

David Alami (SBN: 314628)
david@alamilawgroup.com
ALAMI LAW GROUP
620 Newport Center Drive, Suite 1100
Newport Beach, CA 92660
Telephone: (949) 287-3594

Attorney for Plaintiff,
DEBORAH MAK and BRENT PALMER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – STANLEY MOSK COURTHOUSE

DEBORAH MAK as an individual, on
behalf of herself and all other aggrieved
employees; BRENT PALMER,

Plaintiffs,

vs.

LOS ANGELES UNIFIED SCHOOL
DISTRICT, a public agency; and DOES 1
through 10 inclusive,

Defendants.

CASE NO.: 22STCV19546

FIRST AMENDED COMPLAINT FOR:

1. **Discrimination in Violation of FEHA (Cal. Gov. Code § 12940(a));**
2. **Failure to Prevent Discrimination and Retaliation in Violation of FEHA (Cal. Gov. Code § 12940));**
3. **Failure to Accommodate in Violation of FEHA (Cal. Gov. Code § 12940(l));**
4. **Retaliation in Violation of FEHA (Cal. Gov. Code § 12940 (h));**
5. **Financial Abuse in Violation of Welf. & Inst. Code § 15610.30; and**
6. **PAGA Civil Penalties (Labor Code § 2698 *et seq.*).**

DEMAND FOR JURY TRIAL

Plaintiffs DEBORAH MAK (“Plaintiff” or “MAK”) and BRENT PALMER (“Plaintiff” or “PALMER”) (together, “MAK” and “PALMER are referred to as “Plaintiffs”), hereby bring this Complaint against Defendant LOS ANGELES UNIFIED SCHOOL DISTRICT (the “District” or “Defendant”), a public agency, and DOES 1-50 inclusive, and alleges as follows:

1 **NATURE OF ACTION**

2 1. Plaintiffs Deborah Mak (“MAK”) and Brent Palmer (“PALMER”) were career
3 employees of the Los Angeles Unified School District. During their employment, Plaintiffs
4 requested and applied for legal exemptions and accommodations from the District’s mandatory
5 vaccination policy. However, the District denied Plaintiffs’ requests and failed to offer any
6 reasonable accommodations to Plaintiffs. As a result of their requests, Plaintiffs’ employment was
7 terminated in violation of state law. Consequently, Plaintiffs bring individual claims to recover
8 compensatory damages, statutory damages, restitution, interest, reasonable attorneys’ fees, costs
9 and other sums that all Defendants owe to them under applicable California law.

10 2. Plaintiff MAK also claims that the District violated the Elder Abuse and Dependent
11 Adult Civil Protection Act by taking financial advantage of her. As such, Plaintiff MAK seeks to
12 recover damages under Welfare & Institutions Code Sections 15610.30 and 15657.6.

13 3. Plaintiff MAK further brings a claim under the Private Attorneys General Act of
14 2004, codified as California Labor Code Sections 2698 *et seq.*, to recover civil penalties, reasonable
15 attorneys’ fees, costs, wages and other recoverable sums in her representative capacity as an
16 “aggrieved employee” on behalf of all other current and former aggrieved employees.

17 **JURISDICTION AND VENUE**

18 4. This Court has jurisdiction over Plaintiffs’ claims because Plaintiffs’ claims in this
19 Complaint arise under California law and the amount in controversy exceeds this Court’s
20 jurisdictional minimum.

21 5. Jurisdiction is further conferred on this Court over the Defendant and venue is
22 proper pursuant to California Code of Civil Procedure Section 394(a) given that Defendant is a
23 public agency situated within the County of Los Angeles, and the State of California.

24 **PARTIES**

25 6. Plaintiff MAK is, and at all relevant times herein has been, an individual residing in
26 Los Angeles County, California. Defendant employed Plaintiff as a Special Ed Trainee and/or
27 Special Ed Assistant.
28

1 7. Plaintiff MAK is an “aggrieved employee” within the meaning of the PAGA since
2 she suffered one or more of the violations stated herein. Plaintiff MAK brings a claim for civil
3 penalties and other recoverable sums under the PAGA as a representative aggrieved employee on
4 behalf of all current and former employees of Defendant during the PAGA Period. The PAGA
5 Period is defined as from one year prior to Plaintiff’s notice of Labor Code violations to the Labor
6 Workforce and Development Agency (“LWDA”) and certified mailing of said notice to
7 Defendant until resolution of this action

8 8. Plaintiff PALMER, at all relevant times herein, was an individual residing in Los
9 Angeles County, California. Defendant employed PALMER as an investigator.

10 9. Defendant Los Angeles Unified School District (herein after referred to as the
11 “District” or “Defendant”) is a public agency operating under the laws of the State of California,
12 wholly situated in the County of Los Angeles. Plaintiff MAK is informed, believes, and thereon
13 alleges that the practices and policies of the District that are complained of by way of this Complaint
14 were implemented during the PAGA Period.

15 10. Defendant Does 1 through 10, are sued under fictitious names pursuant to Code of
16 Civil Procedure section 474. Plaintiffs will seek leave of court to amend this Complaint in the
17 event such names and identities are ascertained. Plaintiffs are informed and believe, and on that
18 basis allege, that each of the fictitiously named defendants is and/or was responsible in some
19 manner for, gave consent to, ratified, and/or authorized the conduct alleged herein, thereby causing
20 damage to Plaintiffs. At all relevant times mentioned herein, all defendants acted as agents of all
21 other defendants in committing the acts alleged herein.

22 11. On information and belief, Plaintiffs allege that each defendant directly or indirectly,
23 through agents or other persons or entities, employed and/or exercised control over the employment
24 of Plaintiffs. Plaintiffs further allege that each defendant acted in all respects pertinent to this action
25 as the agent of the other defendants, carried out in a joint scheme, plan or policy, such that that the
26 acts of each defendant are legally attributable to all other defendants.

27 12. At all relevant times herein, Defendants were agents of each other and acting within
28 the course and scope of their agency.

FACTS COMMON TO ALL CAUSES OF ACTION

13. Plaintiff MAK was employed by Defendant and began working for Defendant on or about October 1999 at John F. Kennedy Highschool. Plaintiff was classified as a Special Ed Trainee and/or Special Ed Assistant during her employment. In over 20 years of service, Plaintiff performed her job well, did not have any negative performance reviews or disciplinary issues, and was well liked by her co-workers and students.

14. Plaintiff PALMER was employed by Defendant and began working Defendant on or about January 2006. Plaintiff PALMER was classified as an investigator during his employment. In almost 15 years of service, Plaintiff PALMER performed his job well, did not have any negative performance reviews or disciplinary issues, and was well liked by his co-workers and students.

15. In or about August 2021, the District adopted a mandatory COVID-19 vaccination policy for all District employees, including the Plaintiff. The policy required all employees to be vaccinated by mid-October 2021, or face termination of employment.

16. In or about September 2021, the District adopted a mandatory COVID-19 vaccination policy for all District students, ages 12 and older. The policy required all such students to be vaccinated by on or about January 10, 2022. After determining that approximately 27,000 students would not be attending school due to non-compliance with the vaccine mandate, which would cause the District to lose significant base funding from the State, the District arbitrarily and capriciously pushed back the deadline for students to the Fall of 2022. However, because only approximately 1% of employees remained unvaccinated, the deadline for the District's employees remained unchanged. In other words, the District applied its own policies in an inconsistent manner.

17. Despite shifting deadlines and an inconsistent application of its own policies, the District allowed unvaccinated kids to attend school and interact with the District's vaccinated employees while at the same time claiming its goal was to keep kids and teachers as safe as possible.

18. At all times relevant, the medical consensus has been and continues to be that being vaccinated against COVID-19 does not preclude one from acquiring COVID-19, but rather lessens the symptoms for the unvaccinated.

1 19. By enacting its mandatory vaccination policies, the District proclaimed that it had
2 acted and moved more aggressively than all other employers in enacting COVID-19 safety
3 measures. Existing prior policy required all students and employees to test every week, mask
4 indoors and outdoors and distance. The District accepted these accommodations as reasonable in
5 order to allow students to attend school. These were acceptable, successful, working
6 accommodations for employees, almost two years, since the start of the pandemic. To that end, they
7 were acceptable, successful, working conditions, and remain today as such, for almost every other
8 employer in Los Angeles County.

9 20. Plaintiffs MAK and PALMER submitted to the District a request for exemption,
10 pursuant to a religious belief, and accommodation from the District's vaccination policy and
11 provided the requested supporting information and documentation. However, Plaintiffs' exemption
12 and accommodation requests were denied by the District.

13 21. Although the District had accepted the sincerity of Plaintiffs' religiously held belief
14 and acknowledged the conflict between the District's policy and her religious belief, on December
15 8, 2021, Plaintiff MAK was terminated under the pretextual reasons of insubordination,
16 disobedience, and failure to follow procedure. Similarly, Plaintiff PALMER was terminated on
17 March 9, 2022.

18 22. Prior to the District even providing the exemption request forms, the District
19 proclaimed that it had no job for any employee who was unvaccinated. In other words, the District
20 pre-determined the end result.

21 23. The overwhelming majority of other employers in Los Angeles County allow
22 exemptions and accommodations, including the ability for employees to test every week, mask
23 indoors and outdoors and distance. The overwhelming majority of other employers in Los Angeles
24 County accept these accommodations as reasonable to allow employees to continue performing
25 their usual and customary job functions.

26 24. The District's mandatory vaccination policy, which includes the wholesale denial of
27 exemptions and accommodations, is unsupported by any local, state or federal guidance.
28

1 25. The Los Angeles County Public Health Department has set forth accommodations
2 that must be given to emergency medical service providers who are exempt from its mandatory
3 vaccination policy.

4 26. The federal OSHA ETS sets forth a vaccinate or test policy, which in effect, offers
5 the reasonable accommodation sought by Plaintiffs. Here, Plaintiffs requested an exemption and
6 specifically offered to accept any reasonable accommodations, including testing, masking and
7 distancing, as well as any other reasonable alternatives.

8 27. Plaintiffs have exhausted their administrative remedies by making the necessary
9 filing with the Department of Fair Employment and Housing (DFEH). The DFEH issued Plaintiff
10 MAK a right to sue notice on about June 14, 2022 and Plaintiff PALMER a right to sue notice on
11 October 3, 2022.

12 **FACTS COMMON TO PLAINTIFF'S SIXTH CAUSE OF ACTION FOR VIOLATION**
13 **OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004**

14 28. Plaintiff MAK was employed by Defendant District as an exempt employee.

15 29. Plaintiff MAK is informed and believes, and thereon alleges, that at all times
16 mentioned herein, Defendant was advised by skilled lawyers, employees and other professionals
17 who were knowledgeable about employment and personnel practices, and the requirements under
18 California law.

19 30. Defendant committed the violations set forth in this Complaint against all other
20 current and former aggrieved employees throughout the PAGA Period, continuing through the
21 present date. Defendant maintained non-compliant employment policies and practices which were
22 applied to Plaintiff and all other aggrieved employees.

23 31. The aggrieved employees consists of all non-exempt and exempt employees
24 employed by Defendant during the PAGA Period.

25 32. During the PAGA Period, Plaintiff MAK and other aggrieved employees engaged
26 in lawful activity during nonworking hours away from Defendant's premises by, among other
27 things, choosing not to receive a COVID-19 vaccination due to their sincerely held religious beliefs
28 and/or other lawful exemptions. Specifically, Plaintiff MAK and other aggrieved employees

1 refused to take the COVID-19 vaccine and requested an exemption and specifically offered to
2 accept any reasonable accommodations, including testing, masking and distancing, as well as any
3 other reasonable alternatives to taking the COVID-19 vaccine. In response, Defendant retaliated
4 against Plaintiff MAK and other aggrieved employees by, among other things, wrongfully
5 terminating their employment.

6 33. Also during the PAGA Period, Plaintiff MAK and other aggrieved employees
7 engaged in quintessential protected activity by exercising their rights under Labor Code Section
8 1102.5(b) by disclosing information to a person with authority over Plaintiff MAK and other
9 aggrieved employees, and/or to another employee who had the authority to investigate, discover,
10 or correct a violation, and Plaintiff MAK and other aggrieved employees reasonably believed that
11 the information disclosed a violation of a state or federal statute, or a violation of or noncompliance
12 with a local, state, or federal rule or regulation. By objecting to Defendant's unlawful conduct,
13 Plaintiff MAK and other aggrieved employees refused to participate in an activity that would result
14 in a violation of a state or federal statute, or a violation of or noncompliance with a local, state, or
15 federal rule or regulation. Lab. Code §1102.5(c). Specifically, Plaintiff MAK reasonably believed
16 that Employer acted unlawfully by requiring her and other aggrieved employees to be vaccinated
17 and denying their requests for reasonable accommodations. For example, the District maintained
18 the position that it was going to terminate unvaccinated employees regardless of religious or
19 medical status, and despite the availability of reasonable alternatives to taking the COVID-19
20 vaccine.

21 **FIRST CAUSE OF ACTION**

22 **Discrimination in Violation of FEHA (Cal. Gov. Code § 12940(a))**

23 **(Against All Defendants)**

24 34. Plaintiffs hereby incorporates by reference the allegations in all paragraphs in this
25 Complaint as though fully set forth herein.

26 35. In relevant part, the Fair Employment and Housing Act (FEHA), California
27 Government Code section 12940(a), provides that it shall be unlawful for an employer to
28 discriminate against an employee on the basis of "religion."

1 36. The District is an “employer” as defined under FEHA. Government Code §
2 12926(d).

3 37. The Plaintiffs are persons entitled to the protections of the FEHA. Government
4 Code § 12940(a)-(o). Plaintiffs advised the District of their religious belief and articulated the
5 conflict between the District’s policy and their religious belief. The District purported to accept
6 the sincerity of Plaintiffs’ religious belief and conflict between the District’s policy and their
7 religious belief, however took adverse employment actions toward Plaintiffs soon after and
8 terminated their employment.

9 38. The District enforced its policy to the detriment of the Plaintiffs.

10 39. As set forth above, the District terminated Plaintiffs.

11 40. As a direct result of Plaintiffs’ requests for religious exemption and
12 accommodations, the District took adverse employment actions against Plaintiffs which included
13 discharging Plaintiffs from their employment with the District. By such conduct, the District
14 discriminated against Plaintiffs because they exercised the rights the law affords them. Plaintiffs’
15 requests for religious exemption and accommodations were a substantial motivating reason for the
16 District’s decision to terminate Plaintiffs and take other adverse employment actions against them.
17 As such, The District’s discriminatory conduct was a substantial factor in causing Plaintiffs’ harm
18 and in violation of Cal. Gov. Code § 12940(a).

19 41. As a direct and proximate result of the wrongful conduct of the District, Plaintiffs
20 have suffered and continue to sustain substantial losses in earnings (both past and future lost
21 wages), employment benefits including pension and retirement, and other damages in an amount
22 according to proof at the time of trial. Plaintiffs claim such amount as damages together with
23 prejudgment interest thereon pursuant to California Civil Code §§ 3287, 3288, and/or any other
24 applicable provision providing for prejudgment interest in amount according to proof at the time of
25 trial.

26 42. As a direct and proximate result of the wrongful conduct of Defendant, Plaintiffs
27 have suffered humiliation, emotional distress, and mental pain and anguish, all to Plaintiffs’ damage
28 in an amount according to proof at the time of trial.

43. Plaintiffs have also incurred and continue to incur legal expenses in an amount according to proof at the time of trial. Therefore, Plaintiffs seek attorneys' fees and costs, including but not limited to expert witness fees, pursuant to, *inter alia*, California Government Code Section 12965(b) and California Code of Civil Procedure Section 1021.5 in an amount according to proof at the time of trial.

SECOND CAUSE OF ACTION

Failure to Prevent Discrimination and Retaliation in Violation of FEHA (Cal. Gov. Code § 12940(k))
(Against All Defendants)

44. Plaintiffs hereby incorporates by reference the allegations in all paragraphs in this Complaint as though fully set forth herein.

45. In relevant part, the Fair Employment and Housing Act (FEHA), California Government Code section 12940(k), provides that it is unlawful for an employer to fail to take all reasonable steps necessary to prevent discrimination and retaliation from occurring.

46. The District is an “employer” as defined under FEHA. Government Code § 12926(d).

47. The Plaintiffs are persons entitled to the protections of the FEHA. Government Code § 12940(a)-(o). Plaintiffs advised the District of their religious belief and articulated the conflict between the District's policy and their religious belief. The District purported to accept the sincerity of Plaintiffs' religious belief and the conflict, however took adverse action towards Plaintiffs soon after and terminated their employment.

48. The District enforced its policy to the detriment of the Plaintiffs.

49. As set forth above, Plaintiffs were subjected to discrimination and retaliation in the course of employment and thereafter terminated by the District in response to their requests for religious exemption and accommodations in the alternative to taking the COVID-19 vaccine and following the District's policy.

50. The District failed to take all reasonable steps to prevent the above discrimination and retaliation.

51. The District's failure to take all reasonable steps to prevent discrimination and retaliation was a substantial factor in causing Plaintiffs' harm.

52. As a direct result of Plaintiffs' requests for religious exemption and accommodations, the District took adverse employment actions against Plaintiffs which included discharging Plaintiffs from their employment with the District. By such conduct, the District failed to take reasonable steps to prevent discrimination and retaliation against Plaintiffs. As such, the District's conduct was a substantial factor in causing Plaintiffs' harm and violated Cal. Gov. Code § 12940(k).

53. As a direct and proximate result of the wrongful conduct of Defendant, Plaintiffs have suffered and continue to sustain substantial losses in earnings (both past and future lost wages), employment benefits including pension and retirement, and other damages in an amount according to proof at the time of trial. Plaintiffs claim such amount as damages together with prejudgment interest thereon pursuant to California Civil Code §§ 3287, 3288, and/or any other applicable provision providing for prejudgment interest in amount according to proof at the time of trial.

54. As a direct and proximate result of the wrongful conduct of Defendant, Plaintiffs have suffered humiliation, emotional distress, and mental pain and anguish, all to Plaintiffs' damage in an amount according to proof at the time of trial.

55. Plaintiffs have also incurred and continue to incur legal expenses in an amount according to proof at the time of trial. Therefore, Plaintiffs seek attorneys' fees and costs, including but not limited to expert witness fees, pursuant to, *inter alia*, California Government Code Section 12965(b) and California Code of Civil Procedure Section 1021.5 in an amount according to proof at the time of trial.

THIRD CAUSE OF ACTION

Failure to Accommodate in Violation of FEHA (Cal. Gov. Code § 12940(l))

(Against All Defendants)

56. Plaintiffs hereby incorporate by reference the allegations in all paragraphs in this Complaint as though fully set forth herein.

1 57. The District is an “employer” as defined under FEHA. Government Code §
2 12926(d).

3 58. Plaintiffs were an employee of the District.

4 59. Plaintiffs have a sincerely held religious belief that precludes them from the
5 District’s policy administering the COVID-19 vaccination.

6 60. Plaintiffs’ religious belief conflicted with Plaintiffs’ job requirement(s).

7 61. The District knew of the conflict between Plaintiffs’ religious belief and the job
8 requirement(s).

9 62. The District failed to explore available reasonable alternatives of accommodating
10 Plaintiffs, including excusing Plaintiffs from duties that conflict with Plaintiffs’ religious belief or
11 permitting those duties to be performed at another time or by another person, or otherwise
12 reasonably accommodate Plaintiffs’ religious belief.

13 63. Consequently, the District terminated Plaintiffs in order to avoid having to
14 accommodate Plaintiffs’ religious belief.

15 64. Plaintiffs’ failure to comply with the conflicting job requirement was a substantial
16 motivating reason for the District’s decision to discharge Plaintiffs and subject them to adverse
17 employment action.

18 65. As a direct and proximate result of Defendants’ willful, despicable, and intentional
19 conduct towards Plaintiffs, Plaintiffs have sustained substantial losses in earnings and other
20 employment benefits. Plaintiffs claim such amount as damages together with prejudgment interest
21 thereon pursuant to California Civil Code §§ 3287, 3288, and/or any other applicable provision
22 providing for prejudgment interest.

23 66. As a direct and proximate result of Defendants’ willful, despicable, and intentional
24 conduct towards Plaintiffs, Plaintiffs have suffered and continues to suffer humiliation, and
25 emotional distress; the amount of such damages to be determined by proof at trial.

26 67. Plaintiffs have also incurred and continues to incur legal expenses in an amount
27 according to proof at the time of trial. Therefore, Plaintiffs seek attorneys’ fees and costs, including
28 but not limited to expert witness fees, pursuant to, *inter alia*, California Government Code Section

1 12965(b) and California Code of Civil Procedure Section 1021.5 in an amount according to proof
2 at the time of trial.

3 **FOURTH CAUSE OF ACTION**

4 **Retaliation in Violation of FEHA (Cal. Gov. Code § 12940 (h))**

5 **(Against All Defendants)**

6 68. Plaintiffs incorporate by reference all previous paragraphs of this Complaint as
7 though fully set forth herein.

8 69. Plaintiffs informed the District of their religious belief and articulated the conflict
9 between the District's policy and their religious belief, and requested an accommodation from the
10 District to resolve the conflict. The District purported to accept the sincerity of Plaintiffs' religious
11 belief and the conflict, however soon thereafter took adverse action against Plaintiffs and
12 terminated their employment.

13 70. Plaintiffs' communication of their sincerely held religious belief to the District and
14 request for accommodation was a substantial motivating reason for the District's decision to
15 discharge Plaintiffs.

16 71. The District's decision to discharge Plaintiffs was a substantial factor in causing
17 them harm.

18 72. As a direct and proximate result of the wrongful conduct of Defendant, Plaintiffs
19 have suffered and continue to sustain substantial losses in earnings (both past and future lost
20 wages), employment benefits including pension and retirement, and other damages in an amount
21 according to proof at the time of trial. Plaintiffs claim such amount as damages together with
22 prejudgment interest thereon pursuant to California Civil Code §§ 3287, 3288, and/or any other
23 applicable provision providing for prejudgment interest in amount according to proof at the time of
24 trial.

25 73. As a direct and proximate result of the wrongful conduct of Defendants, and each
26 of them, Plaintiffs have suffered humiliation, emotional distress, and mental pain and anguish, all
27 to Plaintiffs' damage in an amount according to proof at the time of trial.

74. Plaintiffs have also incurred and continues to incur legal expenses in an amount according to proof at the time of trial. Therefore, Plaintiffs seek attorneys' fees and costs, including but not limited to expert witness fees, pursuant to, *inter alia*, California Government Code Section 12965(b) and California Code of Civil Procedure Section 1021.5 in an amount according to proof at the time of trial.

FIFTH CAUSE OF ACTION

Financial Abuse in Violation of Welf. & Inst. Code § 15610.30

(Plaintiff MAK Against All Defendants)

75. Plaintiff MAK incorporates by reference all previous paragraphs of this Complaint as though fully set forth herein.

76. Plaintiff MAK resides in California and at all times relevant to this action was over 65 ears of age.

77. By committing the acts and omissions described in this Complaint, Defendants have taken, secreted, appropriated, obtained, and/or retained Plaintiff MAK's wages and other employment benefits, including, without limitation, pension benefits and any applicable insurance policy proceeds which may apply to Plaintiff MAK's causes of action alleged in this lawsuit, for wrongful use because they knew or should have known that their conduct was likely to be harmful to Plaintiff MAK.

78. The Defendants' actions in taking, secreting, appropriating, obtaining, and retaining Plaintiff MAK's wages and other employment benefits, including, without limitation, pension benefits and any applicable insurance policy proceeds which may apply to Plaintiff MAK's causes of action alleged in this lawsuit, for wrongful use constitutes financial elder abuse as defined by California Welfare and Institutions Code sections 15610.30 and 15657.6.

79. Plaintiff MAK was harmed and Defendants' conduct was a substantial factor in causing Plaintiff MAK's harm.

80. Plaintiff MAK is entitled to compensatory damages consisting of the return of Plaintiff MAK's wages and other employment benefits, including, without limitation, pension

1 rights, and a writ of attachment pursuant to California Welfare and Institutions Code section
2 15657.01 should be issued to secure the return of those wages and benefits.

3 81. Plaintiff is entitled to treble damages under Civil Code section 3345.

4 82. Plaintiff MAK has incurred, and will continue to incur, attorneys' fees and costs in
5 connection with this dispute, which Plaintiff MAK is entitled to recover under California Welfare
6 and Institutions Code section 15657.5(a).

7 **SIXTH CAUSE OF ACTION**

8 **Violation of the Private Attorneys General Act of 2004**

9 **(Cal. Lab. Code §§ 2698, et seq.)**

10 **(Plaintiff MAK, on behalf of herself and all other aggrieved employees, Against**

11 **Defendant LOS ANGELES UNIFIED SCHOOL DISTRICT)**

12 83. Plaintiff MAK incorporates by reference all previous paragraphs of this Complaint
13 as though fully set forth herein.

14 84. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
15 for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,
16 commissions, boards, agencies or employees for violation of the code may, as an alternative, can
17 be recovered through a civil action brought by an aggrieved employee on behalf of himself or
18 herself and other current or former employees pursuant to the procedures specified in Labor Code
19 Section 2699.3.

20 85. Under Labor Code Section 2699.3(a), a plaintiff may bring a cause of action under
21 PAGA only after giving the LWDA and the employer notice of the Labor Code Sections alleged to
22 have been violated, and after receiving notice from the LWDA of its intention not to investigate or
23 after 65 days have passed without notice from the LWDA.

24 86. On June 9, 2022, Plaintiff MAK gave written notice of the specified provisions
25 alleged to have been violated, including the facts and theories to support the alleged violations, as
26 required by Labor Code Section 2699.3. This written notice was provided via certified mail to
27 Defendant and to the LWDA by electronically filing the notice via the Department of Industrial
28 Relations' website. More than 65 days have passed since Plaintiff MAK submitted her PAGA

1 notice to the LWDA without notice from the LWDA. Accordingly, Plaintiff MAK has exhausted
2 the procedural requirements under Labor Code Section 2699.3 as to Defendant and is therefore able
3 to pursue a claim for penalties on behalf of herself and all other Aggrieved Employees under PAGA.

4 87. Pursuant to Labor Code Sections 2699.3 and 2699.5, Plaintiff seeks civil penalties
5 for any alleged violation of the following provisions: subdivision (k) of Section 96 and Sections
6 98.6.

7 88. Defendants conduct with respect to Plaintiff MAK and the other Aggrieved
8 Employees violates:

9 a. Labor Code Sections 96, Subdivision K for retaliating and wrongfully terminating
10 Plaintiff MAK and other aggrieved employees for engaging in lawful activities
11 during nonworking hours including but not limited to: their refusal to take the
12 COVID-19 vaccine due to their sincerely held religious beliefs, exemption requests,
13 and requests for reasonable accommodations; and

14 b. Labor Code Sections 98.6 for retaliation against and wrongful termination of
15 Plaintiff MAK and other aggrieved employees for their lawfully protected
16 complaints regarding unlawful activities.

17 89. Plaintiff MAK is an “aggrieved employee” because Plaintiff was employed by the
18 alleged violators and had one or more of the alleged violations committed against her, and therefore
19 is properly suited to represent the interests of all other aggrieved employees.

20 90. Pursuant to Labor Code Sections 2699(a), 2699.3 and 2699.5, Plaintiff MAK is
21 entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code
22 Sections cited above.

23 91. For bringing this action, Plaintiff MAK is also entitled to attorney’s fees and costs
24 incurred herein.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiffs pray for judgment as follows:

27 1. For general damages and compensatory damages in an amount according to proof,
28 together with prejudgment interest;

- 1 2. For special damages;
- 2 3. For compensatory damages according to proof, including past and future lost
- 3 earnings and other employment benefits, costs of seeking other employment and for damages for
- 4 emotional distress, humiliation and mental anguish;
- 5 4. For interest at the legal rate from the date of injury or pursuant to Code of Civil
- 6 Procedure Sections 3287 and 3288;
- 7 5. For attorneys' fees provided by law, including, without limitation, under
- 8 Government Code Section 12965(b) and Code of Civil Procedure Section 1021.5;
- 9 6. For costs of suit incurred, including expert witness fees, pursuant to Government
- 10 Code Section 12965(b); and
- 11 7. For any other and further relief as the Court deems just and proper.
- 12 WHEREFORE, Plaintiff MAK, on behalf of herself and the Aggrieved Employees, prays
- 13 for judgment and the following specific relief against Defendants, jointly and severally, as follows:
- 14 8. For civil penalties against Defendants on behalf of all Aggrieved Employees
- 15 pursuant to, *inter alia*, Labor Code Sections 96(k), 98.6, and 2698, *et seq.*;
- 16 9. For reasonable attorneys' fees and costs of suit to the extent permitted by
- 17 law,
- 18 including pursuant to California Labor Code Sections 2699(g), and California Code of Civil
- 19 Procedure Section 1021.5; and
- 20 10. For such other relief as the Court deems just and proper.

21
22 Dated: November 14, 2022

ALAMI LAW GROUP

23
24 By 

David Alami
Attorneys for Plaintiffs DEBORAH MAK and
BRENT PALMER

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Dated: November 14, 2022

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David Alami
Attorneys for Plaintiffs DEBORAH MAK and
BRENT PALMER

1
2 **PROOF OF SERVICE**

3 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

4 I am employed in the County of Orange, State of California. I am over the age of 18 and
5 not a party to the within action. My business address is 620 Newport Center Drive, Suite 1100,
6 Newport Beach, CA 92660. On November 14, 2022, I served the following documents:

7 • **FIRST AMENDED COMPLAINT**

8 on all interested parties in this action as follows:

9 * ***SEE ATTACHED SERVICE LIST*** *

10 [X] **(BY E-MAIL)** Per Code of Civil Procedure 1010.6(e)(1) requiring attorneys to
11 electronically receive notices and documents and/or agreement between the parties, I caused the
12 document(s) to be sent to the persons at the electronic service addresses listed above. Within a
13 reasonable time after the transmission, no error, electronic message or any other indication that
the transmission was unsuccessful was received.

14 [X] **(STATE)** I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

15 Executed on November 14, 2022, at Newport Beach, California.

16
17 

18 _____
David Alami

19 **SERVICE LIST**

20 **CLYDE & CO.**

21
22 Benum, Alison <Alison.Benum@clydeco.us>
23 Rosenberg, Sheryl <Sheryl.Rosenberg@clydeco.us>
24 McCabe, Angelo <Angelo.McCabe@clydeco.us>
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