and refused
25 to accommodate Plaintiff's disability, failed to engage in the interactive process with Plaintiff and
26 continue to violate this obligation, up to and including the date of Plaintiff's termination or, if Defendant
27 contends Plaintiff was never terminated, through the present and ongoing.

1 81. The above said acts of Defendants constitute violations of the FEHA, and were a
2 proximate cause in Plaintiff's damage as stated below.

3 82. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
4 by reference.

5 83. The foregoing conduct of Defendants individually, and/or by and through their officers,
6 directors, and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
7 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
8 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
9 such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
10 punitive damages in an amount appropriate to punish or make an example of Defendants.

11 84. Pursuant to Government Code § 12965(b), Plaintiff requests a reasonable award of
12 attorneys' fees and costs, including expert fees pursuant to the FEHA.

13
14 **FIFTH CAUSE OF ACTION**
15 **FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS**
16 **IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.**
17 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

18 85. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
19 though set forth in full herein.

20 86. At all times hereto, the FEHA, including in particular Government Code § 12940(n), was
21 in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on
22 Defendants to engage in a timely, good faith, interactive process with the employee to determine effective
23 reasonable accommodations, if any, in response to a request for reasonable accommodation by an
24 employee with a known physical disability or known medical condition and/or becoming aware of the
25 employee's need for accommodation.

26 87. At all relevant times, Plaintiff was a member of a protected class within the meaning of,
27 in particular, Government Code §§ 12940(a) & 12986(1) et seq. because Plaintiff had a physical disability
28

1 that affected Plaintiff's major life activities, and medical condition of which Defendants had both actual
2 and constructive knowledge.

3 88. Plaintiff reported the disability to Defendants and requested accommodation, triggering
4 Defendants' obligation to engage in the interactive process with Plaintiff, but at all times herein,
5 Defendants failed and refused to do so. Thereafter, despite Defendants continuing obligation to engage
6 in the interactive process with Plaintiff, despite Plaintiff's submission of a doctor's note identifying
7 Plaintiff's condition and Plaintiff's desire to continue working in some capacity, Defendants failed and
8 refused to have any dialogue with Plaintiff whatsoever, on any of these occasions, and Defendants
9 violated, and continued to violate this obligation up to and including the date of Plaintiff's termination
10 or, if Defendant contends Plaintiff was never terminated, through the present and ongoing.

11 89. The above said acts of Defendants constitute violations of the FEHA, and were a
12 proximate cause in Plaintiff's damage as stated below.

13 90. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
14 by reference.

15 91. The foregoing conduct of Defendants individually, and/or by and through their officers,
16 directors, and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was
17 despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of
18 Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights
19 such as to constitute malice, oppression, or fraud under Civil Code § 3294, thereby entitling Plaintiff to
20 punitive damages in an amount appropriate to punish or make an example of Defendants.

21 92. Pursuant to Government Code § 12965(b), Plaintiff requests a reasonable award of
22 attorneys' fees and costs, including expert fees pursuant to the FEHA.

1 **SIXTH CAUSE OF ACTION**

2 **RETALIATION**

3 **LABOR CODE §98.6**

4 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

5 93. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
6 though set forth in full herein.

7 94. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against an
8 employee for political activities; for complaining that he or she is owed unpaid wages, for
9 whistleblowing; for assigning wage claims to the Labor Commissioner resulting from demotion,
10 suspension, or discharge for lawful conduct occurring during nonworking hours away from employer's
11 premises; for filing a complaint with the Labor Commissioner or testifying in such proceedings; for
12 initiating proceedings against the employer to collect civil penalties under the "Labor Code Private
13 Attorneys General Act;" and for exercising "any rights afforded him or her" under the Labor Code. Thus,
14 Section 98.6 prohibits an employer from discharging or in any manner discriminating or retaliating
15 against an employee who, among other things, has exercised his or her rights under that Chapter (Chapter
16 5 of the Labor Code, which encompasses §1102.5), including the right to take meal breaks, and/or made
17 a written or oral complaint that he or she is owed unpaid wages.

18 95. An employee who has been discharged or retaliated against in violation of Labor Code
19 §98.6 is entitled to recovery of a civil penalty against the employer in an amount not exceeding ten
20 thousand dollars (\$10,000.00) for each violation of that section.

21 96. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff was
22 terminated from Plaintiff's employment with Defendants as a result of Plaintiff's complaints about the
23 auto-deduction for meal break periods, and because he exercised his right to a protected leave of absence
24 due to COVID-19.

25 97. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
26 Defendants, and Defendants' officers and/or managing agents, including INDIVIDUAL HARASSERS
27 and those identified herein as DOES 1-20, who were authorized and empowered to make decisions that
28 reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents and

1 individuals was therefore undertaken on behalf of Defendants. Defendants further had advanced
2 knowledge of the actions and conduct of said individuals whose actions and conduct were ratified,
3 authorized, and approved by managing agents whose precise identities are unknown to Plaintiff at this
4 time and are therefore identified and designated herein as DOES 1-20, inclusive.

5 98. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
6 by reference.

7 99. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
8 \$10,000.00 for Defendants' violations of Labor Code § 98.6.

9 100. Because the acts taken toward Plaintiff were carried out by managerial employees acting
10 in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights and
11 in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against
12 Defendants and each of them, in sums in excess of the jurisdictional minimum of this court.

13
14 **SEVENTH CAUSE OF ACTION**

15 **FOR RETALIATION**

16 **IN VIOLATION OF LABOR CODE §§ 1102.5, 1102.6 6310**

17 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

18 101. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
19 though set forth in full herein.

20 102. At all relevant times, Labor Code §1102.5(a) was in full force and effect, and was
21 binding on Defendants. This law prohibits an employer, or any person acting on behalf of the employer,
22 from discharging an employee or in any manner discriminating or retaliating against, or taking any
23 adverse action against, an employee because, among other things, the employee disclosed information
24 to a government or law enforcement agency, or to a person with authority over the employee or another
25 employee who has the authority to investigate, discover, or correct the violation or noncompliance, if
26 the employee has reasonable cause to believe that the information discloses a violation of state or
27 federal statute, or violation of or noncompliance with a local, state, or federal rule or regulation,
28 regardless of whether disclosing the information is part of the employee's job duties. Pursuant to Labor

1 Code §1102.5(f), in addition to other penalties, an employer that is a corporation or limited liability
2 company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of
3 this section.

4 103. Labor Code §6310 declares, in pertinent part, that no person shall discharge, or in any
5 manner discriminate against an employee, because the employee has made any oral or written complaint
6 to his employer with reference to employee safety or health. The public policy underlying Labor Code
7 §6310 is not merely to aid the reporting of actual safety violations; it is to prevent retaliation against those
8 who in good faith report working conditions they believe to be unsafe.

9 104. Labor Code §§6400, et seq., require that every employer shall furnish employment and a
10 place of employment that is safe and healthful for employees. *City of Palo Alto v. Service Employees*
11 *International Union (SEIU)* (1999) 77 Cal.App.4th 327.

12 a) Labor Code §6401 provides that “Every employer shall . . . adopt and use practices,
13 means, methods, operations and processes which are reasonably adequate to render such employment and
14 place of employment safe and healthful. Every employer shall do every other thing reasonably necessary
15 to protect the life, safety and health of employees.”

16 b) Labor Code §6402 provides that “No employer shall require, or permit any
17 employee to go or be in any employment or place of employment which is not safe and healthful.”

18 105. When read together, the foregoing statutes establish a fundamental public policy of the
19 State of California requiring employers to provide a safe and secure workplace, including a requirement
20 that an employer take reasonable steps to address safety in the workplace.

21 106. Defendants subjected Plaintiff to the adverse employment action, including without
22 limitation, termination because Plaintiff reported the suspected violations of California Law and the
23 Labor Code to Plaintiff’s supervisors, including that EMPLOYERS were auto-deducting meal periods
24 Plaintiff out of work for his meal periods, when Plaintiff did not in fact have time to take those
25 uninterrupted 30-minute meal breaks.

26 107. Plaintiff was terminated from his employment with Defendants as a result of his exercise
27 of his rights under Labor Code section §§98.6, 1102.5, 6310. Defendants’ retaliatory animus is
28 evidenced by, among other things, the following facts: (1) Plaintiff’s termination occurred following

1 Plaintiff making complaints about conduct he believed was unlawful, (2) there were no performance
2 issues or any other legitimate reason for Plaintiff's termination (3) EMPLOYERS transferred Plaintiff
3 to a different role in which there was no work available, which provided EMPLOYERS with a
4 legitimate reason to terminate Plaintiff (4) Plaintiff was terminated not long after he complained about
5 the lack of meal breaks.

6 108. Plaintiff's reports of these violations were a motivating and contributing factor for the
7 adverse employment actions by Defendants against Plaintiff.

8 109. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
9 Defendants, and Defendants' officers and/or managing agents, including those identified herein as DOES
10 1-20, who were authorized and empowered to make decisions that reflect and/or create policy for
11 Defendants. The aforementioned conduct of said managing agents and individuals was therefore
12 undertaken on behalf of Defendants. Defendants further had advanced knowledge of the actions and
13 conduct of said individuals whose actions and conduct were ratified, authorized, and approved by
14 managing agents whose precise identities are unknown to Plaintiff at this time and are therefore identified
15 and designated herein as DOES 1-20, inclusive.

16 110. Said conduct violates Labor Code Labor Code §§1102.5, 1102.6, and 6310, and such
17 violations were a proximate cause in Plaintiff's damages as hereinabove stated.

18 111. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
19 \$10,000.00 for Defendants' violations of Labor Code § 1102.5.

20 112. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
21 by reference.

22 113. The foregoing conduct of Defendants individually, or by and through their managing
23 agents, was intended by Defendants to cause injury to Plaintiff, or was despicable conduct carried on
24 by Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to
25 cruel and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice,
26 oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an
27 amount appropriate to punish or make an example of Defendants.

EIGHTH CAUSE OF ACTION
FOR WRONGFUL TERMINATION
IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

114. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as though set forth in full herein.

115. At all relevant times mentioned in this complaint, the FEHA was in full force and effect and was binding on Defendants. This law requires Defendants to refrain, among other things, from discriminating against any employee on the basis of disability, real or perceived; medical condition, real or perceived; use of or anticipated use of medical leave; and engagement in protected activities.

116. At all times mentioned in this complaint, it was a fundamental policy of the State of California that Defendants cannot discriminate and/or retaliate against any employee on the basis of disability, real or perceived; medical condition, real or perceived; use of or anticipated use of medical leave; and engagement in protected activities..

117. Plaintiff believes and thereon alleges that Plaintiff's disability, real or perceived; medical condition, real or perceived; use of or anticipated use of medical leave; and engagement in protected activities., and/or some combination thereof, were factors in Defendants' conduct as alleged hereinabove.

118. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's employment on the basis of disability, real or perceived; medical condition, real or perceived; use of or anticipated use of medical leave; and engagement in protected activities., and/or some combination of these factors, were a proximate cause in Plaintiff's damages as stated below.

119. The above said acts of Defendants constitute violations of the Government Code and the public policy of the State of California embodied therein as set forth above. Defendants violated these laws by discriminating and retaliating against Plaintiff and terminating Plaintiff's employment in retaliation for exercise of protected rights.

120. At all relevant times mentioned in this complaint, Labor Code §98.6 was in full force and effect and was binding upon Defendants and each of them. This law prohibits retaliation against employees who complain about unpaid wages and/or attempt to exercise the rights under the Labor

1 Code. Labor Code §98.6 reflects the State's broad public policy interest in protecting the rights of
2 individual employees and job applicants who could not otherwise afford to protect themselves from
3 violations of the Labor Code.

4 121. At all relevant times mentioned in this complaint, Labor Code §1102.5 was in full force
5 and effect and was binding upon Defendants and each of them. This law prohibits retaliation against
6 employees who disclose reasonable suspicions of illegal activity or conduct by their employer to a
7 government or law enforcement agency, or to employer itself. Labor Code §1102.5 reflects the State's
8 broad public policy interest in encouraging workplace "whistleblowers," who may without fear of
9 retaliation report concerns regarding an employer's suspected illegal conduct, irrespective of whether
10 the reporting is made to governmental agencies or to the employer itself, and irrespective of whether
11 the employee's suspicions are correct that the challenged conduct actually violates some law. Indeed,
12 the law in California is that an employee's good faith but mistaken belief in the illegality of his co-
13 workers', supervisor's, and employer's conduct is protected from employer retaliation in the whistle-
14 blowing context.

15 122. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's
16 engagement in protected activities under Labor Code §§ 98.6 and/or 1102.5 was a proximate cause in
17 Plaintiff's damages as stated below.

18 123. At all relevant times mentioned in this complaint, Labor Code §§6310, and 6400, et seq.,
19 were in full force and effect and were binding on Defendants.

20 124. Labor Code §6310 declares, in pertinent part, that no person shall discharge, or in any
21 manner discriminate against an employee, because the employee has made any oral or written complaint
22 to his employer with reference to employee safety or health. The public policy underlying Labor Code
23 §6310 is not merely to aid the reporting of actual safety violations; it is to prevent retaliation against those
24 who in good faith report working conditions they believe to be unsafe.

25 125. Labor Code §§6400, et seq., require that every employer shall furnish employment and a
26 place of employment that is safe and healthful for employees.

1 126. When read together, the foregoing statutes establish a fundamental public policy of the
2 State of California requiring employers to provide a safe and secure workplace, including a requirement
3 that an employer take reasonable steps to address credible threats of violence in the workplace.

4 127. Plaintiff believes and thereon alleges that his complaints regarding EMPLOYERS
5 clocking Plaintiff out of work for his meal periods, when Plaintiff did not in fact have time to take those
6 uninterrupted 30-minute meal period were factors in Defendants' decision to retaliate against Plaintiff
7 by essentially terminating Plaintiff's employment.

8 128. Such retaliation against Plaintiff who, in good faith, reported working conditions he
9 believed to be unlawful was a proximate cause in Plaintiff's damages as stated below.

10 129. At all times mentioned in this complaint, it was a fundamental policy of the State of
11 California that Defendants cannot discriminate and/or retaliate in violation of the FEHA or for
12 complaining about unsafe working conditions and Labor Code violations in violation of §§ 98.6, 1102.5
13 and 6310.

14 130. Plaintiff believes and thereon alleges that Plaintiff's engagement in protected activities
15 and/or protected characteristics, was a factor in Defendants' conduct as alleged hereinabove.

16 131. Such retaliation, resulting in the wrongful termination of Plaintiff's employment on the
17 basis of Plaintiff's protected status and/or engagement in protected activity, was a proximate cause in
18 Plaintiff's damages as stated below.

19 132. The above said acts of Defendants constitute violations of the Government Code,
20 FEHA, Labor Code, and the public policy of the State of California embodied therein as set forth above.
21 Defendants violated these laws by retaliating against Plaintiff and terminating Plaintiff's employment
22 in retaliation for exercise of protected rights.

23 133. At all times mentioned in this complaint, it was a fundamental policy of the State of
24 California that Defendants cannot retaliate against any employee who engages in protected activity.

25 134. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's
26 complaints and protected status were a proximate cause in Plaintiff's damages as stated below.

1 135. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's
2 engagement in protected activities under Labor Code §§ 98.6, 1102.5, and/or 6310 was a proximate
3 cause in Plaintiff's damages as stated below.

4 136. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
5 by reference.

6 137. The foregoing conduct of Defendants individually, or by and through their officers,
7 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
8 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
9 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
10 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
11 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

12
13 **NINTH CAUSE OF ACTION**
14 **FOR DECLARATORY JUDGMENT**
15 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

16 138. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 137, inclusive, as
17 though set forth in full herein.

18 139. Government Code §12920 sets forth the public policy of the State of California as follows:

19 It is hereby declared as the public policy of this state that it is necessary to
20 protect and safeguard the right and opportunity of all persons to seek,
21 obtain, and hold employment without discrimination or abridgment on
22 account of race, religious creed, color, national origin, ancestry, physical
disability, mental disability, medical condition, genetic information,
marital status, sex, gender, gender identity, gender expression, age, or
sexual orientation.

23 It is recognized that the practice of denying employment opportunity and
24 discriminating in the terms of employment for these reasons foments
domestic strife and unrest, deprives the state of the fullest utilization of its
25 capacities for development and advancement, and substantially and
adversely affects the interests of employees, employers, and the public in
26 general.

27 Further, the practice of discrimination because of race, color, religion, sex,
28 gender, gender identity, gender expression, sexual orientation, marital
status, national origin, ancestry, familial status, source of income,
disability, or genetic information in housing accommodations is declared
to be against public policy.

1 It is the purpose of this part to provide effective remedies that will eliminate
2 these discriminatory practices.

3 This part shall be deemed an exercise of the police power of the state for
4 the protection of the welfare, health, and peace of the people of this state.

5 140. Government Code § 12920.5 embodies the intent of the California legislature and states:

6 In order to eliminate discrimination, it is necessary to provide effective
7 remedies that will both prevent and deter unlawful employment practices
8 and redress the adverse effects of those practices on aggrieved persons. To
9 that end, this part shall be deemed an exercise of the Legislature's authority
10 pursuant to Section 1 of Article XIV of the California Constitution.

11 141. Moreover, Government Code § 12921, subdivision (a) says in pertinent part:

12 The opportunity to seek, obtain, and hold employment without
13 discrimination because of race, religious creed, color, national origin,
14 ancestry, physical disability, mental disability, medical condition, genetic
15 information, marital status, sex, gender, gender identity, gender expression,
16 age, or sexual orientation is hereby recognized as and declared to be a civil
17 right.

18 142. An actual controversy has arisen and now exists between Plaintiff and Defendants
19 concerning their respective rights and duties as it is believed that Defendants may allege that they did
20 not discriminate and retaliate against Plaintiff; that Plaintiff was not terminated as a result of Plaintiff's
21 disability, real or perceived; medical condition, real or perceived; use of or anticipated use of medical
22 leave; and engagement in protected activities, and/or some combination of these protected
23 characteristics. Plaintiff contends that Defendants did discriminate and retaliate against Plaintiff on
24 the basis of Plaintiff's disability, real or perceived; medical condition, real or perceived; use of or
25 anticipated use of medical leave; and engagement in protected activities, and/or some combination of
26 these protected characteristics; and that Plaintiff was retaliated against and, ultimately wrongfully
27 terminated as a result of Plaintiff's disability, real or perceived; medical condition, real or perceived;
28 use of or anticipated use of medical leave; and engagement in protected activities, and/or some
combination of these protected characteristics. Plaintiff is informed and believes, and on that basis
alleges, that Defendants shall dispute Plaintiff's contentions.

143. Pursuant to Code of Civil Procedure § 1060, Plaintiff desires a judicial determination of
Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the basis of

1 Plaintiff's disability, real or perceived; medical condition, real or perceived; use of or anticipated use
2 of medical leave; and engagement in protected activities, and/or some combination of these protected
3 characteristics.

4 144. Pursuant to Code of Civil Procedure § 1060, Plaintiff seeks a judicial determination of
5 Plaintiff's rights and duties, and a declaration that Plaintiff's disability, real or perceived; medical
6 condition, real or perceived; use of or anticipated use of medical leave; and engagement in protected
7 activities, and/or some combination of these protected characteristics was a substantial motivating factor
8 in the decision to subject Plaintiff to the aforementioned adverse employment actions.

9 145. A judicial declaration is necessary and appropriate at this time under the circumstances in
10 order that Plaintiff, for Plaintiff and on behalf of employees in the State of California and in conformity
11 with the public policy of the State, obtain a judicial declaration of the wrongdoing of Defendants and to
12 condemn such discriminatory employment policies or practices prospectively. *Harris v. City of Santa*
13 *Monica* (2013) 56 Cal.4th 203.

14 146. A judicial declaration is necessary and appropriate at this time such that Defendants may
15 also be aware of their obligations under the law to not engage in discriminatory practices and to not
16 violate the law in the future.

17 147. Government Code § 12965(b) provides that an aggrieved party, such as the Plaintiff
18 herein, may be awarded reasonable attorney's fees and costs: "In civil actions brought under this section,
19 the court, in its discretion, may award to the prevailing party, including the department, reasonable
20 attorney's fees and costs, including expert witness fees." Such fees and costs expended by an aggrieved
21 party may be awarded for the purpose of redressing, preventing, or deterring discrimination and
22 harassment.

23 148.
24
25
26
27
28

TENTH CAUSE OF ACTION
FOR FAILURE TO PAY WAGES DUE
LABOR CODE §§201, 1182.12, 1194, 1194.2
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

149. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as though set forth in full herein.

150. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and required by 8 Code of Regulations §11090, as set forth hereinabove. As alleged herein, Defendants failed to pay Plaintiff wages for missed meal and rest break periods.

151. Employers failed to abide by California statutes and employment contracts and paid a lower wage, which was not within the time provided for by statute, while purporting to pay wages designated by statute or “by contract” in violation of Labor Code §§ 204 and 223, as well as an improper collection of wages paid to an employee under Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist. Mar. 6, 2013).

152. Defendants, as a pattern and practice in uniform administration of corporate policy with regard to Plaintiff and the other aggrieved employees, required Plaintiff and the other aggrieved employees to perform labor without compensation. Specifically, Plaintiff and the other aggrieved employees were made to work through their meal and rest breaks and were not paid for all hours worked.

153. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8 Code of Regulations §11090, and Industrial Welfare Commission Order No. 9-2001.

154. Plaintiff has been deprived of Plaintiff’s rightfully earned compensation as a direct and proximate result of Defendants’ failure and refusal to pay said compensation. Plaintiff is entitled to recover such amounts, plus interest thereon, attorneys’ fees and costs.

155. Plaintiff also seeks to recover unpaid wages for working when Plaintiff should have been on her meal break in violation of applicable law and, under the Unfair Competition Law (UCL), it should be restored to Plaintiff in the form of compensation for the time work, as EMPLOYERS took that time from Plaintiff. *Cortez v. Purolator Air Filtration Products*, 96 Cal.Rptr.2d 518, 528 (2000) (“the concept of restoration or restitution, as used in the UCL, is not limited only to the return of money or property

1 that was once in the possession of that person ... earned wages that are due and payable pursuant to
2 section 200 et seq. of the Labor Code are as much the property of the employee who has given his or her
3 labor to the employer in exchange for that property as is property a person surrenders through an unfair
4 business practice”).

5 156. Plaintiff seeks civil penalties pursuant to Labor Code § 225.5, of one hundred dollars
6 (\$100) for each initial failure to pay each employee and two hundred dollars (\$200) for each subsequent
7 violation, or any willful or intentional violations for each failure to pay each employee, plus 25 percent
8 of the amount unlawfully withheld.

9 157. Labor Code §558(a) provides that any person acting on behalf of an employer who
10 violates, or causes to be violated, any statute or provision regulating hours and days of work in any order
11 of the Industrial Welfare Commission pay a civil penalty in the amount of \$50 for each underpaid
12 employee for each pay period in which the employee was underpaid in addition to an amount sufficient
13 to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting
14 on behalf of an employer is liable in the amount of \$100 for each underpaid employee for each pay period
15 for which the employee was underpaid in addition to an amount sufficient to recover the underpaid wages.

16 158. In addition to the unpaid wages, Plaintiff is entitled to civil penalties in this amount stated
17 above based upon Defendants’ underpayment of minimum and overtime wages. Within the one year
18 immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code
19 §558 on 26 pay periods, the first of which Defendants are penalized \$50.00, and the remainder of which
20 Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties of \$2,550.00.

21 159. Pursuant to Labor Code §§ 218, 218.5, and 218.6, Plaintiff is entitled to recover the full
22 amount of unpaid wages, prejudgment interest, attorneys’ fees and costs.

ELEVENTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE MEAL AND REST BREAKS
LABOR CODE § 226.7, 512
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

160. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as though set forth in full herein.

161. Labor Code §512 requires employers to provide every employee with an uninterrupted meal period of not less than thirty (30) consecutive minutes, for every period of work exceeding five (5) hours.

162. Labor Code §226.7 requires an employer to provide employees with an uninterrupted rest period of not less than ten (10) minutes, for every period worked of four (4) hours, or a substantial portion thereof.

163. For approximately nine (9) months, Plaintiff worked at least five (5), twelve-hour workdays per week, and was thereby entitled to take two (2) uninterrupted 30-minute meal periods on those days.

164. Defendants failed and refused to provide Plaintiff with meal periods, and failed to compensate Plaintiff for missed meal periods, as required by Labor Code §§226.7 and the applicable sections of 8 Code of Regulations §11090 and Industrial Welfare Commission Order No. 9-2001.

165. Consequently, Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate, whichever is greater, for each day that Plaintiff was denied such meal periods, calculated as follows:

a. From approximately June 1, 2021, through February 23, 2022, Plaintiff's statutory 30-minute meal periods were missed, interrupted or cut short no less than 5 days per week for 38 weeks, or on approximately 190 days. Consequently, Plaintiff is owed one hour of pay at \$29.50 for each day, or \$5,605.00 plus interest thereon, for unpaid missed or interrupted meal periods;

166. Thus, the total missed meal period compensation owing Plaintiff for this time period is \$5,605.00.

167. For approximately nine (9) months, Plaintiff worked five (5) twelve-hour workdays per week and was thereby entitled to take three (3) 10-minute rest periods on each day of work.

1 168. Consequently, Plaintiff is owed one hour of pay at Plaintiff's then regular hourly rate,
2 whichever is greater, for each day that Plaintiff was denied such rest periods, calculated as follows:

3 a. From approximately June 1, 2021, through February 23, 2022, Plaintiff was not permitted
4 and not advised of Plaintiff's right to take on or more of Plaintiff's statutory 10-minute rest period for
5 days on which Plaintiff worked for at least four hours, which was each day Plaintiff worked, or
6 approximately 190 days. Consequently, Plaintiff is owed one hour of pay at \$29.50 for each day, or
7 \$5,605.00 plus interest thereon, for unpaid rest periods.

8 169. Thus, the total missed rest period compensation owing Plaintiff for this time period is
9 \$5,605.00.

10 170. Thus, the total missed meal and rest period compensation owing Plaintiff for this time
11 period is \$11,210.00.

12 171. The damage allegations of Paragraphs 42 through 46, inclusive, are herein incorporated
13 by reference.

14 172. Plaintiff has been deprived of Plaintiff's rightfully earned compensation for meal and rest
15 breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

16 173. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
17 such amounts in the combined amount of \$11,210.00, pursuant to Labor Code §226.7(b), plus interest
18 thereon and costs of suit.

19
20 **TWELFTH CAUSE OF ACTION**
21 **FOR FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS**
22 **LABOR CODE §§226, 226.3 1174 ET SEQ.**
23 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

24 174. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
25 though set forth in full herein.

26 175. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
27 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,
28 total deductions and net wages earned. An employer who violates these code sections is liable to its

1 employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the
2 initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay
3 period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is
4 deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement
5 at all.

6 176. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates
7 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation
8 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

9 177. At all relevant times, Defendants failed to provide Plaintiff with timely and accurate wage
10 and hour statements showing gross wages earned, total hours worked, all deductions made, net wages
11 earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and rates in
12 effect during each pay period and the corresponding number of hours worked at each hourly rate by
13 Plaintiff. Not one of the paystubs that Plaintiff received complied with Labor Code §226, and contained
14 almost none of the required information, including hours actually worked.

15 178. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

16 179. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
17 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
18 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
19 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
20 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
21 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
22 meal period, and rest period wages.

23 180. Plaintiff was paid every two (2) weeks, and therefore Defendants violated Labor Code
24 §226 approximately twenty-six (26) times during the last year that Plaintiff worked for Defendants.
25 Consequently, Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory
26 maximum amount of \$4,000.00, whichever is greater.

27 181. In addition, thereto, Plaintiff is entitled civil penalties pursuant to Labor Code §226.3 in
28 the amount of \$25,250.00 (\$250.00 + \$1,000.00 x 25 subsequent pay periods).

1 182. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
2 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other
3 applicable provisions, as well as attorneys' fees and costs.

4
5 **THIRTEENTH CAUSE OF ACTION**

6 **FOR WAITING TIME PENALTIES**

7 **LABOR CODE §§201-203**

8 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

9 183. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
10 though set forth in full herein.

11 184. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
12 other compensation due immediately upon termination or within 72 hours of resignation, as required.
13 These wages refer to, at a minimum, unpaid meal and rest break compensation, that Defendants should
14 have paid, but did not pay to Plaintiff during the term of Plaintiff's employment and which were, at the
15 latest, due within the time restraints of Labor Code §§201-203.

16 185. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
17 203.

18 186. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
19 is entitled to payment of Plaintiff's meal and rest break compensation, as previously pleaded herein, and
20 more than \$12,180.00 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
21 \$406.00, inclusive of overtime.

22 187. Based on Defendants' conduct as alleged herein, Defendants are liable for \$12,180.00 in
23 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
24 fees and costs.

FOURTEENTH CAUSE OF ACTION
FOR PRIVATE ATTORNEY GENERAL ACT

LABOR CODE §2699
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

188. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as though set forth in full herein.

189. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties for Defendants' violations of the California Labor Code.

190. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as previously pleaded in this Complaint.

191. On June 29, 2022, Plaintiff provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants of the specific provisions of the California Labor Code that Defendants violated. These violations included Labor Code §§ 98.6, 200, 201, 202, 203, 204, 221, 226, 226.3, 226.7, 512, 558, and 1102.5, 1174, 1194, 1197.1, 2802 each of which is enumerated among the serious violations set forth in Labor Code §2699.5. As of June 29, 2022, it has been more than 65 calendar days since Plaintiff provided electronic notice to the Labor and Workforce Development Agency and notice by certified mail to Defendants thereby satisfying the requirements of Labor Code §2699.3(a).

192. As of the filing of this Complaint, Plaintiff has not received any response from the Labor and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently, Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

193. Further, as of the filing of this Complaint, Plaintiffs have not received from Defendants written notice by certified mail that the alleged violations have been cured, including a description of the actions taken. As such, Plaintiffs have complied with Labor Code §2699.3(c) and have been given authorization therefrom to commence a civil action which includes a cause of action pursuant to Labor Code §2699.

194. Additionally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 23 Cal.App.5th 745, as an aggrieved employee, Plaintiff may investigate and pursue claims and penalties on behalf of other aggrieved employees for other violations that they were not personally “aggrieved” by.

PENALTIES

195. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) (or any of its departments, divisions, commissions, board agency or employees), such civil penalties 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 former employees) and Labor Code §2699(f) (which establishes a civil penalty for violations of all Labor Code provisions except those which a civil penalty is specifically provided), the aggrieved employees seek recover of all applicable civil penalties, as follows:

a) As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor Code except for those for which a civil penalty is specifically provided, in the amount of one hundred dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation; and

b) As applicable, civil penalties under Labor Code §558 (in addition to and entirely independent and apart from any other penalty provided for in the Labor Code), for violations of Labor Code §§1-556, in the amount of \$50 for each underpaid aggrieved employee for each pay period the aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid; and also an additional amount sufficient to recover under paid wages as penalties, with all wages recovered pursuant to Labor Code §557 paid to the aggrieved employees. Within the one year immediately preceding the filing of this Complaint, Defendants, and each of them, violated Labor Code §558 on 26 pay periods, the first of which Defendants are penalized \$50.00, and the remainder of which Defendants are penalized \$100.00 each, for a total due in Labor Code §558 penalties of \$2,550.00;

1 c) As applicable, civil penalties under Labor Code §1197.1 (in addition to and entirely
2 independent and apart from any other penalty provided in the Labor Code) for violations of Labor Code
3 §§1194 and 1197, in the amount of \$100 for each underpaid aggrieved employee for each pay period the
4 aggrieved employee was intentionally underpaid in addition to an amount sufficient to recover underpaid
5 wages, and \$250 for each subsequent violation for each underpaid aggrieved employees regardless of
6 whether the initial violation was intentionally committed in addition to an amount sufficient to recover
7 underpaid wages, with all wages recovered pursuant to Labor Code §1197.1. Plaintiff may also recover
8 penalties under § 1197.1 on behalf of herself and for the other aggrieved employees;

9 d) As applicable, civil penalties under Labor Code §98.6 (in addition to and entirely
10 independent and apart from any other penalty provided for in the Labor Code), for violations of Labor
11 Code §98.6, in the amount of \$10,000 per aggrieved employee for each violation of this section, to be
12 awarded to the employee or employees who suffered the violation;

13 e) As applicable, civil penalties under Labor Code §§201-203 (in addition to and entirely
14 independent and apart from any other penalty provided in the Labor Code), for any aggrieved employee
15 who was discharged or quit, and was not paid all earned wages at termination in accordance with Labor
16 Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of pay, at the same
17 rate, for each day that he or she was paid late, until payment was/is made, up to a maximum of thirty (30)
18 days;

19 f) As applicable, Labor Code §204 (in addition to an entirely independent and apart from
20 any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed to
21 pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial violation,
22 and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25 percent of
23 the amount unlawfully withheld; and

24 g) As applicable, civil penalties under Labor Code §221 (in addition to an entirely
25 independent and apart from any other penalty provided in the Labor Code), for any aggrieved employee
26 who Defendants failed to pay all earned wages during employment, in the amount of a civil penalty of
27 \$100 for the initial violation, and \$200 for each aggrieved employee per pay period for each subsequent
28 violation;

1 h) As applicable, civil penalties under Labor Code §226.3 (in addition to and entirely
2 independent and apart from any other civil penalty provided in the Labor Code), for each violation of
3 Labor Code §226(a), in the amount of \$250 for each aggrieved employee per pay period for each violation
4 and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

5 i) As applicable, Labor Code §226.7 (in addition to an entirely independent and apart from
6 any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed to
7 pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial violation,
8 and \$200 for each aggrieved employee per pay period for each subsequent violation;

9 j) As applicable, Labor Code §512 (in addition to an entirely independent and apart from
10 any other penalty provided in the Labor Code), for any aggrieved employee who Defendants failed to
11 pay all earned wages during employment, in the amount of a civil penalty of \$100 for the initial violation,
12 and \$200 for each aggrieved employee per pay period for each subsequent violation plus 25 percent of
13 the amount unlawfully withheld;

14 k) As applicable, civil penalties under Labor Code §1102.5 (in addition to and entirely
15 independent and apart from any other penalty provided in the Labor Code) for violations of Labor Code
16 §§1102.5, in the amount of \$10,000 for each aggrieved employee for each violation; and

17 l) As applicable, any and all additional applicable civil penalties and sums as provided by
18 the Labor Code and/or other relevant statutes.

19 196. In addition, Plaintiffs seek and are entitled to seventy-five percent (75%) of all penalties
20 obtained under Labor Code §2699 to be allocated to the LWDA, for education of employers and
21 employees about their rights and responsibilities under the Labor Code, and twenty-five percent (25%)
22 to the aggrieved employees.

23 197. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
24 recovery of pre-judgment interest on all amounts recovered herein.

25 198. As a direct and proximate result of Defendants' California Labor Code violations as set
26 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
27 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each
28 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly

1 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
2 provide for a penalty, §§ 200, 226.3 and 558.

3 199. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
4 recovery of pre-judgment interest on all amounts recovered herein.

5 200. Further, Plaintiffs are entitled; to recover reasonable attorneys' fees and costs pursuant to
6 Labor Code §§2699(g)(1) and any other applicable statute.

7
8 **FIFTEENTH CAUSE OF ACTION**

9 **FOR FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES**

10 **LABOR CODE §2802**

11 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

12 201. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 41, inclusive, as
13 though set forth in full herein,

14 202. Pursuant to Labor Code §450(a), "no employer...may compel or coerce any employee...to
15 patronize his or her employer, or any other person, in the purchase of any thing of value."

16 203. Pursuant to Labor Code §2802(a), "an employer shall indemnify his or her employee for
17 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
18 his or her duties, or of his or her obedience to the directions of the employer."

19 204. Plaintiff was required by Defendants to expend Plaintiff's personal funds because of the
20 duties required by Defendants, as alleged hereinabove.

21 205. Pursuant to Labor Code §2802(a), Defendants are legally required to reimburse Plaintiff
22 for all necessary expenditures incurred in the performance of Plaintiff's duties.

23 206. Defendants have failed and refused to reimburse Plaintiff for all necessary business
24 expenditures, including for using his personal cellphone for business related purposes.

25 207. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
26 2502(a), Plaintiff is entitled to recover from Defendants the unpaid balance of all of the necessary
27 aforementioned expenditures.

1 208. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
2 2502(a), Plaintiff has been damaged in an amount according to proof at the time of trial but estimated as
3 follows: Plaintiff was required to use his own cellphone throughout his employment for work related
4 purposes, for approximately 9 months. Defendants have at the very least failed to reimburse Plaintiff for
5 her cellphone use in the amount according to proof.

6 209. Pursuant to Labor Code §2802(b), Plaintiff requests that the Court award interest at the
7 same rate as judgments in civil actions, accruing from the date on which Plaintiff incurred the necessary
8 expenditure or loss.

9 210. Pursuant to Labor Code §2802(c), Plaintiff requests that the Court award Plaintiff
10 reasonable attorneys' fees and costs incurred in this action.

11
12 **SIXTEENTH CAUSE OF ACTION**
13 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**
14 **LABOR CODE §§ 226, 1198.5**
15 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

16 211. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as
17 though set forth in full herein.

18 212. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request
19 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
20 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

21 213. Labor Code §226 requires an employer, within twenty-one (21) days of a written request
22 thereof, to allow inspection or to provide a copy of an employee's personnel and payroll records. An
23 employer's failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

24 214. On March 25, 2022, Plaintiff made a written request to inspect or receive a copy of
25 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

26 215. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and
27 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within
28 the time required by Labor Code §1198.5, or ever.

1 216. As a result of Defendants' failure and refusal to comply with Labor Code §1198.5,
2 Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00.

3 217. As a result of Defendants' failure and refusal to comply with Labor Code §226(f), Plaintiff
4 is entitled to recover from Defendants a civil penalty of \$750.00.

5 218. Pursuant to Labor Code §§1198.5(l) and 226(h), Plaintiff requests a reasonable award of
6 attorneys' fees and costs.

7
8 **SEVENTEENTH CAUSE OF ACTION**

9 **FOR UNFAIR COMPETITION**

10 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**

11 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

12 219. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 41, inclusive, as though
13 set forth in full herein.

14 220. Defendants' violations of 8 Code of Regulations §11090, Industrial Welfare Commission
15 Order No. 9-2001, Labor Code §§ 201-203, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5,
16 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay
17 minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants'
18 failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation
19 due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete
20 and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business
21 & Professions Code §§17200, et seq.

22 221. The court has jurisdiction over this action pursuant to Business and Professions Code
23 section 17200 et seq., specifically Business and Professions Code section 17203, which provides that
24 any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in
25 any court of competent jurisdiction; and the court may make such orders or judgments, including the
26 appointment of a receiver, as may be necessary to prevent the use or employment by any person of any
27 practice which constitutes unfair competition, or as may be necessary to restore to any person in interest
28 any money or property, real or personal, which may have been acquired by means of such unfair

1 competition; and Business and Professions Code Section 17204, which provides for actions for any
2 relief pursuant to the Unfair Competition Law to be prosecuted exclusively in a court of competent
3 jurisdiction by any board, officer, person, corporation or association or by any person acting for the
4 interests of itself, or its members and that has suffered an injury in fact and lost money or property as
5 a result of Defendants' conduct.

6 222. Defendants have engaged in, and continue to engage in the following unlawful, unfair
7 and/or fraudulent business practices in violation of Section 17200 of the California Business and
8 Professions Code: discrimination, harassment, retaliation and failure to prevent the same under the
9 FEHA, related FEHA causes of action, retaliation under the Labor Code, failure to pay wages, failure
10 to provide minimum wages, failure to provide overtime wages, failure to provide and pay premium
11 wages for missed meal and rest breaks, among other unfair conduct as alleged herein above.

12 223. As a result of Defendants' unfair business practices, Defendants have reaped unfair
13 benefits and illegal profits at the expense of Plaintiffs and members of the public. Defendants should be
14 made to disgorge their ill-gotten gains and restore such monies to Plaintiffs.

15 224. Defendants' unfair business practices entitle Plaintiffs to seek preliminary and permanent
16 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore
17 to the Plaintiffs the overtime compensation and other monies and benefits unlawfully withheld from
18 Plaintiffs.

19
20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Plaintiff seeks judgment against Defendants and each of them, in an amount
22 according to proof but estimated to be no less than \$1,000,000 as follows:

23 1. For a money judgment representing compensatory damages including lost wages,
24 earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,
25 together with interest on these amounts; for other special damages; and for general damages for loss of
26 earning capacity;

27 2. For civil penalties pursuant to Labor Code §98.6 in the amount of no less than \$10,000.00;
28

1 3. For civil penalties pursuant to Labor Code § 1102.5 in the amount of no less than
2 \$10,000.00;

3 4. For statutory penalties or damages pursuant to Labor Code §558 in the amount of no less
4 than \$2,550.00;

5 5. For reimbursement of necessary business expenses pursuant to Labor Code §2802, in the
6 amount according to proof but no less than \$450.00, plus interest for cellphone use;

7 6. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512,
8 in the amount of no less than \$11,210.00;

9 7. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;

10 8. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no
11 less than \$25,250.00;

12 9. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
13 than \$12,180.00;

14 10. For statutory penalties pursuant to Labor Code §2699(f), in the amount of no less than an
15 amount according to proof on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants'
16 aggrieved employees, estimated to exceed \$500,000.00;

17 11. For civil penalties under Labor Code §226.7, in addition to and entirely independent and
18 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
19 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
20 each subsequent violation;

21 12. For civil penalties under Labor Code §512, in addition to and entirely independent and
22 apart from any other penalty provided in the Labor Code, for each violation of Labor Code §221, in the
23 amount of \$100 for each aggrieved employee per pay period for each violation, and \$200 for each
24 aggrieved employee per pay period for each subsequent violation;

25 13. For civil penalties under Labor Code §§203 and/or 256, in addition to and entirely
26 independent and apart from any other penalty provided in the Labor Code, in the amount of one day of
27 pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination,
28 until payment was/is made, up to a maximum of thirty (30) days;

1 14. In addition, Plaintiff and the aggrieved employees seek and are entitled to seventy-five
2 (75%) of all penalties obtained under Labor Code § 2699 to be allocated to the LWDA, for education of
3 employers and employees about their rights and responsibilities under the Labor Code, and twenty-five
4 percent (25%) to the aggrieved employees;

5 15. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
6 Labor Code §1194(a), and/or Civil Code §3287;

7 16. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
8 any other applicable statute; and

9 17. Treble exemplary and punitive damages according to proof;

10 18. For prejudgment interest on each of the foregoing at the legal rate from the date the
11 obligation became due through the date of judgment in this matter.

12 **WHEREFORE**, Plaintiff further seeks judgment against Defendants, and each of them, in an
13 amount according to proof, as follows:

14 19. For injunctive relief compelling Defendants to report to federal and state authorities wages
15 earned by Plaintiffs, and other employees, and pay all state and federal taxes owing, employer matching
16 funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all
17 this in an amount according to proof.

18 20. For restitutionary disgorgement of profits garnered as a result of Defendants' unlawful
19 conduct, failure to pay wages and other compensation in accordance with the law;

20 21. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
21 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

22 22. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
23 Code and/or any other basis;

24 23. For post-judgment interest; and

25 24. For any other relief that is just and proper.
26
27
28

1 DATED: September 6, 2022

GUERRA & CASILLAS LLP

2
3 By: 

Ruben Guerra Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
JAIME GUZMAN PORTILLO

4
5
6
7
8 **JURY TRIAL DEMANDED**

9 Plaintiff demands trial of all issues by jury.

10 DATED: September 6, 2022

GUERRA & CASILLAS LLP

11
12 By: 

Ruben Guerra Esq.
Tizoc Perez-Casillas, Esq.
Attorneys for Plaintiff
JAIME GUZMAN PORTILLO

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 617 South Olive Street, Suite 422, Los Angeles, California 90014.

On September 6, 2022, I served the foregoing document(s) as described as **FIRST AMENDED COMPLAINT FOR DAMAGES FOR** on the interested parties described in the attached service list in this action as follows:

Damitry Sharin
255 W. Carob Street
Compton, CA 90220

*Agent for Service of Process for Great Central
Transit, Inc.*

Arelen Doe
255 W. Carob Street
Compton, CA 90220

Defendant

Jessica Doe
255 W. Carob Street
Compton, CA 90220

Defendant

☒ BY MAIL: I am "readily familiar" with the firm's practice for collection and processing correspondence for mailing with the U.S. Postal Service. Under that practice, and in the ordinary course of business, correspondence would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at our business address in Los Angeles, California. Each of the above envelopes was sealed and placed for collection and mailing on that date following ordinary business practices.

Executed on September 6, 2022, at Los Angeles, California.

☒ STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Nadia Chavez

