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FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SAN BERNARDINO
 SAN BERNARDINO DISTRICT

OCT 31 2022

Heather M. Duffer

SUPERIOR COURT OF THE STATE OF CALIFORNIA**FOR THE COUNTY OF SAN BERNARDINO**

AUDRIANNA FREGOSO,

Plaintiff,

vs.

LOMA LINDA UNIVERSITY HEALTH
CARE and DOES 1 to 25, inclusive,

Defendants.

) CASE NO.: **CIV SB 2228257**

) COMPLAINT FOR DAMAGES FOR:

- 1) FAILURE TO COMPENSATE FOR ALL HOURS WORKED;
- 2) FAILURE TO PAY MINIMUM WAGES;
- 3) FAILURE TO PAY OVERTIME;
- 4) FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;
- 5) FAILURE TO PAY WAGES OWED EVERY PAY PERIOD;
- 6) FAILURE TO GIVE REST BREAKS;
- 7) FAILURE TO GIVE MEAL BREAKS;
- 8) PRIVATE ATTORNEYS GENERAL ACT ("PAGA");
- 9) FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS
- 10) FAILURE TO REIMBURSE BUSINESS EXPENSES
- 11) FAILURE TO PROVIDE PERSONNEL FILE
- 12) FAILURE TO PROVIDE PAY RECORDS;
- 13) RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5;
- 14) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
- 15) DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION OF THE FAIR EMPLOYMENT AND HOUSING ACT ("FEHA");

By Fax

RECEIVED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
DEC 12 2022

- 1) 16) RETALIATION IN VIOLATION OF
2) FEHA;
3) 17) FAILURE TO PREVENT
4) DISCRIMINATION AND
5) RETALIATION IN VIOLATION OF
6) FEHA;
7) 18) FAILURE TO ACCOMMODATE
8) PHYSICAL DISABILITY IN
9) VIOLATION OF FEHA;
10) 19) FAILURE TO ENGAGE IN
11) INTERACTIVE PROCESS TO
12) DETERMINE REASONABLE
13) ACCOMMODATION IN VIOLATION
14) OF FEHA;
15) 20) VIOLATION OF CALIFORNIA
16) BUSINESS AND PROFESSIONS
17) CODE SECTION 17200.
18)
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- DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, AUDRIANNA FREGOSO (hereinafter "Plaintiff"), and alleges:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of San Bernardino in this judicial district because Defendants LOMA LINDA UNIVERSITY HEALTH CARE and DOES 1 to 25, inclusive, do business in the County of San Bernardino, and because Defendants' obligations and liabilities arise therein. Moreover, Plaintiff's damages sought herein exceed \$25,000.

2. Plaintiff is a female resident of the County of San Bernardino, State of California.

3. Plaintiff is informed and believes that at all times herein mentioned, Defendant LOMA LINDA UNIVERSITY HEALTH CARE was and is a domestic California corporation organized and operating in the County of San Bernardino, State of California, and who employed Plaintiff. LOMA LINDA UNIVERSITY HEALTH CARE and DOES 1 to 25, inclusive, are collectively referred to as "Defendant(s)" or "LOMA LINDA".

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

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

13 GENERAL ALLEGATIONS

14
15
16 6. Plaintiff worked at LOMA LINDA as a Medical Assistant. Her employment at LOMA
17 LINDA ended in June 2022. During her employment tenure, Plaintiff was classified as an
18 hourly, non-exempt employee and earned approximately \$20.21 per hour.

19 7. LOMA LINDA has committed numerous labor code violations against Plaintiff and
20 other similarly situated aggrieved employees.

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

11 9. In sum, since PAGA allows Plaintiffs to bring suit on behalf of both themselves and
12 other employees, it allows for suits broader than the specific violations the named employee
13 experienced. Therefore, even if the employee did not personally experience the Labor Code
14 violations, the employer may still be liable to under PAGA. Consequently, it is Plaintiff's
15 position that Plaintiff can equivocally bring the following labor code violations on behalf of all
16 employees, including hourly non-exempt employees who worked for LOMA LINDA at any of
17 their locations in the state of California and irrespective of their job titles and job duties.

18 10. LOMA LINDA did not provide Plaintiff and other similarly situated aggrieved
19 employees with the minimum wages to which they were entitled for all work performed and did
20 not compensate her and others for all hours worked pursuant to California Labor Code sections
21 1194, 1197 and 1197.1. This is so because Plaintiff and others consistently worked "off the
22 clock" in that the company had a policy of rounding down hours to the detriment of employees
23 who would not be paid for all hours worked. Consequently, Plaintiff was not being paid for all
24 hours worked and was not being paid the minimum wage for all hours worked.

25 11. Due to the above , including the rounding, LOMA LINDA also violated Labor Code
26 §510 because it failed to pay Plaintiff and other similarly situated aggrieved employees overtime,
27 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
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1 throughout their employment. As such, Plaintiff and others simply did not receive correct and
2 accurate overtime compensation. Moreover, any bonuses or incentive payments were not
3 factored into Plaintiff's and others' regular rate of pay for purposes of deciphering the correct
4 overtime rate of pay.

5 12. LOMA LINDA violated Labor Code §§ 512 and 226.7 along with the applicable
6 Industrial Welfare Commission Wage Order (no. 5) because it failed to provide Plaintiff and
7 other similarly situated aggrieved employees the requisite 30-minute, uninterrupted meal periods
8 for every five (5) hours of work throughout their employment, and Plaintiff did not validly waive
9 said meal periods. LOMA LINDA did not completely relieve Plaintiffs of all duties during said
10 meal periods. LOMA LINDA did not pay to Plaintiff one additional hour of pay at Plaintiff's
11 regular rate of compensation for each workday that one or more statutory meal periods was not
12 provided. It was not part of the company culture for employees such as Plaintiff and others to
13 consistently receive a meal break before the 5th hour worked and for the meal break to be
14 uninterrupted. In fact, there were certainly occasions wherein Plaintiff received her meal break
15 after the fifth hour worked because there was no coverage, especially on days when Plaintiff was
16 the only medical assistant in the facility. As such, the environment and culture at LOMA LINDA,
17 especially in a fast-paced medical office, was not conducive to receiving statutory meal breaks
18 under California law.

19 13. Similarly, LOMA LINDA violated Labor Code § 226.7 along with the applicable
20 Industrial Welfare Commission Wage Order (no. 5) because it failed to provide Plaintiff and
21 other similarly situated aggrieved employees 10-minute rest periods for every four hours of
22 work, or majority portion thereof, throughout their employment. LOMA LINDA did not
23 completely relieve Plaintiff of all duty during said rest periods. LOMA LINDA did not pay to
24 Plaintiff one additional hour of pay at Plaintiff's regular rate of compensation for each workday
25 that one or more statutory rest periods was not provided. Like the situation involving meal
26 breaks, it was not company policy and not part of the company culture for employees such as
27 Plaintiff and others to always and consistently take timely, uninterrupted rest breaks per day. In
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1 fact, Plaintiff was not able to take a statutory rest break on a weekly basis, especially on surgery
2 days due to the scheduling. As such, the culture at LOMA LINDA did not lend itself to the
3 employees always receiving timely and uninterrupted statutory breaks wherein they were
4 relieved of all work duties. It was the normal practice and custom of LOMA LINDA not to
5 authorize, permit, and enforce statutory rest periods, especially on surgery days.

6 14. Furthermore, during the relevant time period, and due to the violations as alleged above,
7 LOMA LINDA failed to pay Plaintiff and other similarly situated aggrieved employees all wages
8 due to them within any time period specified by California Labor Code section 204. In fact,
9 Plaintiff received her first paycheck very late. LOMA LINDA was also in violation of California
10 Labor Code section 226(a) by failing to include pertinent information on the wage statements,
11 including but not limited to, all hours worked, all hourly rates in effect, overtime hours worked,
12 gross wages earned, premium pay for missed meal and rest breaks, all deductions, net wages
13 earned, gross wages earned, all deductions, the correct name and address of the employing entity,
14 the start and end of the pay period, and reimbursement for business expenses, among others. As
15 such, LOMA LINDA did not provide Plaintiff and other similarly situated aggrieved employees
16 with complete, accurate itemized wage statements during the PAGA period.

17 15. LOMA LINDA violated Labor Code § 203 because it willfully failed to pay Plaintiff and
18 other similarly situated aggrieved employees their earned and due wages upon separation of
19 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
20 These earned but unpaid wages include compensation for all hours worked, overtime
21 compensation, premium pay for missed meal and rest breaks, and business expense
22 reimbursement, among others.

23 16. During the relevant time period, LOMA LINDA also failed to
24 keep accurate and complete payroll records showing the hours worked by Plaintiff and other
25 similarly situated aggrieved employees as well as the correct wages paid to Plaintiff (due to the
26 rounding issues) and other aggrieved employees pursuant to California Labor Code sections
27 1174(d).

28

1 17. Moreover, Plaintiff and other aggrieved employees incurred necessary, business-related
2 expenses and costs that were not reimbursed by LOMA LINDA. These costs include, but are not
3 limited to, mileage for use of Plaintiff's vehicle for traveling between medical offices to pick up
4 medication. Moreover, Plaintiff did use her cell phone for work purposes in communicating with
5 management/ownership. Moreover, Plaintiff ended up working as a Safety Coordinator and
6 would get all "Safety Coordinator" correspondence on her personal email, which was linked to
7 her personal cell phone. Accordingly, LOMA LINDA was in violation of California Labor Code
8 sections 2800 and 2802.

9 18. Moreover, Plaintiff would also have individual claims against LOMA LINDA for
10 retaliation in violation of Labor Code section 1102.5 and wrongful termination in violation of
11 public policy in that Plaintiff was "laid off" in late May 2022 or early June 2022 following
12 consistent complaints that her work duties were beyond the scope of her license and certification
13 and that it was not lawful for her to be dressing wounds and running a nursing clinic without a
14 Registered Nurse. Other examples include Plaintiff having to do drain removal after
15 reconstructive surgery and complaining about the fact that an RN or physician had to do it.
16 Moreover, and due to her complaints, Plaintiff was not only "laid off" but also bypassed on a
17 vacant available position for her to fill. In addition, Plaintiff would also have claims under the
18 Fair Employment and Housing Act (FEHA) for failure to accommodate and
19 discrimination/retaliation against Plaintiff after Plaintiff suffered an on-the-job shoulder injury.
20 Plaintiff had restrictions after her injury, but was not able to follow the doctor's restrictions
21 because she was the only medical assistant at work for several days in early May 2022 and had
22 to lift her arm/shoulder in effectuating her job duties. Moreover, any justification by the company
23 for the "lay off" as being a reduction in force was pretextual since Plaintiff's position was filled
24 by another individual soon thereafter. Prior to filing this action, Plaintiff timely exhausted her
25 administrative remedies by timely filing an administrative complaint with the Department of Fair
26 Employment and Housing ("DFEH") and receiving her DFEH right to sue letter.

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FIRST CAUSE OF ACTION

FAILURE TO COMPENSATE FOR ALL HOURS WORKED

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

(Plaintiff against all named defendants and all DOE defendants)

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

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

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

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

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

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

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

SECOND CAUSE OF ACTION**FAILURE TO PAY MINIMUM WAGES****(California Labor Code Sections 1194, 1194.2, 1197)****(Plaintiff against all named defendants and all DOE defendants)**

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

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

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

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

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

31. For all hours worked by Plaintiff for which she was paid less than the minimum wage rate by Defendants, Plaintiff is entitled to not less than the applicable California minimum wage rate and, pursuant to Labor Code Section 1194.2(a), liquidated damages in an amount

1 equal to unpaid minimum wages and interests thereon. Pursuant to Labor Code Section 1194,
2 Plaintiff is also entitled to attorney's fees, costs and interests according to proof.

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

6 **THIRD CAUSE OF ACTION**

7 **FAILURE TO PAY OVERTIME**

8 **(California Industrial Welfare Commission Order 5-2001, California Code of**
9 **Regulations Title 8 Section 11050)**

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

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

13 34. Pursuant to Industrial Welfare Commission Order No. 5-2001, California Code of
14 Regulations, Title 8, Section 11050, for the period of Plaintiff's employment, Defendants were
15 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
16 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
17 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
18 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
19 week.
20

21 35. Plaintiff was a non-exempt employee entitled to the protections of the California
22 Industrial Welfare Commission Order No. 5-2001, California Code of Regulations, Title 8,
23 Section 11050.

24 36. Plaintiff worked more than eight (8) hours in a single workday, more than twelve (12)
25 hours in a single day, or forty (40) hours in a single workweek on numerous occasions.

26 37. Plaintiff was entitled to the above overtime premiums.

27 38. Defendants did not pay Plaintiff premium wages of at least one and one-half times
28 Plaintiff's regular rate of pay for hours worked past eight (8) in a day or two times Plaintiff's

1 regular rate of pay for hours worked past twelve (12) in a day.

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

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

6 41. Defendants know or should know the actual dates of overtime worked, the amount of
7 overtime worked, and the amount of unpaid overtime due.

8 42. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
9 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
10 Court.

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

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

18 **FOURTH CAUSE OF ACTION**

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

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

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

22 45. Plaintiff re-alleges and incorporates by reference each and every allegation in
23 paragraphs 1 through 44, inclusive, of this Complaint as though fully set forth herein.

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

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

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

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

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

19 **FIFTH CAUSE OF ACTION**

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

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

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

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

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

27 53. At all times relevant during the liability period, Defendants failed to pay Plaintiff the
28

1 full amount of all owed wages when due as required by California Labor Code Section 204.

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

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

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

14 **SIXTH CAUSE OF ACTION**

15 **FAILURE TO GIVE REST BREAKS**

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

17
18 57. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 56, inclusive, of this Complaint as though fully set forth herein.

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

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

1 provides that if an employer fails to provide an employee a rest period in
2 accordance with the applicable provisions of this order, the employer shall pay the
3 employee one (1) hour of pay at employee's regular rate of compensation for each
4 workday that the rest period is not provided;

5 c. Title 8 of the California Code of Regulations sections 11050(20)(A), which
6 penalizes the employer \$50.00 for each initial violation, per employee, of any
7 provision of the Wage Order, and \$100.00 for each additional violation thereafter
8 per employee; and

9
10 d. California Labor Code section 226.7, which states that (a) no employer shall require
11 any employee to work during any rest period mandated by an applicable order of
12 the Industrial Welfare Commission, and (b) if an employer fails to provide an
13 employee a rest period in accordance with an applicable order of the Industrial
14 Welfare Commission, the employer shall pay the employee one (1) additional hour
15 of pay at employee's regular rate of compensation for each work day that the rest
16 period is not provided.

17
18 59. Plaintiff alleges that she was not authorized and permitted to take a ten (10) minute
19 rest break after every four (4) hours of work or major fraction thereof, as required by California
20 law.

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

25
26 61. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
27 fees as well as interest under Labor Code section 218.6.

28

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

4 **SEVENTH CAUSE OF ACTION**

5 **FAILURE TO GIVE MEAL BREAKS**

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

7 63. Plaintiff re-alleges and incorporates by reference each and every allegation in
8 paragraphs 1 through 62, inclusive, of this Complaint as though fully set forth herein.

9 64. Plaintiff brings this cause of action under the following laws, for the following
10 reasons:

- 11
- 12 a. California Labor Code section 512(a), which requires that employees be given a 30-
13 minute uninterrupted meal break after five (5) hours of work, and a second
14 uninterrupted meal break after ten (10) hours of work;
- 15 b. California Labor Code section 226.7, which states that (a) no employer shall require
16 any employee to work during any meal period mandated by an applicable order of
17 the Industrial Welfare Commission, and (b) if any employer fails to provide an
18 employee a meal period in accordance with an applicable order of the Industrial
19 Welfare Commission, the employer shall pay the employee one (1) additional hour
20 of pay at the employee's regular rate of compensation for each workday that the
21 meal period is not provided;
- 22 c. California Industrial Welfare Commission Order No. 5 section 11(B), as codified
23 under Title 8 of the California Code of Regulations Section 11050, which states that
24 if an employer fails to provide an employee a meal period in accordance with the
25 applicable provisions of the Wage Order, the employer shall pay the employee one
26 (1) hour of pay at the employee's regular rate of compensation for each workday
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1 that the meal period is not provided;

2 d. California Industrial Welfare Commission Wage Order No. 5 Section 7(A)(3), as
3 codified under Title 8 of the California Code of Regulations Section 11050, which
4 requires an employer to maintain records documenting its employees' meal periods;

5 e. California Industrial Welfare Commission wage order No. 5 Section 20(A), as
6 codified under California Code of Regulations Section 11050, which penalizes the
7 employer \$50.00 for each initial violation, per employee, of any provision of the
8 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
9

10 f. California Labor Code section 1171 and 1173, which have given the California
11 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 5)
12 as enforceable law.

13 65. Plaintiff alleges that she was not authorized and permitted to take relieved meal breaks
14 after five (5) hours of work. Plaintiff further alleges that she was not authorized and permitted
15 to take a second relieved meal break after ten (10) hours of work, as required by California
16 law. California Labor Code section 512(a) and California Industrial Welfare Commission
17 Order No. 5, as codified under California Code of Regulations Sections 11050 et. seq. requires
18 that employees receive uninterrupted meal periods every five (5) hours of consecutive work,
19 and that the meal period be at least 30 minutes in length, wherein employee is relieved of all
20 work duty. California Labor Code section 226.7 provides that employers may not require their
21 employees to work through their meal periods. California Labor Code section 226.7 and
22 California Code of Regulations section 11050 requires that if the employer fails to provide the
23 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
24 of pay for each work day that the meal period is not given.
25
26

27 66. Under this cause of action, Plaintiff prays for wages due to her under the statutes,
28

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

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

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

9 **EIGHTH CAUSE OF ACTION**

10 **PRIVATE ATTORNEYS GENERAL ACT**

11 **Individual and Representative Claim for PAGA penalties under California Labor Code**
12 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5,**
1194, 1197, 1198, 2802)

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

14 69. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 68, inclusive, of this Complaint as though fully set forth herein.

16 70. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
17 Defendants of the specific violations of the California Labor Code that Defendants
18 and DOE defendants have violated and continue to violate.

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

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

25 73. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
26 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
27 departments, divisions, commissions, boards, agencies, or employees for violation of the code
28

1 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
2 on behalf of himself or herself and other current or former employees pursuant to the
3 procedures specified in California Labor Code section 2699.3.

4 74. Plaintiff is an "aggrieved employee" because Plaintiff was employed by the alleged
5 violator and had one or more of the alleged violations committed against her, and therefore is
6 properly suited to represent the interests of other current and former hourly, non-exempt
7 employees who worked for LOMA LINDA at any of their locations during the relevant PAGA
8 Period, irrespective of job title.

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

12 76. Plaintiff therefore has exhausted all administrative remedies required of her under
13 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
14 cause of action and pursue penalties in a representative action for Defendants' violations of the
15 Labor Code.

16 77. California Labor Code section 2699 et seq. imposes penalties upon culpable
17 Defendants for violating the Labor Code.

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

26 79. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
27 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
28

1 seeking individual/victim specific relief or underpaid wages for Plaintiff or other aggrieved
2 employees in this specific cause of action under the Private Attorneys General Act.

3 80. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
4 the following:

5 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
6 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802 via 2698 and 2699 and
7 any other Labor Codes and Industrial Welfare Commission Wage Order Provisions (no. 5)
8 violated based on the facts alleged in this Complaint.

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

13 **NINTH CAUSE OF ACTION**

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

15 **(California Labor Code Sections 201, 202, 203)**

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

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

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

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

24 85. Pursuant to California Labor Code Section 203, if an employer willfully fails to
25 pay, without abatement or reduction, any wages of an employee whose employment ends, the
26 wages of the employee shall continue as a penalty from the due date at the same rate until paid
27

28

1 or until an action is commenced; however, the wages shall not continue for more than 30 days
2 for failure to pay an employee owed wages.

3 86. After Plaintiff's employment with Defendants ended, Defendants willfully
4 refused and continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

5 87. Under this cause of action, Plaintiff prays for penalties due under the statutes
6 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
7 proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 1 year
8 immediately preceding the filing of this lawsuit.

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

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

15 **TENTH CAUSE OF ACTION**

16 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

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

18 90. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 89, inclusive, of this Complaint as thought fully set forth herein.

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

23 92. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
24 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
25 of completing her job duties, which were not reimbursed by Defendant. These expenses
26 include, but are not limited to mileage for use of Plaintiff's vehicle for traveling between medical
27 offices to pick up medication. Moreover, Plaintiff did use her cell phone for work purposes in
28

1 communicating with management/ownership. Moreover, Plaintiff ended up working as a Safety
2 Coordinator and would get all "Safety Coordinator" correspondence on her personal email,
3 which was linked to her personal cell phone.

4 93. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
5 and attorney's fees and costs, under Labor Code section 2802.

6 **ELEVENTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE PERSONNEL FILE**

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

9 94. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 93, inclusive, of this Complaint as though fully set forth herein.

11 95. Labor Code section 1198.5 dictates "every current and former employee, or his or her
12 representative, has the right to inspect and receive a copy of the personnel records that the
13 employer maintains relating to the employee's performance or to any grievance concerning the
14 employee."
15

16 96. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the employer
17 shall make the contents of those personnel records available for inspection to the current or
18 former employee, or his or her representative, at reasonable intervals and at reasonable
19 times..." On information and belief, Defendants intentionally failed to provide Plaintiff with
20 personnel records when requested by Plaintiff via certified letter June 10, 2022, as required by
21 law. Plaintiff requested her pay records in accordance with California Labor Code section 226
22 on June 10, 2022 via U.S. certified mail, return receipt requested. .
23

24 97. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her
25 records within 21 days. As a direct result of Defendants' violations alleged herein, Plaintiff has
26 suffered and continues to suffer substantial losses related to Defendants' failure to provide
27 personnel records.

28 98. Plaintiff seeks all available remedies for Defendants' violations including, but not

1 limited penalties, and costs to the extent permitted by law and according to proof at trial.
2 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants
3 in the amount of \$750.00, along with costs and attorney's fees.

4
5 **TWELFTH CAUSE OF ACTION**

6 **FAILURE TO PROVIDE PAY RECORDS**

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

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

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

13 101. Moreover, pursuant to sub-section (c) of Labor Code section 226, "an employer who
14 receives a written or oral request to inspect or copy records pursuant to subdivision (b)
15 pertaining to a current or former employee shall comply with the request as soon as
16 practicable, but no later than 21 calendar days from the date of the request." On information
17 and belief, Defendants intentionally failed to provide Plaintiff with pay records when requested
18 by Plaintiff via certified letter, return receipt requested, on June 10, 2022, and as required by
19 law.
20

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

26 103. Plaintiff seeks all available remedies for Defendants' violations including, but not
27 limited penalties, and costs to the extent permitted by law and according to proof at trial.
28

THIRTEENTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF LABOR CODE SECTION 1102.5

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

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

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

106. As discussed fully above, Plaintiff complained to Defendants about the company's illegal conduct as it related to the scope of Plaintiff's services and Plaintiff having to engage in job duties for which she was not certified or licensed.

107. Defendant LOMA LINDA retaliated against Plaintiff for her whistleblowing, as alleged above, all in violation of Labor Code § 1102.5.

108. As a direct and proximate result of the aforementioned acts and omissions of Defendant LOMA LINDA, Plaintiff suffered general and compensatory damages, including but not limited to, loss of income (past and future), loss of employment benefits (past and future), general and compensatory damages (past and future), mental pain and anguish and

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

3 109. Plaintiff requests all available relief under Labor Code § 1102.5 including damages
4 and the imposition of civil penalties of \$10,000 for each violation as well as attorneys fees.

5 **FOURTEENTH CAUSE OF ACTION**

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

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

8
9 110. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 109, inclusive, of this Complaint as though fully set forth herein.

11 111. At all times during her employment with Defendant LOMA LINDA, Plaintiff
12 performed her duties with the utmost diligence and competence.

13 112. Plaintiff is informed and believes and thereon alleges that Defendants' decisions and
14 actions to treat her differently and ultimately terminate her employment as alleged herein, was
15 motivated by Plaintiff's whistleblowing and complaints about illegal activity at the workplace.
16 Defendant intentionally created the aforementioned retaliation, thereby not giving Plaintiff an
17 opportunity to work in an environment free of retaliation.

18 113. The employment of Plaintiff was wrongfully terminated on or around end of May
19 2022 or early June 2022 in violation of the fundamental public policy of the State of California
20 with respect to retaliating against an employee on account of her whistleblowing as well as for
21 requesting an accommodation of her known physical disability. Moreover, Plaintiff was forced
22 to hire an attorney to assist her to end these illegal activities. Said conduct violated statutory
23 and constitutional expressions of public policy including, the California Labor Code, FEHA,
24 and the California Constitution, Article 1 section 8.

25 114. As set forth above, said actions by Defendants were wrongful and in violation of the
26 fundamental principles of the public policy of the State of California as reflected in its laws,
27 objectives and policies. Said statutes and constitutional expressions of public policy include,
28 but are not limited to, California Labor Code, FEHA and the California Constitution, Article 1

1 section 8. These laws inure to the benefit of the public at large, and not just the private interests
2 of the employers and employees whom they govern or protect.

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

8
9 116. The foregoing conduct engaged in by Defendants and each of their directors, officers
10 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
11 and carried on with a conscious and willful disregard of their workers' right to work in an
12 environment free of retaliation due to whistleblowing and for requesting an accommodation of
13 a known physical disability, so as to justify the imposition of punitive damages to punish and
14 set an example of said Defendants.
15

16 **FIFTEENTH CAUSE OF ACTION**

17 **DISCRIMINATION ON THE BASIS OF PHYSICAL DISABILITY IN VIOLATION**
18 **OF FEHA**

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

20 117.Plaintiff re-alleges and incorporates by reference each and every allegation in
21 paragraphs 1 through 116, inclusive, of this Complaint as though fully set forth herein.

22 118.Defendants and DOES 1 to 25, inclusive, are covered employers under California's
23 Fair Employment and Housing Act.

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

28 120.Plaintiff's shoulder injury, which was debilitating, and which limited a major

1 life activity, qualifies as a disability under FEHA, and Plaintiff was entitled to its protection.

2 121. Defendants knew of Plaintiff's disability and violated California Government Code
3 section 12940 et. seq. by discriminating against Plaintiff on the basis of her disability.

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

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

12 **SIXTEENTH CAUSE OF ACTION**

13 **RETALIATION IN VIOLATION OF FEHA**

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

15 124. Plaintiff re-alleges and incorporates by reference each and every allegation in
16 paragraphs 1 through 123, inclusive, of this Complaint as though fully set forth herein.

17 125. At all times herein mentioned, Government Code section 12940 et. seq. was in full
18 force and effect and was binding upon Defendants and each of them. Said statute imposes
19 certain duties upon Defendants concerning discrimination, harassment and retaliation against
20 persons, such as Plaintiff, on the basis of physical disability. Said statutes were intended to
21 prevent the type of injury and damage set forth herein. Plaintiff was, at all times herein
22 mentioned, a member of the class of persons intended to be protected by said statutes. As alleged
23 above, Plaintiff was discriminated against based on her physical disability and retaliated against
24 for requesting reasonable accommodations of her physical disability.

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

28 127. As a further direct and proximate result of the conduct of Defendants, and each of

1 them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish and
2 emotional distress, and has been harmed in mind and body. As a result, Plaintiff has suffered
3 such damages in an amount according to proof.

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

9 **SEVENTEENTH CAUSE OF ACTION**

10 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION IN VIOLATION**
11 **OF FEHA**

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

13 129.Plaintiff re-alleges and incorporates by reference each and every allegation in
14 paragraphs 1 through 128, inclusive, of this Complaint as though fully set forth herein.

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

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

28 132.Plaintiff believes and, on that basis, alleges that her physical disability and other

1 protected status and/or protected activity was a substantial motivating factor in Defendants'
2 employees' discriminating against her and retaliating against her.

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

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

11 **EIGHTEENTH CAUSE OF ACTION**

12 **FAILURE TO ACCOMMODATE PHYSICAL DISABILITY IN VIOLATION OF**
13 **FEHA**

14 **(Plaintiff against all named corporate Defendants and all DOE Defendants)**

15 135.Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs
16 one through 134, inclusive, of this Complaint as though fully set forth herein.

17 136.California Government Code section 12940(p) provides that it is unlawful for an
18 employer to fail to make reasonable accommodation for the known physical disability of an
19 employee.

20 137.Defendants failed to make reasonable accommodation of Plaintiff's physical disability
21 of which Defendants were unequivocally aware.

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

27 139.The foregoing conduct engaged in by Defendants and each of their directors, officers
28 and/or managing agents, constitutes malice, fraud, and oppression and was authorized, ratified,
and carried on with a conscious and willful disregard of their workers' right to receive reasonable

1 accommodations, so as to justify the imposition of punitive damages to punish and set an
2 example of said Defendants.

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

6 **NINETEENTH CAUSE OF ACTION**

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

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

9 141.Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs
10 1 through 140, inclusive, of this Complaint as though fully set forth herein.

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

14 143.Defendants failed to engage in a timely, good faith, interactive process with Plaintiff
15 to determine effective reasonable accommodations for Plaintiff's known physical disability.

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

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

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

TWENTIETH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**(California Business and Professions Code Section 17200)****(Plaintiff against All Named Defendants and all DOE defendants)**

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

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

149. Defendant's violations of California labor laws and FEHA constitutes a business practice because it was done repeatedly over a significant period of time in a systematic manner that was detrimental to Plaintiff.

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

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

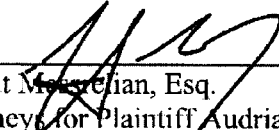
1. For compensatory damages including lost past and future wages, regular wages, overtime, and all other sums of money, including employment benefits, together with interest on said amounts, and any other economic injury to Plaintiff, according to proof;
2. For general damages according to proof;
3. For special and consequential damages to the extent allowed by law;
4. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof at trial;
5. For an award of punitive damages against Defendants according to proof;

- 1 6. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
2 subject to proof at trial;
- 3 7. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
4 proof at trial;
- 5 8. For restitution and disgorgement for all unfair business practices by Defendant LOMA
6 LINDA against Plaintiff in an amount subject to proof at trial;
- 7 9. For an order enjoining Defendant LOMA LINDA from further unfair and unlawful
8 business practices in violation of Business and Professions Code Sections 17200, et
9 seq.;
- 10 10. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
11 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 12 11. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
13 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 14 12. For maximum civil penalties available under the Labor Code and applicable Wage
15 Order against Defendants as described more particularly in the Complaint and
16 representative PAGA claim;
- 17 13. For all remedies available to Plaintiff under the applicable Wage Order and the
18 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
19 liquidated damages, damages, penalties, and waiting time penalties according to proof
20 to the extent permitted by law via PAGA;
- 21 14. For the imposition of civil penalties and/or statutory penalties;
- 22 15. For all interest as allowed by law;
- 23 16. For all costs and disbursements incurred in this suit;
- 24 17. Reasonable attorney's fees where available by law, including but not limited to,
25 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5,
26 Labor Code section 1102.5, FEHA, and/or other applicable laws; and
27
28

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

2
3 **DATED:** December 12, 2022

MESSRELIAN LAW INC.

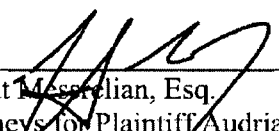
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5 By 
6 Harout Messrelian, Esq.
7 Attorney for Plaintiff Audrianna Fregoso

8
9 **DEMAND FOR JURY TRIAL**

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

11
12 **DATED:** December 12, 2022

MESSRELIAN LAW INC.

13
14 By 
15 Harout Messrelian, Esq.
16 Attorneys for Plaintiff Audrianna Fregoso