

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Holly Fujie

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RAUL ZARAGOZA

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

22STCV35779

RAUL ZARAGOZA, an individual,

Plaintiff,

v.

AKM OIL CO, INC., a Corporation; PAOLA
DOE, an individual; and DOES 1 through 20,
inclusive,

Defendants.

Case No.

COMPLAINT FOR DAMAGES FOR:

- 1. HARASSMENT IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 2. RETALIATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 3. FAILURE TO PREVENT HARASSMENT
AND/OR RETALIATION IN VIOLATION
OF GOV'T CODE §12940(k);**
- 4. RETALIATION (LAB. CODE §§1102.5,
1102.6);**
- 5. FAILURE TO PROVIDE MEAL AND
REST PERIODS (CAL. LABOR CODE
§§226.7, 512);**
- 6. WAITING TIME PENALTIES (CAL.
LABOR CODE §§201-203);**
- 7. UNFAIR COMPETITION (BUS. & PROF.
CODE §17200 ET SEQ.);**
- 8. PRIVATE ATTORNEY GENERAL ACT
(CAL. LABOR CODE §2699, ET SEQ); AND**
- 9. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**

DEMAND OVER \$25,000

[DEMAND FOR JURY TRIAL]

1 **COMES NOW PLAINTIFF, RAUL ZARAGOZA**, and for causes of action against the
2 Defendants and each of them, alleges as follows:

3
4 **JURISDICTION**

5 1. This Court is the proper court, and this action is properly filed in LOS ANGELES County,
6 because Defendants' obligations and liability arise therein, because Defendants maintain offices and
7 transact business within LOS ANGELES County, and because the work that is the subject of this action
8 was performed by Plaintiff in LOS ANGELES County.

9
10 **THE PARTIES**

11 2. Plaintiff, RAUL ZARAGOZA, is and at all times relevant hereto was a resident of the
12 County of LOS ANGELES, State of California.

13 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
14 hereto, Defendant AKM OIL CO, INC., (hereinafter referred to as "AKM") was and is a California Stock
15 Corporation doing business at 20265 Via Cellini Northridge, in the County of LOS ANGELES, State of
16 California.

17 4. AKM is likewise hereinafter referred to as "Employers."

18 5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
19 hereto, Employers owned and operated a private oil company.

20 6. At all times relevant herein, Employers and DOES 1-20 were Plaintiff's employers, joint
21 employers and/or special employers within the meaning of Government Code §§12926, subdivision (d),
22 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more
23 persons and are therefore subject to the jurisdiction of this Court.

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

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1 8. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
2 hereto, Defendants PAOLA DOE, is an individual resident of the County of LOS ANGELES, State of
3 California, and is hereinafter individually referred to "INDIVIDUAL DEFENDANTS." The
4 INDIVIDUAL DEFENDANTS were Employers' managers, corporate agents, supervisors, and/or
5 employees.

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

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

19 11. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
20 of them, including those defendants named as DOES 1-20 and the INDIVIDUAL DEFENDANTS, acted
21 in concert with one another to commit the wrongful acts alleged herein, and aided, abetted, incited,
22 compelled and/or coerced one another in the wrongful acts alleged herein, and/or attempted to do so,
23 including pursuant to Government Code §12940(i). Plaintiff is further informed and believes, and based
24 thereupon alleges, that Defendants, and each of them, including those defendants named as DOES 1-20
25 and the INDIVIDUAL DEFENDANTS, and each of them, formed and executed a conspiracy or common
26 plan pursuant to which they would commit the unlawful acts alleged herein, with all such acts alleged
27 herein done as part of and pursuant to said conspiracy, intended to cause and actually causing Plaintiff
28 harm.

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

4 13. Plaintiff has filed complaints of discrimination, harassment, retaliation, failure to prevent
5 discrimination or retaliation, failure to accommodate, failure to engage in the interactive process, and
6 wrongful termination under Government Code §§12940, et seq., the California Fair Employment and
7 Housing Act (“FEHA”) with the California Department of Fair Employment and Housing (“DFEH”),
8 and has satisfied Plaintiff’s administrative prerequisites with respect to these and all related filings.

9
10 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

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

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

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

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

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

27 d. Employers do not comply with all requisite corporate formalities to maintain a
28 legal and separate corporate existence.

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

10 16. Accordingly, Employers constitute the alter ego of one another and DOES 1-20, and the
11 fiction of their separate corporate existence must be disregarded.

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

18 18. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and
19 between DOES 1-20, Employers, or any of them, (1) there is an express or implied agreement of
20 assumption pursuant to which Employers and/or DOES 1-20 agreed to be liable for the debts of the other
21 Defendants, (2) the transaction between Employers and/or DOES 1-20 and the other Defendants amounts
22 to a consolidation or merger of the two corporations, (3) Employers and/or DOES 1-20 are a mere
23 continuation of the other Defendants, or (4) the transfer of assets to Employers and/or DOES 1-20 is for
24 the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Employers and/or DOES
25 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

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FACTUAL ALLEGATIONS

19. Raul Zaragoza ("Plaintiff") was hired by AKM OIL CO, Inc. (referred to as "Defendant" and "Employers") in or about September 1, 2021. Plaintiff performed his duties satisfactorily until he was wrongfully terminated on or about November 12, 2021.

20. In or around October 2021, Plaintiff's supervisor, Paola, began sexually harassing him. Paola would follow Plaintiff around the store, watching his every move, leering at him. Plaintiff asked Paola to stop watching him and allow him to do his work. Paola's conduct began to quickly escalate, and she would hug him and touch him without his permission. Again, Plaintiff demanded that Paola stop. Paola's harassing conduct continued.

21. Plaintiff reported Paola and the harassment to his managers. Plaintiff explained that he did not feel comfortable with Paola's conduct and wanted her to stop touching him.

22. Less than a week after Plaintiff reported Paola's harassing conduct, Plaintiff was suspended under the pretext of violating company policies.

23. Plaintiff was terminated on or about November 12, 2021.

24. Based on the events set forth above, Plaintiff believes Defendant discriminated, harassed, and retaliated against and terminated him based upon engagement in protected activities and protesting against sexual harassment. Defendant failed and refused to stop and prevent discrimination, harassment and retaliation against Plaintiff, and Plaintiff was actually or constructively wrongfully terminated.

25. Defendants harassed and retaliated against Plaintiff by terminating him and for protesting against sexual harassment and exercising Plaintiff's right to request as an accommodation of Plaintiff's engagement in protected activities.

26. Plaintiff's termination was substantially motivated by Plaintiff's engagement in protected activities, without any discussion of disability accommodations or any good faith attempt to engage in the interactive process with Plaintiff. Defendants' discriminatory animus is evidenced by the previously mentioned facts.

27. Defendants' conduct described herein was undertaken, authorized, and/or ratified by Defendants' officers, directors and/or managing agents, including, but not limited to Paola Doe and those identified herein as DOES 1 through 20, who were authorized and empowered to make decisions that

1 reflect and/or create policy for Defendants. The aforementioned conduct of said managing agents and
2 individuals was therefore undertaken on behalf of Defendants who further had advanced knowledge of
3 the actions and conduct of said individuals whose actions and conduct were ratified, authorized, and
4 approved by managing agents whose precise identities are unknown to Plaintiff at this time and are
5 therefore identified and designated herein as DOES 1 through 20, inclusive.

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

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

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

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

19
20 **FIRST CAUSE OF ACTION**

21 **FOR HARASSMENT IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**

22 **AGAINST ALL DEFENDANTS**

23 32. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 31, inclusive, as
24 though set forth in full herein.

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

27 34. As such term is used under FEHA, "on the bases enumerated in this part" means or
28 refers to harassment on the bases of one or more of the protected characteristics under FEHA.

1 35. These laws set forth in the preceding paragraph require Defendants to refrain from
2 harassing, or creating, or maintaining a hostile work environment against an employee based upon the
3 employee's sex, gender, engagement in protected activities, as set forth hereinabove.

4 36. Defendants' harassing conduct was severe or pervasive, was unwelcome by Plaintiff,
5 and a reasonable person in Plaintiff's circumstances would have considered the work environment to
6 be hostile or abusive.

7 37. Defendants violated the FEHA and the public policy of the State of California which is
8 embodied in the FEHA by creating a hostile work environment and harassing Plaintiff because of
9 Plaintiff's sex, gender, engagement in protected activities, and/or some combination of these protected
10 characteristics, as set forth hereinabove.

11 38. The above-mentioned acts were perpetrated upon Plaintiff by a supervisor, and/or
12 Defendants knew or should have known of the conduct but failed to take immediate and appropriate
13 corrective action.

14 39. The above-mentioned acts of Defendants constitute violations of the FEHA and
15 violations of the public policy of the State of California. Such violations were a proximate cause in
16 Plaintiff's damage as stated below.

17 40. The damage allegations of Paragraphs 32 through 36, inclusive, are herein incorporated
18 by reference.

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

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

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1 **SECOND CAUSE OF ACTION**

2 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**

3 **AGAINST DEFENDANT AKM**

4 43. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 31, inclusive, as
5 though set forth in full herein.

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

8 45. These laws set forth in the preceding paragraph require Defendants to refrain from
9 retaliating against an employee for engaging in protected activity.

10 46. Plaintiff engaged in the protected activities of requesting accommodation and
11 complaining about and protesting Defendants' discriminatory and harassing conduct towards Plaintiff
12 based upon Plaintiff's gender, sex, engagement in protected activities.

13 47. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination,
14 failure to investigate, remedy, and/or prevent harassment, failure to reinstate and/or return to work,
15 suspension, and termination, and was harmed thereby.

16 48. Plaintiff is informed and believes that Plaintiff's conduct of protesting about Defendants'
17 discriminatory and harassing conduct, and/or some combination of these factors, were motivating reasons
18 and/or factors in the decisions to subject Plaintiff to the aforementioned adverse employment actions.

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

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

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

26 52. The damage allegations of Paragraphs 32 through 36, inclusive, are herein incorporated
27 by reference.

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

7 54. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of THIRD
8 CAUSE OF ACTION.

9
10 **FAILURE TO PREVENT HARASSMENT, AND/OR RETALIATION**
11 **IN VIOLATION OF GOV'T CODE §12940(k)**
12 **AGAINST DEFENDANT ATM**

13 55. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 31, inclusive, as
14 though set forth in full herein.

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

20 57. The above-mentioned acts of Defendants constitute violations of the FEHA, and were a
21 proximate cause in Plaintiff's damage as stated below.

22 58. The damage allegations of Paragraphs 32 through 36, inclusive, are herein incorporated
23 by reference.

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

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

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6 **FOURTH CAUSE OF ACTION**

7 **FOR RETALIATION IN VIOLATION OF LABOR CODE §§ 1102.5 AND 1102.6**

8 **AGAINST DEFENDANT AKM**

9 61. Plaintiff re-alleges and incorporates by reference all Paragraphs, inclusive, as though set
10 forth in full herein.

11 62. At all relevant times, Labor Code §1102.5(a) was in full force and effect, and was
12 binding on Defendants. This law prohibits an employer, or any person acting on behalf of the
13 employer, from discharging an employee or in any manner discriminating or retaliating against, or
14 taking any adverse action against, an employee because, among other things, the employee disclosed
15 information to a government or law enforcement agency, or to a person with authority over the
16 employee or another employee who has the authority to investigate, discover, or correct the violation or
17 noncompliance, if the employee has reasonable cause to believe that the information discloses a
18 violation of state or federal statute, or violation of or noncompliance with a local, state, or federal rule
19 or regulation, regardless of whether disclosing the information is part of the employee's job duties.
20 Pursuant to Labor Code §1102.5(f), in addition to other penalties, an employer that is a corporation or
21 limited liability company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for
22 each violation of this section.

23 63. Plaintiff reported suspected unlawful harassment to his supervisors.

24 64. Defendants subjected Plaintiff to the adverse employment action, including without
25 limitation, termination because Plaintiff reported the suspected unlawful harassment to his supervisors.

26 65. Plaintiff's reports of these violations were a motivating and contributing factor for the
27 adverse employment actions by Defendants against Plaintiff.

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1 66. Said conduct violates Labor Code Labor Code §1102.5 and Labor Code §1102.6, and
2 such violations were a proximate cause in Plaintiff's damages as hereinabove stated.

3 67. The damage allegations of Paragraphs 32 through 36 inclusive, are herein incorporated
4 by reference.

5 68. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
6 \$10,000.00 for Defendants' violations of Labor Code § 1102.5.

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

13 70. Plaintiff also seeks an award of attorney's fees and costs.

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15 **FIFTH CAUSE OF ACTION**
16 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS LABOR CODE §§226.7, 512**
17 **AGAINST DEFENDANT AKM**

18 217. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
19 though set forth in full herein.

20 218. Labor Code §512 requires employers to provide every employee with an uninterrupted
21 meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

22 219. Labor Code §226.7 requires an employer to provide every employee with an
23 uninterrupted rest period of not less than 10 minutes, for every period worked of four hours, or
24 substantial portion thereof.

25 220. In the four years last past, Plaintiff regularly worked in excess of five hours per day, and
26 was thereby entitled to take uninterrupted 30-minute meal periods and two 10-minute rest periods on
27 each day of work.

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1 221. Defendants failed and refused to provide Plaintiff with meal and rest periods, and failed
2 to compensate Plaintiff for missed meal and rest periods, as required by Labor Code §§226.7 and the
3 applicable sections of 8 Code of Regulations and Industrial Welfare Commission Order No. as follows:

4 a. From approximately September 1, 2021 to November 12, 2022 Plaintiff's statutory 30-
5 minute meal periods were missed, interrupted or cut short approximately 5 times per week for 10
6 weeks, or on approximately 50 days. During this same time period, Plaintiff was deprived of one or
7 more of Plaintiff's statutory 10-minute rest periods on approximately 50 days (5 days per week for 10
8 weeks).

9 222. As alleged herein, Plaintiff is not exempt from the meal and rest break requirements of 8
10 Code of Regulations and Industrial Welfare Commission Order No. Consequently, Plaintiff is owed
11 one hour of pay at Plaintiff's then regular hourly rate, or the requisite minimum wage, whichever is
12 greater, for each day that Plaintiff was denied such meal periods, and is owed one hour of pay at
13 Plaintiff's regular hourly rate, or the requisite minimum wage, whichever is greater, for each day that
14 Plaintiff was denied such rest periods, calculated as follows:

15 a. From approximately September 1, 2021 through November 12, 2021 Defendants failed
16 to provide Plaintiff with an uninterrupted statutory meal period on approximately 50 separate days.
17 Consequently, Plaintiff is owed one hour of pay at \$15.00 for each day, or \$750.00, plus interest
18 thereon, for unpaid missed or interrupted meal periods. During this same time period, Defendants failed
19 to provide Plaintiff with the statutory rest period on approximately 50 separate days. Consequently,
20 Plaintiff is owed one hour of pay at \$15.00 for each day, or \$750.00, plus interest thereon, for unpaid
21 rest periods. Thus, Plaintiff is owed a total of \$1,500.00, plus interest thereon, for unpaid meal and rest
22 periods for this time period.

23 223. Thus, the total missed meal and rest period compensation owing Plaintiff for this time
24 period is \$1,500.00

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

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1 225. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
2 such amounts in the combined amount of \$1500.00 pursuant to Labor Code §226.7(b), plus interest
3 thereon and costs of suit.

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5 **SIXTH CAUSE OF ACTION**
6 **FOR WAITING TIME PENALTIES LABOR CODE §§201-203**
7 **AGAINST DEFENDANT AKM**

8 61. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 31, inclusive, as
9 though set forth in full herein.

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

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

18 64. As a direct and proximate result of Defendants' willful failure to pay these wages, Plaintiff
19 is entitled to payment of Plaintiff's overtime, meal and rest periods as previously pleaded herein, and
20 more than \$3,600 in wait time penalties, calculated based on 30 days of Plaintiff's daily wage rate of
21 \$120.00, inclusive of overtime.

22 65. Based on Defendants' conduct as alleged herein, Defendants are liable for \$3,600.00 in
23 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
24 fees and costs.

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SEVENTH CAUSE OF ACTION
FOR UNFAIR COMPETITION
BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.
AGAINST DEFENDANT AKM

66. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 31, inclusive, as though set forth in full herein.

67. Defendants' violations of 8 Code of Regulations §11070, Industrial Welfare Commission Order No. 7-2001, Labor Code §§ 98.6, 201-203, 221, 226, 226.7, 227.3, 246, 510, 512 1102.5, 1182.12, 1194, 1194.2, 1197, 2810.5, 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants' failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business & Professions Code §§17200, et seq.

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

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

EIGHTH CAUSE OF ACTION
FOR PRIVATE ATTORNEY GENERAL ACT
LABOR CODE §2699
AGAINST DEFENDANT AKM

70. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 31, inclusive, as though set forth in full herein.

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

4 72. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and
5 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as
6 previously pleaded in this Complaint.

7 73. On June 9, 2022, more than 63 calendar days before filing this Complaint, Plaintiff
8 provided written notice by certified mail to the Labor and Workforce Development Agency and to
9 Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby
10 satisfying the requirements of Labor Code §2699.3(a). These violations included Labor Code §§ 201,
11 202, 203, 226, 226.7, 226.8, 510, 512, 1174, 1182.12, 1194, 1194.2, and 1197, each of which is
12 enumerated among the serious violations set forth in Labor Code §2699.5.

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

16 75. As a direct and proximate result of Defendants' California Labor Code violations as set
17 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
18 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each
19 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
20 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
21 provide for a penalty, §§226.3, 226.7, 510, 512, and 558.

22 76. These penalties recoverable for Plaintiff alone totals approximately \$15,300. Plaintiff may
23 also seek these same penalties on behalf of all other aggrieved employees.

24 77. Plaintiff is also entitled to reasonable attorney's fees and costs, and 25% of the recovered
25 civil penalties, pursuant to Labor Code §§2699(g)(1)-(i).

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NINTH CAUSE OF ACTION
FOR WRONGFUL TERMINATION
IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA
AGAINST DEFENDANT AKM

78. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 31, inclusive, as though set forth in full herein.

79. At all relevant times mentioned in this complaint, the FEHA was in full force and effect and was binding on Defendants. This law requires Defendants to refrain, among other things, from discriminating against any employee on the basis of sex, gender, disability, medical condition, real or perceived, and use of medical leave, and from retaliating against any employee who engages in protected activity.

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

81. Plaintiff believes and thereon alleges that Plaintiff's sex, gender, disability and/or medical condition, real or perceived, use of medical leave, engagement in protected activity with respect to these protected classes, and/or some combination thereof, were factors in Defendants' conduct as alleged hereinabove.

82. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's employment on the basis of sex, gender, disability, medical condition, real or perceived, or use of medical leave, Plaintiff's complaining of harassment and discrimination due to these protected classes, Plaintiff's engagement in protected activity, and/or some combination of these factors, were a proximate cause in Plaintiff's damages as stated below.

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

84. At all times mentioned in this complaint, it was a fundamental policy of the State of California that Defendants cannot discriminate and/or retaliate against any employee in violation of FEHA.

85. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's use of and/or Plaintiff's status as a protected member of the class under FEHA was a proximate cause in Plaintiff's damages as stated below.

86. The damage allegations of Paragraphs 32 through 36, inclusive, are herein incorporated by reference.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendants and each of them, in an amount according to proof but estimated to be no less than \$250,000 as follows:

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

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

3. For payment of meal and rest period compensation pursuant to Labor Code §226.7, 512, in the amount of no less than \$1,500.00;

4. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less than \$3,600.00;

1 For statutory penalties pursuant to Labor Code §2699(f), in the amount of no less than \$15,300
2 on Plaintiff's own behalf, and similar amounts on behalf of all of Defendants' aggrieved employees;

3 5. For prejudgment interest on each of the foregoing at the legal rate from the date the
4 obligation became due through the date of judgment in this matter.

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

7 6. For injunctive relief barring Defendants' discriminatory employment policies and
8 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

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

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

13 9. For post-judgment interest; and

14 10. For any other relief that is just and proper.

15
16 DATED: November 10, 2022

DOWNTOWN L.A. LAW GROUP

17 By:

18 

19 _____
20 Liliuokalani Martin, Esq.
21 Attorneys for Plaintiff
22 RAUL ZARAGOZA

23 **JURY TRIAL DEMANDED**

24 Plaintiff demands trial of all issues by jury.

25 DATED: November 10, 2022

DOWNTOWN L.A. LAW GROUP

26 By:

27 

28 _____
Liliuokalani Martin, Esq.
Attorneys for Plaintiff
RAUL ZARAGOZA