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IGNACIA MARCELA FRANCO

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

IGNACIA MARCELA FRANCO, an
individual,

Plaintiff,

vs.

ACBM INC. DBA ROLL CALL, a
California corporation; JUSTO TUM
XOCOL, an individual; EUN CHOI, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 25STCV05010

COMPLAINT FOR:

- 1. SEXUAL HARASSMENT IN VIOLATION OF GOVT. CODE §12940(j);**
- 2. HARASSMENT BASED ON SEX IN VIOLATION OF GOVT. CODE §12940(j);**
- 3. HOSTILE WORK ENVIRONMENT IN VIOLATION OF GOVT. CODE §12940 ET SEQ.;**
- 4. RETALIATION IN VIOLATION OF GOVT. CODE §12940 ET SEQ.;**
- 5. FAILURE TO PREVENT HARASSMENT IN VIOLATION OF GOVT. CODE §12940 (k);**
- 6. WRONGFUL CONSTRUCTIVE TERMINATION IN VIOLATION OF PUBLIC POLICY IN VIOLATION OF GOVT. CODE §12940 *et seq.*;**
- 7. FAILURE TO PAY PREMIUM OVERTIME TIME WAGES DUE (Cal. Labor Code §§ 510, 511, 558, 1194, 1198; IWC Wage Order No. 5);**
- 8. FAILURE TO PAY MINIMUM WAGE AND PAY FOR ALL WAGES EARNED (Labor Code §§ 204, 1194 and 1197; IWC Wage Order No. 5);**
- 9. FAILURE TO PAY FOR MEAL PERIODS NOT PROVIDED (Cal.**

Labor Code §§ 226.7, 512);
10. FAILURE TO PROVIDE REST PERIODS (Cal. *Labor Code* §226.7; IWC Wage Order No. 5);
11. WAITING TIME PENALTIES (Cal. *Labor Code* §226);
12. FAILURE TO PAY WAGES DUE UPON TERMINATION (Cal. *Labor Code* §§201-203);
13. FAILURE TO REIMBURSE BUSINESS EXPENSES (Cal. *Labor Code* § 2802);
14. FAILURE TO PROVIDE DAY OF REST (Cal. *Labor Code* §§ 551, 552);
15. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
16. FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS (Cal. *Labor Code* §1198.5);
17. BATTERY;
18. FALSE IMPRISONMENT; and
19. UNFAIR COMPETITION (Cal. Bus. & Prof. Code §§17200 et seq.)

DEMAND FOR A JURY TRIAL

Ignacia Marcela Franco (“Plaintiff”) alleges the following:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this Complaint under California Government Code §12920 *et seq.*, and the rules, regulations and directives implementing those statutes. This Court also has jurisdiction over this Complaint under *Code of Civil Procedure* §410.10 and *Business & Professions Code* §§ 17200 *et seq.*

2. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and 395.5, because the claims made, and the *Government Code* violations as against the persons identified herein, occurred in Los Angeles County and because Defendant ACBM Inc. dba Roll Call, owned and operated their business in Los Angeles County.

1 **II. PARTIES**

2 3. At all times relevant hereto, Plaintiff Ignacia Marcela Franco (“Plaintiff”) was
3 an individual over age 18 and a resident of Los Angeles County, California.

4 4. Plaintiff is informed and believes and thereon alleges that at all times material
5 hereto, Defendant ACBM Inc. dba Roll Call (“ROLL CALL”), has been, and is a California
6 corporation, with a principal place of business at 5600 Wilshire Blvd., #C, Los Angeles, CA
7 90036. At all times material hereto, ROLL CALL has been, and is, a restaurant. Plaintiff is
8 informed and believes and thereon alleges that at all times material hereto ROLL CALL has
9 been authorized to do business and has been doing business in the State of California.

10 5. Plaintiff is informed and believes and thereon alleges that Defendant Justo Tum
11 Xocol (“Justo”) is an individual, who at all times relevant herein, was a resident of Los Angeles
12 County. Justo is Plaintiff’s former manager at ROLL CALL.

13 6. Plaintiff is informed and believes and thereon alleges that Defendant Eun Choi
14 (“Eun”) (collectively with ROLL CALL and Justo “Defendants”) is an individual, who at all
15 times relevant herein, was a resident of Los Angeles County. Eun is the owner of ROLL
16 CALL.

17 7. Plaintiff is informed and believes and thereon alleges, that at all times relevant
18 herein, Defendants and some of DOES 1 through 100 were the agents, employees, and/or
19 servants, masters, or employers of the remaining DOES 1 through 100, and in doing the things
20 herein alleged, were acting within the course and scope of such agency or employment, and
21 with the approval and ratification of each of the other Defendants.

22 8. Plaintiff is ignorant of the true names and capacities of Defendants sued herein
23 as DOES 1 through 100, inclusive, and therefore Plaintiff sues these Defendants by such
24 fictitious names and capacities. Plaintiff will amend her Complaint to show their true names
25 and capacities when they have been ascertained. Plaintiff is informed and believes and thereon
26 alleges that at all times relevant, each of these fictitiously named DOE Defendants was an
27 individual person who owned, controlled, or managed the business for which Plaintiff worked
28 and/or who directly or indirectly exercised operational control over the wages, hours, and

1 working conditions of Plaintiff. These DOE Defendants held ownership, officer, director
2 and/or executive positions with the remaining Defendants, and acted on behalf of the remaining
3 Defendants, which included decision-making responsibility for, and establishment of, sexual
4 harassment and wage and hour violations for Defendants which have damaged Plaintiff.
5 Therefore, Does 1 through 100, in addition to the remaining Defendants, are “employers” as a
6 matter of law and are liable on the causes of action alleged herein.

7 9. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
8 through 100 are, and at all times relevant hereto were, persons, corporations or other business
9 entities organized and existing under and by virtue of the laws of the State of California, and
10 are/were qualified to transact and conduct business in the State of California, and did transact
11 and conduct business in the State of California, and are thus subject to the jurisdiction of the
12 State of California. Specifically, DOES 1 through 100 maintain offices, operate businesses,
13 employ persons, conduct business and engage in sexual harassment and wage and hour
14 violations in the County of Los Angeles.

15 10. An employer or other person acting on behalf of an employer, who violates, or
16 causes to be violated, a provision regulating minimum wages or hours and days of work in an
17 order of the Industrial Welfare Commission may be held liable as the employer for that
18 violation. (Lab. Code § 558.1(a).) The term “other person acting on behalf of an employer” is
19 limited to a natural person who is an owner, director, officer, or managing agent of the
20 employer, and the term “managing agent” has the same meaning as in C.C.P. § 3294(b). (Lab.
21 Code. § 558.1(b).)

22 11. Plaintiff is further informed and believes, and thereon alleges, that each of the
23 fictitiously named Defendants aided and assisted the named Defendants in committing the
24 wrongful acts alleged herein, and that Plaintiff’s damages were proximately caused by each
25 Defendant.

26 **III. PAGA NOTICE**

27 12. Pursuant to the California Labor Code, on or about February 21, 2025, Plaintiff
28 filed a notice with Labor and Workforce Development Agency (LWDA) of her intent to

1 pursue claims against Defendant under the Private Attorney General Act (PAGA). As such,
2 Plaintiff further reserves the right to amend this Complaint once she completes and complies
3 with the provisions under the law.

4 **IV. FACTUAL ALLEGATIONS THAT ARE COMMON TO ALL CAUSES OF**
5 **ACTION**

6 **Employment Information**

7 19. From in or about January 11, 2025 through January 24, 2025, ROLL CALL
8 employed Plaintiff as a Cashier/Waitress. Plaintiff was paid \$17.00 per hour. Plaintiff often
9 worked between 10-11 or more hours per day, 6 days per week. Plaintiff opened the restaurant,
10 prepared ingredients, set tables, obtained orders and performed cashier duties. She was
11 employed at ROLL CALL until January 24, 2025, when Plaintiff was wrongfully
12 constructively terminated.

13 **Sexual Harassment and Wrongful Termination**

14 20. Plaintiff was denied a work environment free of sexual harassment and was
15 targeted for wrongful constructive termination on or about January 24, 2025.

16 21. Starting on or about January 18, 2025, ROLL CALL's manager, Justo, began
17 sexually harassing Plaintiff.

18 22. Justo would get drunk while at work and try to touch Plaintiff on her butt, try to
19 hold her hand and he would make flirty remarks. Justo tried to kiss Plaintiff.

20 23. Justo also made sexual comments such as telling Plaintiff she was horny for
21 another employee.

22 24. Plaintiff always rejected Justo's advances and told him to stop, but he never did.

23 25. On or about January 21, 2025, Justo, while drunk, locked Plaintiff in a room and
24 would not let her leave. Justo kept insisting that Plaintiff should have sex with him. Finally,
25 another employee opened the room and Plaintiff was able to leave. Justo also grabbed
26 Plaintiff's shoulder and back and put on romantic music.

27 26. Plaintiff spoke to Eun regarding Justo's behavior, but nothing was done to
28 rectify it.

27. Plaintiff was forced to resign due to Justo's behavior and because she was never paid by ROLL CALL.

28. As a result of the harassment, Plaintiff suffered emotional distress.

29. ROLL CALL's wrongful constructive termination of Plaintiff was wrongfully motivated by sexual harassment and her complaints relating thereto.

30. At all times material hereto, ROLL CALL regularly employed five or more persons and therefore are employers, as that term is defined in *Government Code* § 12926(d).

31. On February 21, 2025, Plaintiff filed an administrative complaint with the Department of Fair Employment and Housing (“DFEH”) alleging sexual harassment by ROLL CALL, Eun and Justo. On February 21, 2025, the DFEH issued to Plaintiff a Right to Sue Notice as to ROLL CALL, Eun and Justo.

Wage and Hour Violations

32. Plaintiff's employment with ROLL CALL and Eun is governed by Industrial Welfare Commission Wage Order No. 5, which covers those persons employed in the public housekeeping industry.

33. Plaintiff did not receive overtime wages due to ROLL CALL and Eun's failure to pay her for the overtime hours she worked.

34. Plaintiff did not receive minimum wages due to ROLL CALL and Eun's failure to afford her compliant meal/rest breaks.

35. Plaintiff's meal breaks were afforded late, restricted and/or interrupted.

36. Plaintiff was not afforded any rest breaks.

37. As a result of ROLL CALL and Eun's failure to afford Plaintiff overtime, minimum wages and meal/rest breaks, the wage statements issued to her did not comply with Labor Code § 226 and California Industrial Welfare Commission ("IWC") Wage Order No. 5 in that they did not accurately reflect all wages earned and due and owing.

38. As a further result of ROLL CALL and Eun's failure to pay overtime, minimum wages and to afford meal breaks to Plaintiff, when Plaintiff left their employ, she was not

1 timely paid all wages due her, as required by Labor Code §§ 201, 202 and IWC Wage Order
2 No. 5.

3 39. ROLL CALL and Eun failed to reimburse Plaintiff for her necessary business
4 expenses.

5 40. ROLL CALL and Eun failed to provide Plaintiff with days of rest.

6 41. ROLL CALL and Eun failed to provide Plaintiff with her requested employment
7 records.

8 **FIRST CAUSE OF ACTION**

9 **(Sexual Harassment in violation of Government Code § 12940(j)– By Plaintiff Against all**
10 **Defendants and Does 1 through 100**

11 42. Plaintiff realleges and incorporates by reference all of the allegations set forth in
12 this Complaint.

13 43. In perpetrating the above-described actions, ROLL CALL, Eun and their
14 employee, Justo, engaged in a pattern and practice of unlawful sexual harassment in violation
15 of FEHA, *Government Code* § 12940(j).

16 44. ROLL CALL, Eun and/or their employee, Justo, sexually harassed Plaintiff. The
17 harassment was sufficiently pervasive and severe as to alter the conditions of employment and
18 create a hostile work environment.

19 45. As a proximate result of this sexual harassment in violation of public policy,
20 Plaintiff was caused to suffer, and continues to suffer, from humiliation, anxiety, severe
21 emotional distress, worry, fear, and special damages (including lost wages) all to her special
22 and general damage, in an amount within the jurisdiction of this Court, according to proof.

23 46. Pursuant to California Government Code §12965(b), Plaintiff requests an award
24 of attorneys' fees in this action.

25 47. All actions of Defendants ROLL CALL, Eun and Justo were known, ratified and
26 approved by the officers or managing agents of Defendant ROLL CALL. Therefore, Plaintiff is
27 entitled to punitive or exemplary damages against Defendants ROLL CALL, Eun and Justo in
28 an amount to be determined at the time of trial.

1 **SECOND CAUSE OF ACTION**

2 **(Harassment in Violation of Government Code § 12940(j) - By Plaintiff Against all**
3 **Defendants and Does 1 through 100)**

4 48. Plaintiff realleges and incorporates by reference all of the allegations set forth in
5 this Complaint.

6 49. The FEHA explicitly prohibits any employer or any other person from harassing
7 an employee because of race, religious creed, color, national origin, ancestry, physical
8 disability, mental disability, medical condition, marital status, sex, age, or sexual orientation.
9 *Gov. Code § 12940(j).*

10 50. ROLL CALL and Eun were at all times material herein Plaintiff's employers
11 pursuant to Government Code §§ 12940(d) and 12940(j)(4) and were therefore barred from
12 harassing their employees in violation of Government Code § 12940(j).

13 51. Defendants' harassment, as set forth above, created an abusive working
14 environment in violation of Government Code § 12940(j). ROLL CALL, Eun and/or their
15 employee, Justo, harassed Plaintiff and/or failed to take immediate and appropriate corrective
16 action. The harassment was sufficiently pervasive and severe as to alter the conditions of
17 employment and to create a hostile or abusive work environment.

18 52. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
19 emotional distress and physical symptoms, pain and suffering, has lost income and related
20 benefits, past and future, and medical expenses, all to her damage in an amount within the
21 jurisdiction of this Court, according to proof.

22 53. Pursuant to California Government Code § 12965(b), Plaintiff requests an award
23 of attorneys' fees in this action.

24 54. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants
25 and/or managing agents/employees of Defendants ROLL CALL and Eun acting in an
26 oppressive, fraudulent and malicious manner in order to injure or damage Plaintiff, thereby
27 justifying an award to her of punitive damages.
28

1 **THIRD CAUSE OF ACTION**

2 **(Hostile Work Environment in Violation Govt. Code § 12940 et seq.- By Plaintiff Against**
3 **Defendant ROLL CALL and Does 1 through 100)**

4 55. Plaintiff realleges and incorporates by reference all of the allegations set forth in
5 this Complaint.

6 56. The offensive conduct to which Plaintiff was subjected constitutes a hostile
7 work environment in violation to FEHA, California Government Code § 12940 et seq. During
8 her employment, ROLL CALL violated FEHA, California Government Code § 12940 (j), by
9 allowing sexual harassment by their employees.

10 57. ROLL CALL's harassment was hostile, abusive, continuous and pervasive to
11 create a hostile work environment for Plaintiff.

12 58. ROLL CALL's harassment was unwelcome, humiliating, offensive and
13 adversely affected the terms of Plaintiff's employment.

14 59. Plaintiff was subjectively offended by ROLL CALL's conduct and any
15 reasonable person in Plaintiff's position would perceive ROLL CALL's conduct as being
16 offensive, hostile and abusive.

17 60. As a direct result of ROLL CALL's failure to take all reasonable steps necessary
18 to prevent sexual harassment, Plaintiff has suffered and will continue to suffer pain and
19 suffering, extreme and severe mental anguish and emotional distress, loss of earnings and
20 earning capacity. Plaintiff is hereby entitled to general and compensatory damages in an
21 amount within the jurisdiction of this Court, according to proof.

22 61. ROLL CALL did the things hereinabove alleged, intentionally, oppressively,
23 and maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against
24 public policy, were obnoxious, despicable, and ought not to be suffered by any member of the
25 community.

26 62. All actions of ROLL CALL were known, ratified and approved by the officers
27 or managing agents of ROLL CALL. Therefore, Plaintiff is entitled to punitive or exemplary
28 damages against ROLL CALL in an amount to be determined at the time of trial.

63. Pursuant to California Government Code § 12965(b), Plaintiff requests an award of attorneys' fees in this action.

FOURTH CAUSE OF ACTION

(Retaliation in Violation of Government Code §§12940 et seq. - By Plaintiff Against Defendant ROLL CALL and Does 1 through 100)

64. Plaintiff realleges and incorporates by reference all of the allegations set forth above in the Complaint.

65. This cause of action is brought pursuant to the FEHA, Govt. Code §12940(h), which provides that it is unlawful to retaliate against a person "because the person has opposed any practices forbidden under [Government Code sections 12900 through 12966] or because the person has filed a complaint, testified, or assisted in any proceeding under the FEHA."

66. Because she resisted Defendant Justo's sexual harassment, Plaintiff was wrongfully constructively terminated by ROLL CALL.

67. ROLL CALL's retaliatory conduct toward Plaintiff caused her emotional injury, including, but not limited to, humiliation, anxiety, fear, and loss of self-esteem. ROLL CALL's retaliatory conduct was a substantial factor and the proximate cause of Plaintiff's damages.

68. Plaintiff's complaints concerning sexual harassment was the reason ROLL CALL retaliated against her.

69. Plaintiff has suffered monetary damages, lost wages and privileges of employment illegally caused by ROLL CALL's discriminatory conduct in an amount within the jurisdiction of this Court, according to proof.

70. ROLL CALL's conduct was the proximate cause of the Plaintiff's damages.

71. ROLL CALL did the things hereinabove alleged, intentionally, oppressively, and maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against public policy, were obnoxious, despicable, and ought not to be suffered by any member of the community.

72. All actions of ROLL CALL were known, ratified and approved by the officers or managing agents of ROLL CALL. Therefore, Plaintiff is entitled to punitive or exemplary damages against ROLL CALL, in an amount to be determined at the time of trial.

73. Pursuant to California Government Code §12965(b), Plaintiff requests an award of attorneys' fees in this action.

FIFTH CAUSE OF ACTION

(Failure to Prevent Harassment from Occurring in Violation of Government Code § 12940(k) - By Plaintiff Against Defendant ROLL CALL and Does 1 through 100)

74. Plaintiff realleges and incorporates by reference all of the allegations set forth above in the Complaint.

75. Plaintiff alleges that ROLL CALL violated Government Code §12940(k) by failing to take all reasonable steps to prevent sexual harassment from occurring.

76. ROLL CALL's conduct in subjecting Plaintiff to sexual harassment constituted breach of their duty under FEHA, including the duty to take immediate and appropriate corrective action and to take all reasonable steps to prevent the sexual harassment and retaliation from occurring pursuant to California Government Code § 12940(k).

77. ROLL CALL knew or reasonably should have known of Plaintiff's manager's propensity for engaging in unlawful, harassing conduct in the workplace, and ROLL CALL should have restrained Plaintiff's manager from engaging in unlawful, harassing conduct towards Plaintiff. ROLL CALL failed to take all reasonable steps necessary to prevent the retaliation and harassment from occurring.

78. Plaintiff is informed and believes and thereupon alleges that ROLL CALL failed to provide adequate training to their manager to prevent sexual harassment from occurring.

79. ROLL CALL's conduct was the proximate cause of Plaintiff's damages.

80. As a direct result of ROLL CALL's failure to take all reasonable steps necessary to prevent sexual harassment, Plaintiff has suffered and will continue to suffer pain and suffering, extreme and severe mental anguish and emotional distress, loss of earnings and

1 earning capacity. Plaintiff is hereby entitled to general and compensatory damages in an
2 amount within the jurisdiction of this Court, according to proof.

3 81. ROLL CALL did the things hereinabove alleged, intentionally, oppressively,
4 and maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against
5 public policy, were obnoxious, despicable, and ought not to be suffered by any member of the
6 community.

7 82. All actions of ROLL CALL were known, ratified and approved by the officers
8 or managing agents of ROLL CALL. Therefore, Plaintiff is entitled to punitive or exemplary
9 damages against ROLL CALL, in an amount to be determined at the time of trial.

10 83. Pursuant to California Government Code § 12965(b), Plaintiff requests an award
11 of attorneys' fees in this action.

12 **SIXTH CAUSE OF ACTION**

13 **(Wrongful Constructive Termination in Violation of Govt. Code §§ 12940 et seq. – By**
14 **Plaintiff Against Defendant ROLL CALL and Does 1 through 100)**

15 84. Plaintiff realleges and incorporates by reference all of the allegations set forth in
16 this Complaint.

17 85. Plaintiff alleges that significant policies exist in the State of California that
18 prohibit sexual harassment, retaliation, wrongfully constructively terminating an employee due
19 to complaining about sexual harassment and protesting against unlawful employment practices.
20 Among others, the right to be free from harassment and retaliation are codified in the California
21 and United States Constitutions and the provisions of Government Code §§ 12900 *et seq.*

22 86. These policies are set forth in various laws including, but not limited to,
23 Government Code §§ 12940 (a), 12940 (k); Cal. Const. Art. 1, § 8 (sexual harassment).

24 87. ROLL CALL, acting through its owner, employees and manager, intentionally
25 created and knowingly permitted the sexual harassment.

26 88. ROLL CALL wrongfully constructively terminated Plaintiff in violation of
27 important and well-established public policies, including, but not limited to, policies against
28 sexual harassment.

1 89. ROLL CALL's wrongful conduct proximately caused Plaintiff to suffer general
2 damages, special and statutory damages, in an amount within the jurisdiction of this Court,
3 according to proof at trial.

4 90. As a further proximate result of the unlawful acts of ROLL CALL as alleged
5 above, Plaintiff has been harmed in that she has suffered humiliation, mental anguish, and
6 emotional and physical distress that a reasonable person would suffer upon losing her job. As
7 a result of such actions and consequent harm, Plaintiff has suffered such damages in an
8 amount according to proof.

9 91. The above acts of ROLL CALL constituted a wrongful constructive termination
10 of Plaintiff and were in violation of public policy as described above. Such termination was a
11 substantial factor in causing damage and injury to Plaintiff as set forth below.

12 92. Plaintiff believes and thereon alleges that engaging in a protected activity,
13 including, but not limited to, refusing to be subject to sexual harassment by Justo and
14 complaining about harassment were factors in ROLL CALL's conduct as alleged hereinabove.

15 93. As a result of ROLL CALL's conduct, Plaintiff is entitled to recover punitive
16 damages in amount according to proof at trial.

17 94. Pursuant to California Government Code § 12965(b), Plaintiff requests an award
18 of attorneys' fees in this action.

19 **SEVENTH CAUSE OF ACTION**

20 **(Failure to Pay Premium Overtime Wages Due in Violation of Cal. *Labor Code* §§ 510,**
21 **511, 558, 1194, 1198 – By Plaintiff Against Defendants ROLL CALL, Eun and Does 1**
22 **through 100)**

23 95. Plaintiff realleges and incorporates by reference all of the allegations set forth in
24 this Complaint.

25 96. During Plaintiff's entire employment with ROLL CALL, pursuant to Cal. Lab.
26 Code §§200, 510, 1194, and 1198, and IWC Wage Order No. 5, ROLL CALL and EUN were
27 required to compensate Plaintiff with premium pay for all overtime performed, for hours
28

1 worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the first
2 eight (8) hours on the seventh (7th) consecutive day of any work week.

3 97. At all times relevant herein, Cal. Lab. Code §1194(a) provided that an employee
4 who had not been paid overtime compensation could recover the unpaid balance of the full
5 amount of overtime wages due, including interest thereon, together with reasonable attorneys'
6 fees and costs of suit.

7 98. California Labor Code section 510, subdivision (a), states in relevant part:

8 Any work in excess of 12 hours in one day shall be compensated at the rate of
9 no less than twice the regular rate of pay for an employee. In addition, any work
10 in excess of eight hours on any seventh day of a workweek shall be compensated
11 at the rate of no less than twice the regular rate of pay of an employee.

12 99. Further, California Labor Code section 1198 provides,

13 The maximum hours of work and the standard conditions of labor fixed by the
14 commission shall be the maximum hours of work and the standard conditions
15 of labor for employees. The employment of any employee for longer hours than
16 those fixed by the order or under conditions of labor prohibited by the order is
17 unlawful.

18 100. Pursuant to IWC Wage Order No. 5-2001, § 3, "Employment beyond eight (8)
19 hours in any workday is permissible provided the employee is compensated for such overtime
20 at not less than: ...(a) One and one-half (1 1/2) times the employee's regular rate of pay for all
21 hours worked in excess of eight (8) hours up to and including twelve (12) hours in any
22 workday..."

23 101. California Labor Code section 558 provides in pertinent part:

24 (a) Any employer or other person acting on behalf of an employer who
25 violates, or causes to be violated, a section of this chapter or any
26 provision regulating hours and days of work in any order of the
27 Industrial Welfare Commission shall be subject to a civil penalty as
28 follows:

1 (1) For any initial violation, fifty dollars (\$50) for each underpaid
2 employee for each pay period for which the employee was underpaid in
3 addition to an amount sufficient to recover underpaid wages.

4 (2) For each subsequent violation, one hundred dollars (\$100) for each
5 underpaid employee for each pay period for which the employee was
6 underpaid in addition to an amount sufficient to recover underpaid
7 wages.

8 (3) Wages recovered pursuant to this section shall be paid to the affected
9 employee...

10 (c) The civil penalties provided for in this section are in addition to any
11 other civil or criminal penalty provided by law.

12 102. Pursuant to Cal. Labor Code §558.1:

13 (a) Any employer or other person acting on behalf of an employer, who
14 violates, or causes to be violated, any provision regulating...hours and days of
15 work in any order of the Industrial Welfare Commission, or violates, or causes
16 to be violated Sections 203, 226, 226.7...may be held liable as the employer for
17 such violation.

18 (b) For purposes of this section, the term "other person acting on behalf of
19 an employer" is limited to a natural person who is an owner, director, officer, or
20 managing agent of the employer, and the term "managing agent" has the same
21 meaning as in subdivision (b) of Section 3294 of the Civil Code.

22 (c) Nothing in this section shall be construed to limit the definition of
23 employer under existing law.

24 103. Eun is a person acting on behalf of ROLL CALL and is therefore liable to
25 Plaintiff as an employer. Eun caused the laws relating to overtime to be violated.

26 104. Plaintiff at times was required to work overtime hours. However, Plaintiff was
27 not paid for the overtime hours she worked. She typically worked 20 hours of overtime each
28 week.

105. Throughout Plaintiff's employment, ROLL CALL failed and refused to pay and
properly calculate overtime compensation to Plaintiff as required by law.

106. The foregoing overtime compensation is owed and unpaid. As a direct and proximate result of ROLL CALL's failure and refusal to pay overtime compensation, Plaintiff suffered damages in the amount of at least \$114,240.00, to be proven at trial.

107. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal counsel in order to enforce Plaintiff's rights to overtime pay, is entitled to recover Plaintiff's attorneys' fees, costs and interest.

EIGHTH CAUSE OF ACTION

(Failure to Pay Minimum Wages in Violation of Labor Code §§ 1194, 1197, 1197.1, 1198, 119, IWC Wage Order No. 5 – By Plaintiff Against Defendants ROLL CALL and Eun and Does 1 through 100)

108. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

109. *Labor Code* § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission, and any payment of less than the minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles “any employee receiving less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage.” IWC Wage Order No. 5-2001 also obligates employers to pay each employee minimum wages for all hours worked. These minimum wage standards apply to each hour employees worked for which they were not paid. Therefore, an employer’s failure to pay for any particular hour of time worked by an employee is unlawful, even if averaging an employee’s total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

110. California Labor Code section 558 provides in pertinent part:

(a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows:

1 (1) For any initial violation, fifty dollars (\$50) for each underpaid
2 employee for each pay period for which the employee was underpaid in
3 addition to an amount sufficient to recover underpaid wages.

4 (2) For each subsequent violation, one hundred dollars (\$100) for each
5 underpaid employee for each pay period for which the employee was
6 underpaid in addition to an amount sufficient to recover underpaid
7 wages.

8 (3) Wages recovered pursuant to this section shall be paid to the affected
9 employee...

10 (c) The civil penalties provided for in this section are in addition to any
11 other civil or criminal penalty provided by law.

12 111. Pursuant to Cal. Labor Code §558.1:

13 (c) Any employer or other person acting on behalf of an employer, who
14 violates, or causes to be violated, any provision regulating...hours and days of
15 work in any order of the Industrial Welfare Commission, or violates, or causes
16 to be violated Sections 203, 226, 226.7...may be held liable as the employer for
17 such violation.

18 (d) For purposes of this section, the term "other person acting on behalf of
19 an employer" is limited to a natural person who is an owner, director, officer, or
20 managing agent of the employer, and the term "managing agent" has the same
21 meaning as in subdivision (b) of Section 3294 of the Civil Code.

22 (c) Nothing in this section shall be construed to limit the definition of
23 employer under existing law.

24 112. Eun is a person acting on behalf of ROLL CALL and is therefore liable to
25 Plaintiff as an employer. Eun caused the laws relating to minimum wages to be violated.

26 113. Here, Plaintiff was not paid minimum wages that were due to her because of
27 ROLL CALL and Eun's failure to afford compliant meal/rest breaks.

28 114. *Labor Code* § 1194 provides, in part, that any employee receiving less than the
legal minimum wage is entitled to recover in a civil action the unpaid balance of the minimum
wage, including interest thereon, reasonable attorneys' fees, and costs of suit.

1 115. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
2 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
3 *Code* § 1194. Where an employee, such as Plaintiff is not paid for all hours worked under
4 *Labor Code* § 1194, the employee may recover minimum wages for the time associated with
5 the overtime for which they received no compensation. *See Sillah v. Command Int'l Sec. Servs.*,
6 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing for failure to pay overtime
7 could recover liquidated damages under § 1194.2 if they also showed they were paid less than
8 minimum wage); *accord Andrade v. Arby's Rest. Grp., Inc.*, 225 F. Supp. 3d 1115, 1132-33
9 (N.D. Cal. 2016).

10 116. Plaintiff suffered and continues to suffer losses related to the use and enjoyment
11 of compensation due and owing to her as a direct result of Defendants ROLL CALL and Eun's
12 unlawful acts and Labor Code violations in the amount of at least \$114,240, to be shown
13 according to proof at trial.

14 117. *Labor Code* § 1197.1(a) mandates a civil penalty for failure to pay minimum
15 wages against employers and those individuals acting in their behalf. Plaintiff requests that this
16 Court assess said penalty against Defendants ROLL CALL and Eun, and each of them, in an
17 amount to be proven at trial.

18 118. Therefore, pursuant to Labor Code §§ 200, 203, 218.5, 226, 558, 1194 and
19 1194.2, Plaintiff is entitled to recover the unpaid balances of the minimum wages ROLL CALL
20 and Eun owe her, plus interest, penalties, attorneys' fees, expenses and costs of suit, in an
21 amount within the jurisdiction of this Court, according to proof.

22 119. Under *Labor Code* § 1194.2, Plaintiff is entitled to recover as liquidated
23 damages, amounts equal to the wages unlawfully unpaid and interest thereon.

24 **NINTH CAUSE OF ACTION**

25 **(For Failure to Provide Meal Breaks in violation of Cal. Labor Code § 226.7– By Plaintiff**
26 **Against Defendants ROLL CALL, Eun and Does 1 through 100)**

27 120. Plaintiff realleges and incorporates by reference all of the allegations set forth in
28 this Complaint.

1 121. California Labor Code § 226.7(a) prohibits an employer from requiring an
2 employee to work during any meal period mandated by an applicable Industrial Wage Order.
3 Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an
4 employee to work during a meal or rest break or recovery period mandated pursuant to an
5 applicable statute, or applicable regulation, standard, or order of the Industrial Welfare
6 Commission..."

7 122. California Labor Code § 1198 makes unlawful the employment of an employee
8 under conditions the IWC prohibits.

9 123. IWC Wage Order No. 5 provides, in relevant part: "No employer shall employ
10 any person for a work period of more than five (5) hours without a meal period of not less than
11 30-minutes, except that when a work period of not more than six (6) hours will complete the
12 day's work the meal period may be waived by mutual consent of the employer and the
13 employee."

14 124. IWC Wage Order No. 5 further provides, in relevant part: "Unless the employee
15 is relieved of all duty during a 30-minute meal period, the meal period shall be considered an
16 'on duty' meal period and counted as time worked."

17 125. Section 512(a) of the California Labor Code provides, in relevant part, that:
18 An employer may not employ an employee for a work period of more than five
19 hours per day without providing the employee with a meal period of not less
20 than 30-minutes, except that if the total work period per day of the employee is
21 no more than six hours, the meal period may be waived by mutual consent of
22 both the employer and employee. An employer may not employ an employee for
23 a work period of more than 10 hours per day without providing the employee
24 with a second meal period of not less than 30-minutes, except that if the total
25 hours worked is no more than 12 hours, the second meal period may be waived
26 by mutual consent of the employer and the employee only if the first meal
27 period was not waived.

1 126. The Labor Code and Wage Order provisions cited above require California
2 employers to provide employees with off-duty 30-minute meal periods on or before the fifth
3 hour of their shifts. To satisfy this obligation, California employers must: (1) make employees
4 aware of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and
5 (2) ensure that employees are actually free of job duties for thirty minutes per day on or before
6 the fifth hour of their shifts.

7 127. ROLL CALL and Eun violated Labor Code § 512 and IWC Wage Order No. 5
8 by routinely failing to provide Plaintiff timely meal breaks. Further, at times, Plaintiff's meal
9 breaks were interrupted and/or shortened. Also, Plaintiff was restricted from leaving her work
10 area during her meal breaks.

11 128. Under California law, employers must also record their employees' meal
12 periods: "Every employer shall keep accurate information with respect to each employee,
13 including the following: ... Meal periods ... shall also be recorded. Meal periods during which
14 operations cease ... need not be recorded." IWC Wage Order No. 5, § (7)(A)(3). Where the
15 employer has failed to keep records required by statute, the consequences of such failure should
16 fall on the employer, not the employee. In such a situation, imprecise evidence by the employee
17 can provide a sufficient basis for liability." *Hernandez v. Mendoza*, 199 Cal. App. 3d 721, 727
18 (1988). Inasmuch as Defendant had an obligation under the record-keeping requirements of the
19 Wage Order to track meal periods unless "all work ceases", Defendant knew or should have
20 known its employees were regularly afforded late, shortened and/or interrupted meal periods
21 during the Class Period.

22 129. Defendants ROLL CALL and Eun have a policy or practice of failing to ensure
23 that Plaintiff take proper meal periods and clock in/out for meal periods as required by
24 California Labor Code §226.7 and IWC Wage Order No. 5, §11.

25 130. ROLL CALL and Eun further violated IWC Wage Order No. 5 and Labor Code
26 § 226.7 by failing to pay one hour of compensation to Plaintiff at her individual and regular rate
27 of pay for each work day that the meal period was not provided, in the amount of \$114,240.00.
28 This amount remains owed and unpaid.

131. Cal. Labor Code § 218 authorizes Plaintiff to bring a private right of action to recover wages due based on the deprivation of timely meal periods under Cal. Labor Code § 226.7(b).

132. As a direct and proximate result of ROLL CALL and Eun's unlawful conduct as alleged herein, Plaintiff has sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and is entitled to recover economic and statutory damages, attorneys' fees and penalties and other appropriate relief due to ROLL CALL and Eun's violations of the California Labor Code and IWC Wage Order No. 5.

TENTH CAUSE OF ACTION

**(For Failure to Provide Rest Breaks in violation of Cal. Labor Code §226.7– By Plaintiff
Against Defendants ROLL CALL, Eun and Does 1 through 100)**

133. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

134. Labor Code § 226.7 and IWC Wage Order No. 5 provide that employers shall authorize and permit all employees to take rest periods at the rate of ten minutes net rest time per four hours of work, or major fraction thereof.

135. Labor Code § 226.7 and IWC Wage Order No. 5 provide that if an employer fails to provide an employee with rest periods in accordance with those provisions, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that the rest periods were not so provided.

136. ROLL CALL and Eun have intentionally and improperly denied rest periods to Plaintiff in violation of Labor Code § 226.7 and IWC Wage Order No. 5.

137. ROLL CALL and Eun failed to afford Plaintiff any rest breaks.

138. At all times relevant hereto, Plaintiff has worked between 10-11 or more hours daily. Further, Plaintiff was never afforded third rest breaks.

139. At all times relevant hereto, ROLL CALL and Eun failed to provide rest periods as required by Labor Code § 226.7 and IWC Wage Order No. 5.

1 140. By virtue of ROLL CALL and Eun's unlawful failure to provide rest periods to
2 the Plaintiff, Plaintiff has suffered, and will continue to suffer, damages in the amount of
3 \$114,240.00.

4 **ELEVENTH CAUSE OF ACTION**

5 **(Waiting Time Penalties in Violation of Labor Code § 226 - By Plaintiff Against**
6 **Defendants ROLL CALL, Eun and Does 1 through 100)**

7 141. Plaintiff realleges and incorporates by reference all of the allegations set forth in
8 this Complaint.

9 142. At all times relevant hereto, ROLL CALL and Eun failed to issue payrolls
10 statements to Plaintiff which complied with *Labor Code* § 226 in that the statements issued to
11 Plaintiff did not properly and accurately pay her premium pay for overtime, minimum wages,
12 meal/rest breaks not afforded and for days of rest.

13 143. ROLL CALL and Eun knowingly and intentionally failed to comply with *Labor*
14 *Code* § 226(a), causing damage to Plaintiff. These damages, including but not limited to, costs
15 expended calculating the actual hours worked and the amount of employment taxes which were
16 not properly paid to state and federal tax authorities, are difficult to estimate. Therefore,
17 Plaintiff elects to recover liquidated damages of \$50.00 for the initial pay period in which the
18 violations occurred, and \$100.00 for each violation in subsequent pay periods, pursuant to
19 *Labor Code* § 226(e), in the amount of \$4,000.00 plus reasonable attorneys' fees and costs.

20 144. Plaintiff requests a permanent injunction to stop this unlawful conduct, plus
21 attorneys' fees and costs in obtaining the injunction, pursuant to *Labor Code* § 226(g).

22 **TWELFTH CAUSE OF ACTION**

23 **(Failure to Pay Wages Due Upon Termination Labor Code §§ 201-203 By Plaintiff**
24 **Against Defendants ROLL CALL, Eun and Does 1 through 100)**

25 145. Plaintiff realleges and incorporates by reference all of the allegations set forth in
26 this Complaint.
27
28

1 146. Labor Code § 201(a) provides that a discharged employee's unpaid wages are
2 due and payable immediately. Labor Code § 202(a) provides that when an employee resigns
3 from employment, unpaid wages are due and payable within 72 hours of resignation.

4 147. Labor Code § 203(a) provides that if an employer willfully fails to pay wages as
5 mandated by Labor Code §§ 201 and 202, the employee's wages shall continue to accrue until
6 paid, not to exceed thirty days.

7 148. Plaintiff was wrongfully terminated from ROLL CALL and Eun's employ and
8 ROLL CALL and Eun willfully failed to pay overtime, minimum wages, to afford meal/rest
9 breaks to Plaintiff and did not pay her premium pay for meal/rest breaks not afforded and days
10 of rest.

11 149. ROLL CALL and Eun wrongfully constructively terminated Plaintiff on January
12 24, 2025, yet failed to pay her wages due to her.

13 150. Under Labor Code § 203(a), Plaintiff is entitled to one day's wages for each day
14 she was not timely paid, not to exceed 30 days' wages, interest, and attorneys' fees and costs in
15 an amount within the jurisdiction of this Court, according to proof.

16 **THIRTEENTH CAUSE OF ACTION**

17 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

18 **(Cal. Labor Code § 2802 By Plaintiff Against Defendants ROLL CALL, Eun and Does 1**
19 **through 100)**

20 151. Plaintiff realleges and incorporates by reference all of the allegations set forth in
21 this Complaint.

22 152. Labor Code § 2802 requires employers to indemnify employees for all necessary
23 expenditures incurred by employees in the discharge of her duties.

24 153. At all times relevant herein, ROLL CALL and Eun were aware that Plaintiff was
25 using her personal cell phone for business, but failed to indemnify Plaintiff for all her business-
26 related expenses, including wear and tear expenses, in accordance with Labor Code § 2802.

27 //

28 //

154. As a result of ROLL CALL and Eun's conduct, Plaintiff suffered damages in an amount, subject to proof, to the extent she was not reimbursed for all of her business-related expenses incurred in the discharge of his duties.

155. Pursuant to Labor Code § 2802, Plaintiff is entitled to recover the full amount of her unreimbursed business expenses, reasonable attorneys' fees and costs of suit, in an amount according to proof at trial.

FOURTEENTH CAUSE OF ACTION

**(Failure to Provide Day of Rest in violation of Cal. *Labor Code* §§ 551, 552 By Plaintiff
Against Defendants ROLL CALL and Eun and Does 1 through 100)**

156. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

157. Labor Code section 551 states: “Every person employed in any occupation of labor is entitled to one day's rest therefrom in seven.”

158. Labor Code section 552 states in part: “No employer of labor shall cause his employees to work more than six days in seven....”

159. Wage Order No. 5 requires employers to pay employees one and one-half times their regular rate of pay for the first eight hours worked on the seventh consecutive day of work in any workweek, and twice their regular rate for hours worked in excess of eight on the seventh day.

160. On one occasion, Plaintiff worked 7 days per week.

161. Defendants ROLL CALL and Eun knowingly and intentionally failed to pay Plaintiff premium pay for working seven consecutive days as required by Labor Code sections 551 and 552 and Wage Order No. 5.

162. As a direct and proximate result of Defendants ROLL CALL and Eun's conduct as alleged herein, Plaintiff has suffered monetary damages in an amount equal to his unpaid wages for work performed during seven consecutive work days, pursuant to Labor Code sections 551 and 552 and Wage Order No. 5, plus interest thereon pursuant to Labor Code 218.6.

163. Plaintiff further is entitled to recover from Defendants additional sums as a penalty, pursuant to Labor Code section 558 equal to fifty dollars (\$50) per unpaid pay period for Defendants ROLL CALL and Eun's initial violation, and one hundred dollars (\$100) per unpaid pay period for each subsequent violation, in addition to the underpaid wages from each pay period.

164. In addition, Plaintiff has retained the services of an attorney to maintain and prosecute this action and these attorneys are entitled to recover fees and costs incurred on Plaintiff's behalf pursuant to Labor Code section 218.5.

FIFTEENTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress by Plaintiff against all Defendants and Does 1 through 100)

165. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

166. Plaintiff is informed and believes, and thereon alleges, that Defendants' actions were intentional, extreme, and outrageous.

167. Plaintiff is further informed and believes, and thereon alleges, that such actions were done with the intent to cause serious emotional distress or with reckless disregard of the probability of causing Plaintiff serious emotional distress.

168. As a direct, legal and proximate result of Defendants' actions, Plaintiff suffered severe emotional distress which might have caused her to sustain severe, serious and permanent injuries to her person, all to her damage in a sum to be shown according to proof.

169. As a direct, legal and proximate result of Defendants' aforesaid actions, Plaintiff may be compelled to employ the services of hospitals, physicians and surgeons, nurses, and the like, to care for and treat her, and may incur future hospital, medical, professional and incidental expenses, all to Plaintiff's damage in a sum to be shown according to proof.

170. As a direct, legal and proximate result of the aforesaid tortious conduct of Defendants, Plaintiff may be prevented from engaging in her usual occupation, thereby sustaining a loss of income, in the amount of at least \$114,240.00.

171. Defendants, and each of them, committed the acts herein alleged maliciously fraudulently, and oppressively, and with reckless disregard for Plaintiff's rights. Conduct by the Defendants, and each of them, amounted to malice and was carried out in a despicable, deliberate, cold, callous and intentional manner, entitling Plaintiff to recover punitive damages from the Defendants in an amount sufficient to deter such conduct in the future and according to proof.

SIXTEENTH CAUSE OF ACTION

(Failure to Allow Inspection of Employment Records in Violation of Cal. Labor Code §1198.5 By Plaintiff Against Defendants ROLL CALL and Eun and Does 1 through 100)

172. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

173. California Labor Code Section 1198.5 provides:

(a) Every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.

(b) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request to inspect the records. Upon a written request from a current or former employee, or his or her representative, the employer shall also provide a copy of the personnel records ... later than 30 calendar days from the date the employer receives the request...

1 (k) If an employer fails to permit a current or former employee, or his or her
2 representative, to inspect or copy personnel records within the times specified I
3 this section... the current or former employee may recover a penalty of seven
4 hundred fifty dollars (\$750) from the employer.

5 (1) A current or former employee may also bring an action for injunctive relief
6 to obtain compliance with this section, and may recover costs and reasonable
7 attorney's fees in such an action.

8 174. Additionally, pursuant to IWC Wage Order No. 5, at section 7 re: Records,
9 employers are required to keep accurate payroll records on each employee, and such records
10 must be made readily available for inspection by the employee upon reasonable request. The
11 employer must also maintain accurate production records.

12 175. On or about February 20, 2025, Plaintiff's counsel issued a written request to
13 ROLL CALL and Eun for copies of her personnel records.

14 176. Under California Labor Code Sections 226, 432 and 1198.5, such records were
15 to include all records relating to Plaintiff's hours worked, wage statements and compensation.
16 Plaintiff's counsel and ROLL CALL and Eun did not enter into an agreement to enlarge the
17 time for ROLL CALL and Eun's compliance, and ROLL CALL and Eun have failed and
18 refused to permit Plaintiff copies of her records.

19 177. As a direct result and consequence of ROLL CALL and Eun's failure and
20 refusal to permit Plaintiff full access to her records, Plaintiff seeks injunctive relief in the form
21 of an order or decree mandating ROLL CALL and Eun's compliance. Plaintiff has suffered and
22 will suffer harm as a result of ROLL CALL and Eun's ongoing refusal to comply. Plaintiff also
23 seeks recovery of the statutory penalty of \$750 based upon ROLL CALL and Eun's violation
24 of §1198.5.

25 **SEVENTEENTH CAUSE OF ACTION**

26 **(Battery By Plaintiff Against all Defendants and Does 1 through 100)**

27 178. Plaintiff realleges and incorporates by reference all of the allegations set forth in
28 this Complaint.

179. To establish a claim for battery, a plaintiff must show all of the following: (1) that the defendant touched the plaintiff or caused the plaintiff to be touched with the intent to harm or offend them; (2) that the plaintiff did not consent to the touching; and (3) that the plaintiff was harmed by the defendant's conduct. (CACI No. 1300.)

180. Further, an employer is liable for the wrongful acts of its employees, particularly when the employee is acting within the scope of their employment. (See Cal. Civ. Code § 2338; *see also* CACI No. 3701.)

181. Beginning in or about January 2025, Justo touched Plaintiff on her body with the intent to offend Plaintiff and without her consent.

182. Accordingly, Defendants' conduct as alleged herein was purposeful and intentional and was engaged in for the purposes of causing offense, and was despicable conduct that subjected Plaintiff to cruel and unjust hardship in conscious disregard of her rights, and was performed with fraud, oppression or malice so as to justify an award of exemplary or punitive damages against Defendants in an amount according to proof at trial.

183. As a direct and proximate result of the above reference acts and omissions by Defendants, Plaintiff has suffered actual, special, and general damages, all to her detriment in an amount within the jurisdiction of this Court, according to proof.

EIGHTEENTH CAUSE OF ACTION

(False Imprisonment- by Plaintiff against all Defendants and Does 1 through 100)

184. Plaintiff realleges and incorporates by reference all of the allegations set forth in this Complaint.

185. The acts of Defendants alleged above caused the false imprisonment of Plaintiff.

186. As a result of Defendants' conduct as described above, Plaintiff suffered severe physical and emotional pain and injury to her mind and body, all in an amount according to proof at trial.

187. As a further result of Defendants' conduct, Plaintiff has been required to obtain medical treatment and care for her injuries. Plaintiff has incurred medical costs, in an amount according to proof at trial.

1 188. These acts were committed by Defendants with malice and oppression and
2 therefore justify an award of punitive damages.

3 **NINETEENTH CAUSE OF ACTION**

4 **(Unfair Competition Cal. Bus. & Prof. Code §17200 et. seq. –By Plaintiff Against**
5 **Defendants ROLL CALL and Eun and Does 1 through 100)**

6 189. Plaintiff realleges and incorporates by reference all of the allegations set forth in
7 this Complaint.

8 190. California Business & Professions Code § 17200 *et seq.* prohibits acts of unfair
9 competition, which shall mean and include any "unlawful and unfair business practices."

10 191. ROLL CALL and Eun's conduct as alleged herein has been and continues to be
11 unfair, unlawful, and deleterious to Plaintiff. Plaintiff hereby seeks to enforce important rights
12 affecting the public interest within the meaning of the Cal. Code of Civ. Proc. § 1021.5.
13 Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, and
14 therefore has standing to bring this suit for restitution.

15 192. Paying overtime, minimum wages, affording of meal/rest breaks, reimbursing
16 business expenses, providing days of rest and providing employment records are fundamental
17 public policies of the State of California. It is also the public policy of this State to enforce
18 minimum labor standards, to ensure that employees are not required or permitted to work under
19 substandard and unlawful conditions, and to protect those employers who comply with the law
20 from losing competitive advantage to other employers who fail to comply with labor standards
21 and requirements.

22 193. ROLL CALL failed to pay Plaintiff overtime, minimum wages, afford Plaintiff
23 meal/rest breaks, reimburse business expenses, provide days of rest and failed to provide her
24 personnel records.

25 194. Through the conduct alleged herein, ROLL CALL and Eun acted contrary to
26 these public policies and has thus engaged in unlawful and/or unfair business practices in
27
28

1 violation of Business & Professions Code §§ 17200 *et. seq.*, depriving Plaintiff of the rights,
2 benefits, and privileges guaranteed to employees under California law.

3 195. ROLL CALL and Eun regularly and routinely violated the following statutes
4 and regulations with respect to Plaintiff:

- 5 (a) *Labor Code* §§ 510 and 1194 and IWC Wage Order No. 5 as amended
6 (failure to pay overtime);
7 (b) *Labor Code* § 1197 and IWC Wage Order No. 5 (failure to pay minimum
8 wages);
9 (c) *Lab. Code* § 226.7 (failure to afford meal/rest breaks);
10 (d) *Labor Code* § 226 (failure to provide accurate wage statements to
11 employees at the time of payment of wages);
12 (e) *Labor Code* §§ 202 and 203 (failure to pay wages due at termination);
13 (f) *Labor Code* § 2802 (failure to reimburse business expenses);
14 (g) *Labor Code* §§ 551, 552 (failure to provide days of rest); and
15 (e) *Labor Code* §1198.5 (failure to allow inspection of employment
16 records).
17

18 196. By engaging in these business practices, which are unfair business practices
19 within the meaning of Bus. & Prof. Code §§ 17200 *et seq.*, ROLL CALL and Eun harmed
20 Plaintiff and gained an unfair competitive edge. Under the Business & Professions Code §
21 17203, Plaintiff is entitled to obtain restitution of these funds, in the amount of at least
22 \$114,240.00.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in her favor
25 and against Defendants, and each of them, as follows:

26 1. For compensatory damages in the amount of unpaid overtime due to Plaintiff in
27 the amount of \$114,240;
28

2. For compensatory damages in the amount of unpaid minimum wages due to Plaintiff, in an amount of \$114,240;
3. For compensatory damages for lost wages and employment benefits, in an amount of \$114,240;
4. For general damages, according to proof;
5. For an award of consequential damages, according to proof;
6. For one hour of pay at the regular rate of compensation for Plaintiff for each workday that a meal/rest period was not provided, in the amount of \$114,240;
7. For payment of unpaid wages in accordance with California labor and employment law, in the amount of \$114,240;
8. For compensatory damages in the amount of Plaintiff's out of pocket cell phone expenses and/or reimbursement of monies incurred while performing Defendant ROLL CALL and Eun's business-related duties plus interests, costs and attorneys' fees pursuant to *Cal. Code Civ. Proc.* §2802(c), in an amount according to proof;
9. For premium pay for days of rest;
10. For mental and emotional distress damages, in an amount according to proof;
11. For past and future medical expenses, in an amount according to proof;
12. For payment to Plaintiff of waiting time penalties pursuant to *Cal. Lab. Code* § 203, in an amount equal to her respective daily rates of pay at the time of termination or layoff, multiplied by the total amount of days elapsed between the date of the involuntary termination, and/or 72 hours after notice of the voluntary termination, up to a maximum of 30 days' pay, in an amount within the jurisdiction of this Court, according to proof;
13. For specific relief enforcing waiting time penalties of 30 days of per diem wages pursuant to *Cal. Bus. & Prof. Code* § 17200 and *Cal. Lab. Code* § 203, according to proof;
14. For statutory penalties pursuant to *Cal. Lab. Code* §§ 203.1, 558, 226.7, 226.8, according to proof;

1 15. For reasonable costs, including attorneys' fees, in an amount according to proof
2 pursuant to *Government Code* § 12965(b), Cal. Lab. Code §§ 218.5, 1194, 1198.5(1), 2802 and
3 Cal. Code Civ. Proc. §1021.5;

4 16. For injunctive relief ordering the continuing unfair business acts and practices to
5 cease, as the Court deems just and proper;

6 17. For other injunctive relief ordering Defendants ROLL CALL and Eun to notify
7 Plaintiff that she has not been paid the proper amounts in accordance with California law;

8 18. For injunctive relief requiring Defendants ROLL CALL and Eun to comply with
9 Labor Code §1198.5(b)(1);

10 19. For an award of liquidated damages pursuant to Cal. Lab. Code § 1194.2 in an
11 amount equal to the wages unlawfully unpaid according to proof, and interest thereon;

12 20. For punitive and exemplary damages in a sum to be determined at trial;

13 21. For prejudgment interest accrued on all due and unpaid overtime and minimum
14 wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and
15 1194(a), according to proof;

16 22. For costs of suit, generally and pursuant to Code of Civil Procedure §1021.5;
17 and

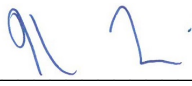
18 23. For such other and further relief as the Court deems just and proper.

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff Ignacia Marcela Franco hereby respectfully requests a trial by jury for all
21 claims and issues raised in her Complaint that may be entitled to a jury trial.

22
23 LIPELES LAW GROUP, APC

24 Date: February 21, 2025

25
26 By:  _____

27 Kevin A. Lipeles
28 Attorneys for Plaintiff
 Ignacia Marcela Franco