

ELECTRONICALLY FILED

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Superior Court of California,
County of Alameda
12/30/2022 at 11:46:05 PM
By: Xian-xi Bowie,
Deputy Clerk

Attorneys for PLAINTIFF JEANETT OLGUIN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

JEANETT OLGUIN

Plaintiff,

v.

FARALLON BRANDS, INC.;
DOLLY VIERRA, an individual;
and DOES 1 THROUGH 100, inclusive,

Defendants.

) Case No.: **22CV025010**

) **COMPLAINT FOR DAMAGES:**

) **(1) RACE/ NATIONAL ORIGIN**
) **HARASSMENT, VIOLATION OF**
) **CAL. GOV. CODE §§ 12940 ET**
) **SEQ.;**

) **(2) RACE/NATIONAL ORIGIN**
) **DISCRIMINATION, VIOLATION**
) **OF CAL. GOV. CODE §§ 12940 ET**
) **SEQ.;**

) **(3) RACE/NATIONAL ORIGIN**
) **RETALIATION, VIOLATION OF**
) **CAL. GOV. CODE §§ 12940 ET**
) **SEQ.;**

) **(4) ACTUAL/PERCEIVED DISABILITY**
) **DISCRIMINATION, VIOLATION**
) **OF CAL. GOV. CODE §§ 12940 ET**
) **SEQ.;**

) **(5) ACTUAL/PERCEIVED DISABILITY**
) **RETALIATION, VIOLATION OF**
) **CAL. GOV. CODE §§ 12940 ET**
) **SEQ.;**

) **(6) FAILURE TO ENGAGE IN THE**
) **MANDATORY GOOD-FAITH**
) **INTERACTIVE PROCESS,**
) **VIOLATION OF CAL. GOV. CODE**
) **§§ 12940 ET SEQ.;**

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-) (7) FAILURE TO ACCOMMODATE,
) VIOLATION OF CAL. GOV. CODE
) §§ 12940 ET SEQ.;
-) (8) WHISTLEBLOWER VIOLATIONS,
) CAL. LABOR CODE § 1102.5;
-) (9) FAILURE TO PROVIDE MEAL
) AND REST PERIODS, VIOLATION
) OF CAL. LABOR CODE §§ 226.7,
) 512 & IWC WAGE ORDER NO. 4;
-) (10) FAILURE TO PAY WAGES IN
) VIOLATION OF CAL. LABOR
) CODE §§ 200 ET SEQ.;
-) (11) FAILURE TO PAY OVERTIME
) WAGES, VIOLATION OF CAL.
) LABOR CODE § 510 & IWC WAGE
) ORDER NO. 4;
-) (12) FAILURE TO FURNISH
) COMPLIANT WAGE
) STATEMENTS AND MAINTAIN
) ACCURATE PAY RECORDS,
) VIOLATION OF CAL. LABOR
) CODE §§ 226, 1174(D), AND 1198;
-) (13) UNFAIR BUSINESS PRACTICES,
) VIOLATION OF CAL. BUS. &
) PROF. CODE §§ 17200 ET SEQ.;
-) (14) WRONGFUL TERMINATION AND
) RETALIATION IN VIOLATION OF
) PUBLIC POLICY;
-) (15) CIVIL PENALTIES UNDER PAGA,
) VIOLATION OF CAL. LABOR
) CODE §§ 2698, 2699, AND PAGA;
-) (16) FAILURE TO PROVIDE
) EMPLOYEE PERSONNEL FILES,
) VIOLATION OF CAL. LABOR
) CODE §§ 432, 1198.5.
-) JURY TRIAL DEMANDED

COMES NOW PLAINTIFF JEANETT OLGUIN (hereinafter referred to as “Olguin” or “Plaintiff”) and complains against the above-named Defendants and for causes of action against the Defendants, and each of them, as follows:

I.

FIRST CAUSE OF ACTION

For Race/National Origin Harassment in Employment

[California Government Code §§ 12940 et seq.]

Against Defendant Farallon Brands, Inc., Defendant Vierra, & DOES 1 Through 100,

Inclusive

1. At all times mentioned herein, Plaintiff was, and now is, an individual domiciled in the County of Alameda, State of California.

2. Plaintiff is informed and believes, and thereon alleges that at all times relevant herein, Defendant FARALLON BRANDS, INC., (hereinafter “Farallon,” or “Employer Defendant”) was, and now is, a valid corporation organized and existing under the laws of the State of California, having their principal places of business in Union City, State of California.

3. At all times mentioned herein, Defendant DOLLY VIERRA (hereinafter “Vierra” and collectively with Employer Defendant as “Defendants”), was, and now is, an individual domiciled in the County of Alameda, State of California, and was a Manager, Officer, Shareholder, Director, Supervisor, Manager, Managing Agent, Owner, Principal, and/or Employee of Defendants and DOES 1 through 100, and each of them.

4. Plaintiff is ignorant of the true names and capacities, whether corporate, associate, individual, or otherwise, of Defendants sued herein as DOES 1 through 100, inclusive, and therefore sues said Defendants by such fictitious names. Plaintiff will seek leave of Court to amend this Complaint to assert the true names and capacities of the fictitiously named Defendants when the same have been ascertained. Plaintiff is informed and believes, and thereon alleges, that each Defendant designated as “DOES” herein is legally responsible for the events, happenings, acts, occurrences, indebtedness, damages and liabilities hereinafter alleged and caused injuries and damages proximately thereby to the Plaintiff, as hereinafter alleged.

1 5. Plaintiff is informed, believes, and herein alleges that at all times relevant herein, a unity
2 of interest and ownership existed between Defendants and DOES 1 through 100, such that
3 individuality and separateness between these entities had ceased and that they were actually the
4 alter ego of one another.

5 6. Plaintiff is informed, believes, and herein also alleges that at all times relevant herein,
6 Defendants and DOES 1 through 100, were used merely as shells, instrumentalities, and/or
7 conduits of one another and by which the others were doing business.

8 7. Plaintiff is further informed and herein alleges that despite the formation of purported
9 corporate existence, Defendants and DOES 1 through 100, are in reality, one and the same thing.

10 8. Plaintiff is informed and believes, and herein further alleges, that the business affairs of
11 Defendants and DOES 1 through 100, are, and at all times relevant hereto, were, so mixed and
12 intermingled that the same cannot reasonable be segregated, and the same are in inextricable
13 confusion.

14 9. Accordingly, Defendants and DOES 1 through 100, constitute the alter egos for each
15 other and the fiction of their separate existence must be disregarded in the interest of justice.

16 10. At all times relevant herein, Plaintiff performed services for each and all of Defendants,
17 and to the mutual benefit of all Defendants, and all Defendants shared control of Plaintiff as an
18 employee, either directly or indirectly, and the manner in which Defendants' business was and is
19 conducted.

20 11. Plaintiff is informed and believes and thereon alleges that each of the Defendants named
21 herein and DOES, has at all times relevant to this action, been the officer, agent, employee
22 and/or representative of the remaining Defendants and has acted within the course and scope of
23 such agency and employment, and with the permission and consent of the co-defendants.

24 12. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful
25 termination on or about January 7, 2022.

26 13. Defendants employed at least five employees during all relevant time periods of
27 Plaintiff's employment.
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1 14. At all times relevant herein, Plaintiff was qualified for and competently performed the
2 position she held throughout her employment with Defendants.

3 15. At all times relevant herein, Plaintiff was a Latino employee and within a class protected
4 by the FEHA.

5 16. Plaintiff was treated differently in the terms and conditions of Plaintiff's employment
6 substantially due to Plaintiff's race/national origin (Latino) and alleged immigration status as an
7 undocumented worker.

8 17. Defendants also treated Latino employees disparately due to their race which had an
9 adverse impact on those individuals.

10 18. On a severe and/or pervasive basis starting during Plaintiff's employment, and continuing
11 through January 7, 2022, Defendants and DOES 1 through 100, and each of them, harassed
12 Plaintiff due to and substantially motivated by Plaintiff's race/national origin (Latino) and/or
13 association with/advocacy for Latino individuals, and subjected Plaintiff to a hostile work
14 environment through the following comments and actions, among others:

15 a) In the presence of several employees, Defendant Vierra said to and regarding
16 Plaintiff, "Why is she complaining and asking for information if she knows she is
17 undocumented?" in an attempt to insinuate that Plaintiff was an undocumented worker
18 simply due to her race/national origin.

19 b) After protesting the aforementioned unlawful activity and engaging in legally
20 protected activities, Plaintiff's employment was terminated on or about January 7, 2022.

21 c) Plaintiff was treated differently, disparately, and negatively because of Plaintiff's
22 race/national origin (Latino) and/or association with/advocacy for Latino individuals,
23 including but not limited to Defendants harassing her (as aforesaid), denying Plaintiff
24 opportunities, unfairly disciplining Plaintiff, overly monitoring and scrutinizing Plaintiff,
25 denying Plaintiff benefits, and refusing to return Plaintiff back to her former position or
26 offer her employment in any capacity.

1 d) At least through the present day, and continuing, Defendants failed and/or refused
2 to rehire Plaintiff, investigate Plaintiff's complaints, and/or take appropriate remedial
3 actions.

4 19. Defendants had an employment practice of harassment, discrimination, and retaliation
5 that had a disproportionate adverse effect on Latino individuals.

6 20. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or
7 its agents/representatives failed to timely, properly, and/or completely investigate the unlawful
8 conduct Plaintiff was routinely subjected to, and instead ratified and condoned the unlawful
9 behavior.

10 21. A reasonable person in Plaintiff's circumstances would have considered the work
11 environment to be hostile or abusive.

12 22. Plaintiff considered the work environment to be hostile or abusive toward Plaintiff and
13 Latino individuals.

14 23. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them,
15 were substantially motivated by Plaintiff's race/national origin (Latino), and/or association
16 with/advocacy for protected classes, and these acts were done to harass Plaintiff.

17 24. The acts and conduct of Defendants and DOES 1 through 100, and each of them, as
18 aforesaid, were in violation of Cal. Gov. Code §§ 12940 et seq. Said statutes impose certain
19 duties upon Defendants, and each of them, concerning harassment against persons, such as
20 Plaintiff, on the basis of race/national origin and/or association with/advocacy for those
21 protected. Said statutes were intended to prevent the type of injury and damage herein set forth.

22 25. By the acts and conduct described above, Defendants and DOES 1 through 100, and each
23 of them, in violation of said statutes, knew about, or should have known about, and failed to
24 investigate and/or properly investigate, prevent or remedy the race/national origin or
25 associational harassment. The acts of harassment described herein were sufficiently pervasive so
26 as to alter the conditions of employment and created an abusive working environment. When
27 Plaintiff was harassed, Plaintiff's race/national origin (Latino) and/or association with/advocacy
28 for Persians was a substantial motivating reasons/factors in Defendants' conduct.

1 26. As a result, Plaintiff filed timely charges and complaints of race/national origin and
2 associational harassment, discrimination, and retaliation with the California Civil Rights
3 Division (“CRD”) and has received Notice(s) of Right to Sue in a California Superior Court
4 pursuant to Cal. Gov. Code § 12965(b). Plaintiff has therefore exhausted Plaintiff’s
5 administrative remedies under the Cal. Gov. Code. Attached hereto and incorporated herein as
6 Exhibit “A” are said Complaints and by reference hereto are made a part hereof. Attached hereto
7 and incorporated herein as Exhibit “B” are said Right to Sue Notices and by reference hereto are
8 made a part hereof.

9 27. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
10 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both
11 internally and/or externally, and/or suffered, among other things, emotional distress, including
12 but not limited to shock, pain, discomfort and/or anxiety.

13 28. As a further legal result of the acts and omissions of Defendants and DOES 1 through
14 100, and each of them, Plaintiff has been forced to incur expenses for medical care, and/or is
15 informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur
16 additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff
17 will pray leave of court to show the exact amount of said expenses at the time of trial.

18 29. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since
19 said incidents has been unable to engage fully in Plaintiff’s occupation, and/or is informed and
20 believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or
21 unable to perform Plaintiff’s usual work for an indefinite period of time in the future, all to
22 Plaintiff’s damage in an amount which is at present unascertained. Plaintiff will pray leave of
23 court to show the total amount of loss of earnings at the time of trial.

24 30. As a further direct and legal result of the acts and conduct of Defendants and DOES 1
25 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer
26 severe emotional and/or mental distress and anguish, humiliation, embarrassment, fright, shock,
27 pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently
28 unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

31. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and/or ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

32. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorneys' fees, and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

33. As a result of the harassing acts of Defendants and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Gov. Code § 12965(b).

34. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

35. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

II.

SECOND CAUSE OF ACTION

For Race/National Origin Discrimination in Employment

[California Government Code §§ 12940 et seq.]

Against Defendant Farallon & DOES 1 Through 100, Only

36. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

37. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful termination on or about January 7, 2022.

38. Defendants employed at least five employees during all relevant time periods of Plaintiff's employment.

39. At all times relevant herein, Plaintiff was qualified for and competently performed the position she held throughout her employment with Defendants.

40. At all times relevant herein, Plaintiff was a Latino employee and within a class protected by the FEHA.

41. Plaintiff was treated differently in the terms and conditions of Plaintiff's employment substantially due to Plaintiff's race/national origin (Latino) and alleged immigration status as an undocumented worker.

42. Defendants also treated Latino employees disparately due to their race which had an adverse impact on those individuals.

43. On a severe and/or pervasive basis starting during Plaintiff's employment, and continuing, Defendants and DOES 1 through 100, and each of them, subjected Plaintiff to discriminatory treatment and/or adverse employment actions, due to and substantially motivated by Plaintiff's race/national origin (Latino) and/or association with/advocacy for Latino individuals, through the following comments and actions, among others:

a) In the presence of several employees, Defendant Vierra said to and regarding Plaintiff, "Why is she complaining and asking for information if she knows she is undocumented?" in an attempt to insinuate that Plaintiff was an undocumented worker simply due to her race/national origin.

b) After protesting the aforementioned unlawful activity and engaging in legally protected activities, Plaintiff's employment was terminated on or about January 7, 2022.

c) Plaintiff was treated differently, disparately, and negatively because of Plaintiff's race/national origin (Latino) and/or association with/advocacy for Latino individuals, including but not limited to Defendants harassing her (as aforesaid), denying Plaintiff opportunities, unfairly disciplining Plaintiff, overly monitoring and scrutinizing Plaintiff,

denying Plaintiff benefits, and refusing to return Plaintiff back to her former position or offer her employment in any capacity.

d) At least through the present day, and continuing, Defendants failed and/or refused to rehire Plaintiff, investigate Plaintiff's complaints, and/or take appropriate remedial actions.

44. Defendants had an employment practice of harassment, discrimination, and retaliation that had a disproportionate adverse effect on Latino individuals.

45. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or its agents/representatives failed to timely, properly, and/or completely investigate the unlawful conduct Plaintiff was routinely subjected to, and instead ratified and condoned the unlawful behavior.

46. A reasonable person in Plaintiff's circumstances would have considered the work environment to be hostile or abusive.

47. Plaintiff considered the work environment to be hostile or abusive toward Plaintiff and Latino individuals.

48. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them, were substantially motivated by Plaintiff's race/national origin (Latino) and/or association with/advocacy for protected classes.

49. As alleged herein, the aforesaid harassing and discriminatory comments were made in Plaintiff's presence and/or Plaintiff was made aware and/or found out that such comments were being made in the workplace, thereby subjecting Plaintiff to a hostile and discriminatory work environment.

50. The acts and conduct of Defendants and DOES 1 through 100, and each of them, as aforesaid, were in violation of Cal. Gov. Code §§ 12940 et seq. Said statutes impose certain duties upon Defendants, and each of them, concerning discrimination against persons, such as Plaintiff, on the basis of race/national origin and/or association with/advocacy for those protected. Said statutes were intended to prevent the type of injury and damage herein set forth.

51. By the acts and conduct described above, Defendants, and DOES 1 through 100, and each of them, in violation of said statutes, knew about, or should have known about, and failed to investigate and/or properly investigate, prevent or remedy the race/national origin and/or associational discrimination. The acts of discrimination described herein were sufficiently pervasive so as to alter the conditions of employment and created an abusive working environment.

52. As a result, Plaintiff filed timely charges and complaints of race/national origin and associational harassment, discrimination, and retaliation with the CRD and has received Notice(s) of Right to Sue in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Plaintiff has therefore exhausted Plaintiff's administrative remedies under the Cal. Gov. Code. Attached hereto and incorporated herein as Exhibit "A" are said Complaints and by reference hereto are made a part hereof. Attached hereto and incorporated herein as Exhibit "B" are said Right to Sue Notices and by reference hereto are made a part hereof.

53. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and/or externally, and/or suffered, among other things, emotional distress, including but not limited to shock, pain, discomfort and/or anxiety.

54. As a further legal result of the acts and omissions of Defendants and DOES 1 through 100, and each of them, Plaintiff has been forced to incur expenses for medical care, and/or is informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

55. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully in Plaintiff's occupation, and/or is informed and believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

56. As a further direct and legal result of the acts and conduct of Defendants and DOES 1 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer severe emotional and/or mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

57. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and/or ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

58. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorneys' fees, and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

59. As a result of the discriminatory acts of Defendants and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Gov. Code § 12965(b).

60. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

61. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

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THIRD CAUSE OF ACTION

For Race/National Origin Retaliation in Employment

[California Government Code §§ 12940 et seq.]

Against Defendant Farallon & DOES 1 Through 100, Only

62. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

63. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful termination on or about January 7, 2022.

64. Defendants employed at least five employees during all relevant time periods of Plaintiff's employment.

65. At all times relevant herein, Plaintiff was qualified for and competently performed the position she held throughout her employment with Defendants.

66. At all times relevant herein, Plaintiff was a Latino employee and within a class protected by the FEHA.

67. Plaintiff was treated differently in the terms and conditions of Plaintiff's employment substantially due to Plaintiff's race/national origin (Latino) and alleged immigration status as an undocumented worker.

68. Defendants also treated Latino employees disparately due to their race which had an adverse impact on those individuals.

69. Plaintiff was, at all times material hereto, a Latino employee who engaged in legally protected activities, including but not limited to complaining about race/national origin and associational harassment and discrimination, and within a protected class covered by Cal. Gov. Code § 12940, prohibiting race/national origin and associational based race retaliation in employment.

70. Despite receiving reports by Plaintiff regarding the aforementioned unlawful conduct, Defendants failed to take corrective or remedial measures to stop the unlawful conduct, instead ratifying and condoning it.

71. Defendants and DOES 1 through 100, and each of them, retaliated against Plaintiff, due to and substantially motivated by Plaintiff's race/national origin (Latino) and/or association with/advocacy for Latino individuals, and/or due to Plaintiff engaging in the aforesaid legally protected activities, through the following comments and actions, among others:

a) In the presence of several employees, Defendant Vierra said to and regarding Plaintiff, "Why is she complaining and asking for information if she knows she is undocumented?" in an attempt to insinuate that Plaintiff was an undocumented worker simply due to her race/national origin.

b) After protesting the aforementioned unlawful activity and engaging in legally protected activities, Plaintiff's employment was terminated on or about January 7, 2022.

c) Plaintiff was treated differently, disparately, and negatively because of Plaintiff's race/national origin (Latino) and/or association with/advocacy for Latino individuals, including but not limited to Defendants harassing her (as aforesaid), denying Plaintiff opportunities, unfairly disciplining Plaintiff, overly monitoring and scrutinizing Plaintiff, denying Plaintiff benefits, and refusing to return Plaintiff back to her former position or offer her employment in any capacity.

d) At least through the present day, and continuing, Defendants failed and/or refused to rehire Plaintiff, investigate Plaintiff's complaints, and/or take appropriate remedial actions.

72. Defendants had an employment practice of harassment, discrimination, and retaliation that had a disproportionate adverse effect on Latino individuals.

73. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or its agents/representatives failed to timely, properly, and/or completely investigate the unlawful conduct Plaintiff was routinely subjected to, and instead ratified and condoned the unlawful behavior.

74. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them, were substantially motivated by Plaintiff's race/national origin (Latino) and/or aforesaid legally protected activities.

1 75. The acts and conduct of Defendants and DOES 1 through 100, and each of them, as
2 aforesaid, were in violation of Cal. Gov. Code §§ 12940 et seq. Said statutes impose certain
3 duties upon Defendants, and each of them, concerning retaliation against persons, such as
4 Plaintiff, on the basis of race/national origin and/or association with/advocacy for those protected
5 and the prohibition of race/national origin based retaliation. Said statutes were intended to
6 prevent the type of injury and damage herein set forth.

7 76. By the acts and conduct described above, Defendants and DOES 1 through 100, and each
8 of them, in violation of said statutes, knew about, or should have known about, and failed to
9 investigate and/or properly investigate, prevent or remedy the race/national origin retaliation.
10 The acts of retaliation described herein were sufficiently pervasive so as to alter the conditions of
11 employment and created an abusive working environment.

12 77. As a result, Plaintiff filed timely charges and complaints of race/national origin
13 harassment, discrimination, and retaliation with the CRD and has received Notice(s) of Right to
14 Sue in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Plaintiff has therefore
15 exhausted Plaintiff's administrative remedies under the Cal. Gov. Code. Attached hereto and
16 incorporated herein as Exhibit "A" are said Complaints and by reference hereto are made a part
17 hereof. Attached hereto and incorporated herein as Exhibit "B" are said Right to Sue Notices and
18 by reference hereto are made a part hereof.

19 78. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
20 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both
21 internally and/or externally, and/or suffered, among other things, emotional distress, including
22 but not limited to shock, pain, discomfort and/or anxiety.

23 79. As a further legal result of the acts and omissions of Defendants and DOES 1 through
24 100, and each of them, Plaintiff has been forced to incur expenses for medical care, and/or is
25 informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur
26 additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff
27 will pray leave of court to show the exact amount of said expenses at the time of trial.
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1 80. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since
2 said incidents has been unable to engage fully in Plaintiff's occupation, and/or is informed and
3 believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or
4 unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to
5 Plaintiff's damage in an amount which is at present unascertained. Plaintiff will pray leave of
6 court to show the total amount of loss of earnings at the time of trial.

7 81. As a further direct and legal result of the acts and conduct of Defendants and DOES 1
8 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer
9 severe emotional and/or mental distress and anguish, humiliation, embarrassment, fright, shock,
10 pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently
11 unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

12 82. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were
13 willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful
14 and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by
15 managerial agents and employees of Defendants and DOES 1 through 100, and with the express
16 knowledge, consent, and/or ratification of managerial agents and employees of Defendants and
17 DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an
18 amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

19 83. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of
20 them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal.
21 Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity,
22 medical and related expenses for care and procedures both now and in the future, attorneys' fees,
23 and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to
24 amend when ascertained.

25 84. As a result of the retaliatory acts of Defendants and DOES 1 through 100, and each of
26 them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as
27 specifically provided in Cal. Gov. Code § 12965(b).
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85. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

86. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

IV.

FOURTH CAUSE OF ACTION

For Actual/Perceived Disability Discrimination in Employment

[California Government Code §§ 12940 et seq.]

Against Defendant Farallon & DOES 1 Through 100, Only

87. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

88. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful termination on or about January 7, 2022.

89. Defendants employed at least five employees during all relevant time periods of Plaintiff's employment.

90. At all times relevant herein, Plaintiff was qualified for and competently performed the position she held throughout her employment with Defendants.

91. At all relevant times herein, Plaintiff was an actual, perceived, and/or potentially disabled person within the meaning of Cal. Gov. Code §§ 12926.1(b) et seq., because she was a person with an actual, perceived, potentially disabling, and/or potentially disabling in the future physical/mental disability(ies) including, but not limited to: COVID-19-like symptoms which included stomach pain and nausea, and other related disabilities. As such, Plaintiff was a member of a protected class pursuant to FEHA.

92. Plaintiff's impairments affect Plaintiff's ability to perform major life activities, such as working.

93. At all times relevant herein, Plaintiff was able to perform the essential functions of Plaintiff's job either with and/or without reasonable accommodations.

1 94. Plaintiff was treated differently in the terms and conditions of Plaintiff's employment
2 substantially due to Plaintiff's actual/perceived disability(ies).

3 95. At least some of Plaintiff's aforesaid disabilities were caused and/or exacerbated by the
4 hostile work environment he was subjected to by Defendants.

5 96. At all times relevant times herein, Defendants were on notice of Plaintiff's disabilities,
6 need for accommodations, and/or need for legally protected finite medical leave.

7 97. On a severe and/or pervasive basis starting during Plaintiff's employment, and continuing
8 through January 7, 2022, Defendants and DOES 1 through 100, and each of them, subjected
9 Plaintiff to discriminatory treatment and/or adverse employment actions, due to and substantially
10 motivated by Plaintiff's actual/perceived disability(ies), need for accommodations, and/or need
11 for legally protected medical leave through the following comments and actions, among others:

12 a) On or about January 4, 2022, Plaintiff began feeling ill after displaying COVID-
13 19-like symptoms which included stomach pain and nausea. Immediately thereafter,
14 Plaintiff notified her direct supervisor, Defendant Vierra, of her symptoms. Plaintiff
15 added that, given the situation with the COVID-19 pandemic, it would be best for her to
16 complete a COVID-19 test before risking infecting others with the virus. Of note, there
17 were at least two Company employees who tested positive for the novel coronavirus
18 during this time.

19 b) On or about January 5, 2022, Plaintiff sent a text message to Defendant Vierra
20 providing an update of her continued symptoms and sharing that she was waiting on the
21 results of her COVID-19 test.

22 c) At no point did the company engage in the good faith interactive process. As
23 opposed to engaging with Plaintiff regarding her actual/perceived disability(ies), on or
24 about January 7, 2022, Plaintiff received a text from the Company stating that "upper
25 management has decided not to continue [her] employment." Accordingly, Plaintiff's
26 employment was terminated just two days after she informed management of her
27 COVID-19-like symptoms.

28 d) Plaintiff was treated differently, disparately, and negatively because of Plaintiff's

1 actual/perceived disability(ies), including but not limited to denying Plaintiff
2 opportunities, unfairly disciplining Plaintiff, overly monitoring and scrutinizing Plaintiff,
3 denying Plaintiff benefits, and refusing to return Plaintiff back to her former position or
4 offer her employment in any capacity.

5 e) At least through the present day, and continuing, Defendants failed and/or refused
6 to rehire Plaintiff, investigate Plaintiff's complaints, and/or take appropriate remedial
7 actions.

8 98. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or
9 its agents/representatives failed to timely, properly, and/or completely investigate the unlawful
10 conduct Plaintiff was routinely subjected to, and instead ratified and condoned the unlawful
11 behavior.

12 99. A reasonable person in Plaintiff's circumstances would have considered the work
13 environment to be hostile or abusive.

14 100. Plaintiff considered the work environment to be hostile or abusive toward Plaintiff and
15 disabled individuals, and favorable to non-disabled individuals.

16 101. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them,
17 were substantially motivated by Plaintiff's actual/perceived disability(ies), need for
18 accommodations, and/or need for legally protected finite medical leave.

19 102. As alleged herein, the aforesaid discriminatory comments were made in Plaintiff's
20 presence and/or Plaintiff was made aware and/or found out that such comments were being made
21 in the workplace, thereby subjecting Plaintiff to a hostile and discriminatory work environment.

22 103. The acts and conduct of Defendants and DOES 1 through 100, and each of them, as
23 aforesaid, were in violation of Cal. Gov. Code §§ 12940 et seq. Said statutes impose certain
24 duties upon Defendants concerning discrimination against persons, such as Plaintiff, on the basis
25 of disabilities and the prohibition of disability discrimination. Said statutes were intended to
26 prevent the type of injury and damage herein set forth.

27 104. By the acts and conduct described above, Defendants and DOES 1 through 100, and each
28 of them, in violation of said statutes, knew about, or should have known about, and failed to

investigate and/or properly investigate, prevent or remedy the actual/perceived disability discrimination. The acts of discrimination described herein were sufficiently pervasive so as to alter the conditions of employment, and created an abusive working environment.

105. As a result, Plaintiff filed timely charges and complaints of actual/perceived disability(ies) discrimination and retaliation with the CRD and has received Notice(s) of Right to Sue in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Plaintiff has therefore exhausted Plaintiff's administrative remedies under the Cal. Gov. Code. Attached hereto and incorporated herein as Exhibit "A" are said Complaints and by reference hereto are made a part hereof. Attached hereto and incorporated herein as Exhibit "B" are said Right to Sue Notices and by reference hereto are made a part hereof.

106. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and/or externally, and/or suffered, among other things, numerous internal injuries, severe fright, shock, pain, discomfort and/or anxiety.

107. As a further legal result of the acts and omissions of Defendants and DOES 1 through 100, Plaintiff has been forced and/or will be forced to incur expenses for medical care, X-rays, and/or laboratory costs during the period of Plaintiff's disability, and/or is informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

108. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

109. As a further direct and legal result of the acts and conduct of Defendants and DOES 1 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer

1 severe and permanent emotional and/or mental distress and/or anguish, humiliation,
2 embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of
3 said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same
4 when they are ascertained.

5 110. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were
6 willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful
7 and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by
8 managerial agents and employees of Defendants and DOES 1 through 100, and with the express
9 knowledge, consent, and/or ratification of managerial agents and employees of Defendants and
10 DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an
11 amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

12 111. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of
13 them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal.
14 Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity,
15 medical and related expenses for care and procedures both now and in the future, attorneys' fees,
16 and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to
17 amend when ascertained.

18 112. As a result of the discriminatory acts of Defendants and DOES 1 through 100, and each
19 of them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit
20 as specifically provided in Cal. Gov. Code § 12965(b).

21 113. The FEHA also provides remedies, including but not limited to, declaratory and
22 injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result
23 of Defendants' unlawful conduct.

24 114. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

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V.

FIFTH CAUSE OF ACTION

For Actual/Perceived Disability Retaliation in Employment

[California Government Code §§ 12940 et seq.]

Against Defendant Farallon & DOES 1 Through 100, Only

115. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

116. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful termination on or about January 7, 2022.

117. Defendants employed at least five employees during all relevant time periods of Plaintiff's employment.

118. At all times relevant herein, Plaintiff was qualified for and competently performed the position she held throughout her employment with Defendants.

119. At all relevant times herein, Plaintiff was an actual, perceived, and/or potentially disabled person within the meaning of Cal. Gov. Code §§ 12926.1(b) et seq., because she was a person with an actual, perceived, potentially disabling, and/or potentially disabling in the future physical/mental disability(ies) including, but not limited to: COVID-19-like symptoms which included stomach pain and nausea, and other related disabilities. As such, Plaintiff was a member of a protected class pursuant to FEHA.

120. Plaintiff's impairments affect Plaintiff's ability to perform major life activities, such as working.

121. At all times relevant herein, Plaintiff was able to perform the essential functions of Plaintiff's job either with and/or without reasonable accommodations.

122. Plaintiff was treated differently in the terms and conditions of Plaintiff's employment substantially due to Plaintiff's actual/perceived disability(ies).

123. At least some of Plaintiff's aforesaid disabilities were caused and/or exacerbated by the hostile work environment he was subjected to by Defendants.

1 124. At all times relevant times herein, Defendants were on notice of Plaintiff's disabilities,
2 need for accommodations, and/or need for legally protected finite medical leave.

3 125. Plaintiff was, at all times material hereto, an actual/perceived disabled employee who
4 engaged in legally protected activities, including but not limited to complaining about disability
5 harassment and discrimination, and within a protected class covered by Cal. Gov. Code § 12940,
6 prohibiting disability-based retaliation in employment.

7 126. Despite receiving reports by Plaintiff regarding the aforementioned unlawful conduct,
8 Defendants failed to take corrective or remedial measures to stop the unlawful conduct, instead
9 ratifying and condoning it.

10 127. Defendants and DOES 1 through 100, and each of them, retaliated against Plaintiff, due
11 to and substantially motivated by Plaintiff's actual/perceived disability(ies) and/or due to
12 Plaintiff engaging in the aforesaid legally protected activities, through the following comments
13 and actions, among others:

14 a) On or about January 4, 2022, Plaintiff began feeling ill after displaying COVID-
15 19-like symptoms which included stomach pain and nausea. Immediately thereafter,
16 Plaintiff notified her direct supervisor, Defendant Vierra, of her symptoms. Plaintiff
17 added that, given the situation with the COVID-19 pandemic, it would be best for her to
18 complete a COVID-19 test before risking infecting others with the virus. Of note, there
19 were at least two Company employees who tested positive for the novel coronavirus
20 during this time.

21 b) On or about January 5, 2022, Plaintiff sent a text message to Defendant Vierra
22 providing an update of her continued symptoms and sharing that she was waiting on the
23 results of her COVID-19 test.

24 c) At no point did the company engage in the good faith interactive process. As
25 opposed to engaging with Plaintiff regarding her actual/perceived disability(ies), on or
26 about January 7, 2022, Plaintiff received a text from the Company stating that "upper
27 management has decided not to continue [her] employment." Accordingly, Plaintiff's
28

employment was terminated just two days after she informed management of her COVID-19-like symptoms.

d) Plaintiff was treated differently, disparately, and negatively because of Plaintiff's actual/perceived disability(ies), including but not limited to denying Plaintiff opportunities, unfairly disciplining Plaintiff, overly monitoring and scrutinizing Plaintiff, denying Plaintiff benefits, and refusing to return Plaintiff back to her former position or offer her employment in any capacity.

e) At least through the present day, and continuing, Defendants failed and/or refused to rehire Plaintiff, investigate Plaintiff's complaints, and/or take appropriate remedial actions.

128. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or its agents/representatives failed to timely, properly, and/or completely investigate the unlawful conduct Plaintiff was routinely subjected to and ratified and condoned the unlawful behavior.

129. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them, were substantially motivated by Plaintiff's actual/perceived disability(ies) and/or aforesaid legally protected activities.

130. The acts and conduct of Defendants and DOES 1 through 100, and each of them, as aforesaid, were in violation of Cal. Gov. Code §§ 12940 et seq. Said statutes impose certain duties upon Defendants concerning retaliation against persons, such as Plaintiff, on the basis of disabilities and the prohibition of actual/perceived disability based retaliation. Said statutes were intended to prevent the type of injury and damage herein set forth.

131. By the acts and conduct described above, Defendants and DOES 1 through 100, and each of them, in violation of said statutes, knew about, or should have known about, and failed to investigate and/or properly investigate, prevent, or remedy the disability retaliation. The acts of retaliation described herein were sufficiently pervasive so as to alter the conditions of employment and created an abusive working environment.

132. As a result, Plaintiff filed timely charges and complaints of actual/perceived disability(ies) discrimination and retaliation with the CRD and has received Notice(s) of Right to

1 Sue in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Plaintiff has therefore
2 exhausted Plaintiff's administrative remedies under the Cal. Gov. Code. Attached hereto and
3 incorporated herein as Exhibit "A" are said Complaints and by reference hereto are made a part
4 hereof. Attached hereto and incorporated herein as Exhibit "B" are said Right to Sue Notices and
5 by reference hereto are made a part hereof.

6 133. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
7 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both
8 internally and/or externally, and/or suffered, among other things, emotional distress, including,
9 but not limited to severe shock, pain, discomfort and/or anxiety.

10 134. As a further legal result of the acts and omissions of Defendants and DOES 1 through
11 100, and each of them, Plaintiff has been forced and/or will be forced to incur expenses for
12 medical care, X-rays, and/or laboratory costs during the period of Plaintiff's disability, and/or is
13 informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur
14 additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff
15 will pray leave of court to show the exact amount of said expenses at the time of trial.

16 135. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since
17 said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and
18 believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or
19 unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to
20 Plaintiff's damage in an amount which is at present unascertained. Plaintiff will pray leave of
21 court to show the total amount of loss of earnings at the time of trial.

22 136. As a further direct and legal result of the acts and conduct of Defendants and DOES 1
23 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer
24 severe and permanent emotional and/or mental distress and/or anguish, humiliation,
25 embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of
26 said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same
27 when they are ascertained.

1 137. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were
2 willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful
3 and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by
4 managerial agents and employees of Defendants and DOES 1 through 100, and with the express
5 knowledge, consent, and/or ratification of managerial agents and employees of Defendants and
6 DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an
7 amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

8 138. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of
9 them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal.
10 Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity,
11 medical and related expenses for care and procedures both now and in the future, attorneys' fees,
12 and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to
13 amend when ascertained.

14 139. As a result of the retaliatory acts of Defendants and DOES 1 through 100, as alleged
15 herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically
16 provided in Cal. Gov. Code § 12965(b).

17 140. The FEHA also provides remedies, including but not limited to, declaratory and
18 injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result
19 of Defendants' unlawful conduct.

20 141. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

21 **VI.**

22 **SIXTH CAUSE OF ACTION**

23 **Failure to Engage in the Mandatory Good-Faith Interactive Process**

24 **[California Government Code §§ 12940 et seq.]**

25 **Against Defendant Farallon & DOES 1 Through 100, Only**

26 142. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
27 Complaint as though duly set forth in full herein.
28

1 143. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful
2 termination on or about January 7, 2022.

3 144. Defendants employed at least five employees during all relevant time periods of
4 Plaintiff's employment.

5 145. At all times relevant herein, Plaintiff was qualified for and competently performed the
6 position she held throughout her employment with Defendants.

7 146. At all relevant times herein, Plaintiff was an actual, perceived, and/or potentially disabled
8 person within the meaning of Cal. Gov. Code §§ 12926.1(b) et seq., because she was a person
9 with an actual, perceived, potentially disabling, and/or potentially disabling in the future
10 physical/mental disability(ies) including, but not limited to: COVID-19-like symptoms which
11 included stomach pain and nausea, and other related disabilities. As such, Plaintiff was a member
12 of a protected class pursuant to FEHA.

13 147. Plaintiff's impairments affect Plaintiff's ability to perform major life activities, such as
14 working.

15 148. At all times relevant herein, Defendants failed to engage in a good-faith interactive
16 process with Plaintiff to determine whether it would be possible to provide reasonable
17 accommodations as required by Cal. Gov. Code § 12940.

18 149. California Gov. Code § 12940 generally provides that it is an unlawful employment
19 practice for an employer or other entity covered by the FEHA to fail to engage in a timely, good-
20 faith, interactive process with the employee to determine effective reasonable accommodations,
21 if any, for an employee with a known physical or mental disability or known medical condition.

22 150. Plaintiff is informed, believes, and herein alleges Defendants were an "employer"
23 pursuant to Cal. Gov. Code §§ 12900 et seq. and therefore a covered entity.

24 151. At all times relevant herein, Plaintiff was an employee of Defendants.

25 152. At all times relevant herein, Plaintiff had physical and/or mental limitations resulting
26 from Plaintiff's aforesaid disabilities, which were known to Defendants, as aforesaid.

27 153. At all times relevant herein, Plaintiff was willing to participate in an interactive process
28 to determine whether reasonable accommodations could be made.

1 154. Pursuant to Cal. Code of Regs. § 11069(b)(2), an employer or other covered entity shall
2 initiate an interactive process when the employer or other covered entity otherwise becomes
3 aware of the need for an accommodation through a third party or by observation.

4 155. At all times relevant herein, Defendants were aware and/or had notice of Plaintiff's
5 disabilities and/or need for accommodations pursuant to Cal. Code of Regs. § 11069(b)(2).

6 156. However, despite its duty to do so, Defendants failed to timely initiate and thereafter
7 participate in a good-faith interactive process with Plaintiff to determine whether reasonable
8 accommodations could be made.

9 157. Defendants' failure to engage in a good-faith interactive process was a substantial factor
10 in causing Plaintiff's harm.

11 158. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them,
12 were substantially motivated by Plaintiff's actual/perceived disabilities, need for
13 accommodations, and/or need for legally protected finite medical leave.

14 159. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or
15 its agents/representatives failed to timely, properly, and/or completely investigate the unlawful
16 conduct Plaintiff was routinely subjected to, and instead ratified and condoned the unlawful
17 behavior.

18 160. Prior to the initiation of this lawsuit, Plaintiff filed a timely complaint against each named
19 Defendant with the CRD pursuant to Cal. Gov. Code §§ 12900 et seq. and has received Right-to-
20 Sue notices in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Attached
21 hereto and incorporated herein as Exhibit "A" are said Complaints and by reference hereto are
22 made a part hereof. Attached hereto and incorporated herein as Exhibit "B" are said Right-to-Sue
23 notices and by reference hereto are made a part hereof. Plaintiff has therefore exhausted
24 Plaintiff's administrative remedies under the Cal. Gov. Code.

25 161. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
26 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both
27 internally and externally, and/or suffered, among other things, numerous internal injuries, severe
28 fright, shock, pain, discomfort and/or anxiety.

1 162. As a further legal result of the acts and omissions of Defendants and DOES 1 through
2 100, and each of them, Plaintiff has been forced and/or will be forced to incur expenses for
3 medical care, X-rays, and/or laboratory costs during the period of Plaintiff's disability, and is
4 informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur
5 additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff
6 will pray leave of court to show the exact amount of said expenses at the time of trial.

7 163. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since
8 said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and
9 believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or
10 unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to
11 Plaintiff's damage in an amount which is at present unascertained. Plaintiff will pray leave of
12 court to show the total amount of loss of earnings at the time of trial.

13 164. As a further direct and legal result of the acts and conduct of Defendants and DOES 1
14 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer
15 severe and permanent emotional and mental distress and anguish, humiliation, embarrassment,
16 fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of said injuries is
17 presently unknown to Plaintiff, who will pray leave of court to assert the same when they are
18 ascertained.

19 165. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were
20 willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful
21 and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by
22 managerial agents and employees of Defendants and DOES 1 through 100, and with the express
23 knowledge, consent, and/or ratification of managerial agents and employees of Defendants and
24 DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an
25 amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

26 166. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of
27 them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal.
28 Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity,

1 medical and related expenses for care and procedures both now and in the future, attorney's fees,
2 and/or other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court
3 to amend when ascertained.

4 167. As a result of Defendants' failure to initiate and participate in the good-faith interactive
5 process, as alleged herein, Plaintiff is entitled to reasonable attorney's fees and costs of said suit
6 as specifically provided in Cal. Gov. Code § 12965(b).

7 168. The FEHA also provides remedies, including but not limited to, declaratory and
8 injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result
9 of Defendants' unlawful conduct.

10 169. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

11 **VII.**

12 **SEVENTH CAUSE OF ACTION**

13 **Failure to Provide Reasonable Accommodations**

14 **[California Government Code §§ 12940 et seq.]**

15 **Against Defendant Farallon & DOES 1 Through 100, Only**

16 170. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
17 Complaint as though duly set forth in full herein.

18 171. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful
19 termination on or about January 7, 2022.

20 172. Defendants employed at least five employees during all relevant time periods of
21 Plaintiff's employment.

22 173. At all times relevant herein, Plaintiff was qualified for and competently performed the
23 position she held throughout her employment with Defendants.

24 174. At all relevant times herein, Plaintiff was an actual, perceived, and/or potentially disabled
25 person within the meaning of Cal. Gov. Code §§ 12926.1(b) et seq., because she was a person
26 with an actual, perceived, potentially disabling, and/or potentially disabling in the future
27 physical/mental disability(ies) including, but not limited to: COVID-19-like symptoms which
28

1 included stomach pain and nausea, and other related disabilities. As such, Plaintiff was a member
2 of a protected class pursuant to FEHA.

3 175. Plaintiff's impairments affect Plaintiff's ability to perform major life activities, such as
4 working.

5 176. At all times relevant herein, Defendants failed to provide reasonable accommodations to
6 Plaintiff for injuries and/or disabilities as required by Cal. Gov. Code § 12940 through the
7 following comments and actions, among others:

8 a) On or about January 4, 2022, Plaintiff began feeling ill after displaying COVID-
9 19-like symptoms which included stomach pain and nausea. Immediately thereafter,
10 Plaintiff notified her direct supervisor, Defendant Vierra, of her symptoms. Plaintiff
11 added that, given the situation with the COVID-19 pandemic, it would be best for her to
12 complete a COVID-19 test before risking infecting others with the virus. Of note, there
13 were at least two Company employees who tested positive for the novel coronavirus
14 during this time.

15 b) On or about January 5, 2022, Plaintiff sent a text message to Defendant Vierra
16 providing an update of her continued symptoms and sharing that she was waiting on the
17 results of her COVID-19 test.

18 c) At no point did the company engage in the good faith interactive process. As
19 opposed to engaging with Plaintiff regarding her actual/perceived disability(ies), on or
20 about January 7, 2022, Plaintiff received a text from the Company stating that "upper
21 management has decided not to continue [her] employment." Accordingly, Plaintiff's
22 employment was terminated just two days after she informed management of her
23 COVID-19-like symptoms.

24 d) Plaintiff was treated differently, disparately, and negatively because of Plaintiff's
25 actual/perceived disability(ies), including but not limited to denying Plaintiff
26 opportunities, unfairly disciplining Plaintiff, overly monitoring and scrutinizing Plaintiff,
27 denying Plaintiff benefits, and refusing to return Plaintiff back to her former position or
28 offer her employment in any capacity.

1 e) At least through the present day, and continuing, Defendants failed and/or refused
2 to rehire Plaintiff, investigate Plaintiff's complaints, and/or take appropriate remedial
3 actions.

4 177. California Gov. Code § 12940 generally provides that it is an unlawful employment
5 practice for an employer or other entity covered by this part to fail to make reasonable
6 accommodations for the known physical or mental disability of an applicant or employee.

7 178. Plaintiff is informed, believes, and herein alleges Defendants were an “employer”
8 pursuant to Cal. Gov. Code §§ 12900 et seq. and therefore a covered entity.

9 179. At all times relevant herein, Plaintiff was an employee of Defendants.

10 180. At all times relevant herein, Defendants were aware and/or had notice of Plaintiff’s
11 disabilities and/or need for accommodations pursuant to Cal. Code of Regs. § 11069(b)(2).

12 181. At all times relevant herein, Plaintiff was able to perform the essential job duties with
13 and/or without reasonable accommodations for Plaintiff’s disabilities.

14 182. Plaintiff was harmed as a result of Defendants’ failure to provide reasonable
15 accommodations.

16 183. Defendants’ failure to provide reasonable accommodations was a substantial factor in
17 causing Plaintiff’s harm.

18 184. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or
19 its agents/representatives failed to timely, properly, and/or completely investigate the unlawful
20 conduct Plaintiff was routinely subjected to, and instead ratified and condoned the unlawful
21 behavior.

22 185. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them,
23 were substantially motivated by Plaintiff’s actual/perceived disabilities, need for
24 accommodations, and/or need for legally protected finite medical leave.

25 186. Prior to the initiation of this lawsuit, Plaintiff filed a timely complaint against each named
26 Defendant with the CRD pursuant to Cal. Gov. Code §§ 12900 et seq. and has received Right-to-
27 Sue notices in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Attached
28 hereto and incorporated herein as Exhibit “A” are said Complaints and by reference hereto are

made a part hereof. Attached hereto and incorporated herein as Exhibit “B” are said Right-to-Sue notices and by reference hereto are made a part hereof. Plaintiff has therefore exhausted Plaintiff’s administrative remedies under the Cal. Gov. Code.

187. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through 100, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and externally, and/or suffered, among other things, numerous internal injuries, severe fright, shock, pain, discomfort and/or anxiety.

188. As a further legal result of the acts and omissions of Defendants and DOES 1 through 100, and each of them, Plaintiff has been forced and/or will be forced to incur expenses for medical care, X-rays, and/or laboratory costs during the period of Plaintiff’s disability, and is informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

189. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully in Plaintiff’s occupation, and is informed and believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or unable to perform Plaintiff’s usual work for an indefinite period of time in the future, all to Plaintiff’s damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

190. As a further direct and legal result of the acts and conduct of Defendants and DOES 1 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

191. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the

1 awarding of punitive and exemplary damages in an amount to be determined at the time of trial
2 pursuant to Cal. Civil Code §§ 3294(a) and (b).

3 192. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of
4 them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal.
5 Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity,
6 medical and related expenses for care and procedures both now and in the future, attorney's fees,
7 and/or other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court
8 to amend when ascertained.

9 193. As a result of Defendants' failure to initiate and participate in the good-faith interactive
10 process, as alleged herein, Plaintiff is entitled to reasonable attorney's fees and costs of said suit
11 as specifically provided in Cal. Gov. Code § 12965(b).

12 194. The FEHA also provides remedies, including but not limited to, declaratory and
13 injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result
14 of Defendants' unlawful conduct.

15 195. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

16 **VIII.**

17 **EIGHTH CAUSE OF ACTION**

18 **For Whistleblower Violations**

19 **[California Labor Code § 1102.5]**

20 **Against Defendant Farallon & DOES 1 Through 100, Only**

21 196. Plaintiff incorporates herein by reference each and every paragraph in this Complaint as
22 though duly set forth in full herein.

23 197. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful
24 termination on or about January 7, 2022.

25 198. Defendants retaliated against Plaintiff for blowing the whistle/complaining
26 about/protesting against its unlawful activities, including but not limited to actual/perceived
27 disability discrimination and retaliation and race/national origin harassment, discrimination, and
28

1 retaliation, where Plaintiff had reasonable cause to believe Plaintiff's employer was violating the
2 law.

3 199. It is a violation of the California whistleblower statute, Cal. Labor Code § 1102.5, and
4 public policy to unlawfully retaliate/punish/discharge or deny opportunities to an employee for
5 refusing to violate the law and/or for protesting unlawful activities to a government agency or
6 his/her employer.

7 200. Plaintiff was a whistleblower pursuant to Cal. Labor Code § 1102.5, as Plaintiff engaged
8 in the following protected activities, among others:

9 a) Plaintiff complained to Defendants and its relevant managers and supervisors,
10 who had authority over Plaintiff and/or authority to investigate, discover, or correct the
11 aforementioned harassment, discrimination, and retaliation.

12 b) Plaintiff notified Defendants and its relevant managers and supervisors of her
13 injuries, disabilities, need for accommodations, need to seek medical treatment, and/or
14 need for legally protected finite medical leave.

15 c) Plaintiff protested Defendants' continuous practice of violating the California
16 Labor Code by intentionally misclassifying its workers as independent contractors, as
17 opposed to employees.

18 d) Plaintiff complained to Defendants regarding failure to provide meal and rest
19 breaks.

20 e) Plaintiff notified Defendants and its relevant managers and supervisors that she
21 was not properly being providing with accurate itemized wage statements.

22 201. However, as a direct result of Plaintiff engaging in legally protected activity and
23 complaining about and protesting against the aforesaid violations of law (or Plaintiff's
24 reasonable belief that laws were being violated), Defendants retaliated against Plaintiff through
25 the following, among others:

26 a) Plaintiff was treated differently, disparately, and negatively because of her
27 complaints, including but not limited to Defendants' failure to provide a safe workplace,
28 where Plaintiff had reasonable cause to believe Plaintiff's employer was violating the

1 law, denying Plaintiff opportunities, unfairly disciplining Plaintiff, overly monitoring and
2 scrutinizing Plaintiff, denying Plaintiff benefits, wrongfully terminating Plaintiff, and
3 refusing to return Plaintiff back to her former position or offer her employment in any
4 capacity.

5 b) After protesting the aforementioned unlawful activity and engaging in legally
6 protected activities, Plaintiff's employment was terminated on or about January 7, 2022.

7 c) At least through the present day, and continuing, Defendants failed and/or refused
8 to rehire Plaintiff, investigate Plaintiff's complaints, and/or take appropriate remedial
9 actions.

10 202. California Labor Code § 1102.5 declares:

11 (a) An employer, or any person acting on behalf of the employer, shall not make,
12 adopt, or enforce any rule, regulation, or policy preventing an employee from
13 disclosing information to a government or law enforcement agency, to a person
14 with authority over the employee, or to another employee who has authority to
15 investigate, discover, or correct the violation or noncompliance, or from providing
16 information to, or testifying before, any public body conducting an investigation,
17 hearing, or inquiry, if the employee has reasonable cause to believe that the
18 information discloses a violation of state or federal statute, or a violation of or
19 noncompliance with a local, state, or federal rule or regulation, regardless of
20 whether disclosing the information is part of the employee's job duties.

21 (b) An employer, or any person acting on behalf of the employer, shall not retaliate
22 against an employee for disclosing information, or because the employer believes
23 that the employee disclosed or may disclose information, to a government or law
24 enforcement agency, to a person with authority over the employee or another
25 employee who has the authority to investigate, discover, or correct the violation or
26 noncompliance, or for providing information to, or testifying before, any public
27 body conducting an investigation, hearing, or inquiry, if the employee has
28 reasonable cause to believe that the information discloses a violation of state or
federal statute, or a violation of or noncompliance with a local, state, or federal
rule or regulation, regardless of whether disclosing the information is part of the
employee's job duties.

(c) An employer, or any person acting on behalf of the employer, shall not retaliate
against an employee for refusing to participate in an activity that would result in a
violation of state or federal statute, or a violation of or noncompliance with a local,
state, or federal rule or regulation.

203. Defendants violated Cal. Labor Code § 1102.5(a) as it made, adopted, and enforced rules,
regulation and policies preventing Plaintiff from disclosing information to government and law

enforcement agencies or a person with authority over Plaintiff and/or authority to investigate, discover, investigate, or correct the violation, where Plaintiff had reasonable cause to believe Plaintiff's employer was violating the law.

204. Defendants violated Cal. Labor Code § 1102.5(b) as it retaliated against Plaintiff for protesting Defendants' unlawful actions, and/or because Defendants felt Plaintiff may protest, to a government or law enforcement agency or to a person with authority over the employee and/or authority to investigate, discover, investigate, or correct the violation.

205. Plaintiff was retaliated against through the aforesaid acts by Defendants, at least in part, because of Plaintiff's refusal to participate in an activity that would result in a violation of state or federal statutes (or Plaintiff reasonably believed to be in violation). Defendants were thus in violation of Cal. Labor Code § 1102.5(c).

206. When Plaintiff was subjected to the adverse employment actions identified above, Defendants, and DOES 1 through 100, and each of them, were substantially motivated by Plaintiff's complaints of violations of state and/or federal law (or Plaintiff's reasonable belief that a law(s) was being violated), and said complaints were substantial motivating factors and/or reasons in the decision to subject Plaintiff to the aforesaid retaliatory, adverse employment actions, in violation of Cal. Labor Code § 1102.5.

207. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and/or externally, and suffered, among other things, emotional distress, including but not limited to shock, pain, discomfort and/or anxiety.

208. As a further legal result of the acts and omissions of Defendants, and DOES 1 through 100, and each of them, Plaintiff has been forced to incur expenses for medical care, X-rays, and/or laboratory costs during the period of Plaintiff's disability, and is informed and believes, and/or thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

1 209. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since
2 said incidents has been unable to engage fully in Plaintiff's occupation, and/or is informed and
3 believes, and thereon alleges, that Plaintiff will be partially and/or fully incapacitated and/or
4 unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to
5 Plaintiff's damages in an amount which is at present unascertained. Plaintiff will pray leave of
6 court to show the total amount of loss of earnings at the time of trial.

7 210. As a further direct and legal result of the acts and conduct of Defendants, and DOES 1
8 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer
9 severe and/or permanent emotional and/or mental distress and anguish, humiliation,
10 embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of
11 said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same
12 when they are ascertained.

13 211. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were
14 willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful
15 and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by
16 managerial agents and employees of Defendants, and with the express knowledge, consent, and
17 ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby
18 justifying the awarding of punitive and exemplary damages in an amount to be determined at the
19 time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

20 212. Plaintiff is entitled to a civil penalty up to ten thousand dollars (\$10,000) for each
21 violation of Cal. Labor Code § 1102.5.

22 213. By the acts and conduct of aforesaid Defendants, and DOES 1 through 100, and each of
23 them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal.
24 Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity,
25 medical and related expenses for care and procedures both now and in the future, attorneys' fees,
26 and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to
27 amend when ascertained.

214. As a result of the unlawful acts of Defendants and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Code of Civil Procedure § 1021.5. Plaintiff's action enforces important rights affecting the public interest by bringing forth this lawsuit to ensure Defendants refrain from unlawfully retaliating against employees for blowing the whistle, thereby conferring a significant benefit on the general public's health and well-being as a result. The necessity and financial burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to reasonable attorneys' fees and costs under Cal. Code of Civil Procedure § 1021.5.

215. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

IX.

NINTH CAUSE OF ACTION

Failure to Provide Meal and Rest Periods

[California Labor Code § 226.7, 512 and Wage Order No. 4]

Against Defendant Farallon & DOES 1 Through 100, Only

216. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

217. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful termination on or about January 7, 2022.

218. Throughout Plaintiff's employment, Defendants failed to provide Plaintiff with all of her timely mandatory rest periods as required by California law.

219. At all times herein relevant, the public policy of the State of California, as codified, expressed and mandated by Industrial Welfare Commission ("IWC") Wage Order No. 4, Section 11(A) also declares unless the employee is relieved of all duty during his/her thirty minute meal period, the meal period shall be considered an "on duty" meal period and counted as hours worked, which must be compensated at the employee's regular rate of pay. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the employer and employee an on-the-job paid meal period is agreed to.

1 220. At all times herein relevant, the public policy of the State of California, as codified,
2 expressed and mandated by IWC Wage Order No. 4, Section 12(a) requires that every employer
3 shall authorize and permit all employees to take rest periods, which insofar as practicable shall
4 be in the middle of each work period. The authorized rest period time shall be based on the total
5 hours worked daily at the rate of ten minutes net rest time per four hours or major fraction
6 thereof. Authorized rest period time shall be counted as hours worked for which there shall be no
7 deduction from wages.

8 221. At all times herein relevant, the public policy of the State of California, as codified,
9 expressed and mandated by Labor Code § 226.7(a) declares that no employer shall require any
10 employee to work during any meal or rest period mandated by an applicable order of the IWC.

11 222. Section § 226.7(b), IWC Wage Order No. 4 §§ 11(B), 12(B) declare that if an employer
12 fails to provide an employee a meal period or rest period in accordance with an applicable order
13 of the IWC, the employer shall pay the employee one additional hour of pay at the employee's
14 regular rate of compensation for each work day that the meal or rest period is not provided.

15 223. As such, Plaintiff is entitled to one additional hour of pay at the employee's regular rate
16 of compensation for each work day that the meal or rest period was not provided.

17 224. As a result of the acts of Defendants and DOES 1 through 100, and each of them,
18 Plaintiff is also entitled to compensation for each meal period where Plaintiff was "on duty."

19 225. Plaintiff is also entitled to any and all relief as provided for by Cal. Labor Code § 203.

20 226. As a result of the retaliatory acts of Defendants and DOES 1 through 100, and each of
21 them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as
22 specifically provided in Cal. Code of Civil Procedure § 1021.5. Plaintiff's action enforces
23 important rights affecting the public interest by bringing forth this lawsuit to ensure Defendants,
24 as an employer, offers its employees meal and rest periods, thereby conferring a significant
25 benefit on the general public's health and well-being as a result. The necessity and financial
26 burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to
27 reasonable attorneys' fees and costs under Cal. Code of Civil Procedure § 1021.5.

1 227. The acts of Defendants and DOES 1 through 100, were willful, wanton, malicious,
2 intentional, oppressive and despicable and were done in willful and conscious disregard of the
3 rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of
4 Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification
5 of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying
6 the awarding of punitive and exemplary damages in an amount to be determined at the time of
7 trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

8 228. Pursuant to Labor Code § 558.1, any employer or other person acting on behalf of an
9 employer, who violates, or causes to be violated, Labor Code § 226.7, may be held liable as the
10 employer for such violation. The term “other person acting on behalf of an employer” is limited
11 to a natural person who is an owner, director, officer, or managing agent of the employer, and in
12 this case, including Defendant Vierra.

13 229. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

14 **X.**

15 **TENTH CAUSE OF ACTION**

16 **For Failure to Pay Wages**

17 **[California Labor Code §§ 200 et seq.]**

18 **Against Defendant Farallon & DOES 1 Through 100, Only**

19 230. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
20 Complaint as though duly set forth in full herein.

21 231. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful
22 termination on or about January 7, 2022.

23 232. Defendants intentionally misclassified Plaintiff as an independent contractor throughout
24 her employment, thereby depriving Plaintiff of overtime compensation, rest periods, and other
25 protections under the California Labor Code.

26 233. On several occasions, Plaintiff reported to Defendant Vierra that she was unlawfully
27 being paid via Form-1099s and was not properly being providing with accurate itemized wage
28 statements.

234. Further, when Plaintiff requested information regarding her hourly rate of pay, Defendant Vierra egregiously told Plaintiff she “was not entitled to that information.”

235. Failure to properly classify employees may subject an employer to liability for minimum wage and overtime pay, denied rest and meal period compensation, expense reimbursement, and all other wage and hour violations. California Labor Code § 226.8(b) provides for a civil penalty of \$5,000 to \$15,000 for the willful misclassification of an individual as an independent contractor. It is further provided that, in the event that an employer is found to have engaged in “a pattern or practice of these violations,” the penalties increase to “not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.” Cal. Labor Code § 226.8(b).

236. Plaintiff is also entitled to attorney’s fees and costs pursuant to Cal. Labor Code § 218.5, which declares that in any action brought for the nonpayment of wages, the Court shall award reasonable attorneys’ fees and costs to the prevailing party if any party to the action requests attorneys’ fees and costs upon the initiation of the action.

237. As a result of the acts of Employer Defendants and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorneys’ fees and costs of said suit as specifically provided by Cal. Code of Civil Procedure § 1021.5. Plaintiff’s action enforces important rights affecting the public interest by bringing forth this lawsuit to ensure Employer Defendants as an employer, compensates its employees with the full and correct amount of earned wages, accrued vacation pay, and reimbursement for work-related expenses immediately upon termination, thereby conferring a significant benefit on the general public. The necessity and financial burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to reasonable attorneys’ fees and costs under Cal. Code of Civil Procedure § 1021.5.

XI.

ELEVENTH CAUSE OF ACTION

For Failure to Pay Overtime Wages

[California Labor Code § 510 and IWC Wage Order No. 4]

Against Defendant Farallon & DOES 1 Through 100, Only

1 238. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
2 Complaint as though duly set forth in full herein.

3 239. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful
4 termination on or about January 7, 2022.

5 240. Defendants intentionally misclassified Plaintiff as an independent contractor throughout
6 her employment, thereby depriving Plaintiff of overtime compensation, rest periods, and other
7 protections under the California Labor Code.

8 241. On several occasions, Plaintiff reported to Defendant Vierra that she was unlawfully
9 being paid via Form-1099s and was not properly being providing with accurate itemized wage
10 statements.

11 242. Further, when Plaintiff requested information regarding her hourly rate of pay, Defendant
12 Vierra egregiously told Plaintiff she “was not entitled to that information.”

13 243. Throughout her employment, Plaintiff was routinely ordered by Employer Defendants to
14 work in excess of eight (8) hours per day, in excess of forty (40) hours per week, and/or in
15 excess of six (6) days in any workweek.

16 244. However, despite Plaintiff routinely working overtime and thus being entitled to overtime
17 pay, Employer Defendants intentionally failed to compensate Plaintiff the true and/or full
18 amount of overtime pay.

19 245. Failure to properly classify employees may subject an employer to liability for minimum
20 wage and overtime pay, denied rest and meal period compensation, expense reimbursement, and
21 all other wage and hour violations. California Labor Code § 226.8(b) provides for a civil penalty
22 of \$5,000 to \$15,000 for the willful misclassification of an individual as an independent
23 contractor. It is further provided that, in the event that an employer is found to have engaged in
24 “a pattern or practice of these violations,” the penalties increase to “not less than ten thousand
25 dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in
26 addition to any other penalties or fines permitted by law.” Cal. Labor Code § 226.8(b).

27 246. At all times relevant herein, Cal. Labor Code § 510 et seq. and IWC Wage Order No. 4, §
28 3(A) generally declare eight (8) hours of labor constitutes a day’s work. Any work in excess of

eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.

247. As a result of Defendants Employer Defendants failure to compensate the true and/or full and/or correct amount of her overtime pay, Plaintiff is entitled to recover in a civil action the unpaid balance of the overtime compensation, including interest, reasonable attorney's fees, and costs of suit pursuant to California Labor Code § 1194, which declares:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest, reasonable attorney's fees, and costs of suit.

248. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

XII.

TWELFTH CAUSE OF ACTION

For Failure to Furnish Complaint Wage Statements and Maintain Accurate Pay Records

[California Labor Code § 226, 1174 (D), and 1198]

Against Defendant Farallon & DOES 1 Through 100, Only

249. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

250. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful termination on or about January 7, 2022.

251. Defendants intentionally misclassified Plaintiff as an independent contractor throughout her employment, thereby depriving Plaintiff of overtime compensation, rest periods, and other protections under the California Labor Code.

252. On several occasions, Plaintiff reported to Defendant Vierra that she was unlawfully being paid via Form-1099s and was not properly being providing with accurate itemized wage statements.

253. Further, when Plaintiff requested information regarding her hourly rate of pay, Defendant Vierra egregiously told Plaintiff she “was not entitled to that information.”

254. Pursuant to Cal. Labor Code §§ 226 and 1174, employers have a duty to provide their non-exempt employees with accurate itemized statements showing total hours worked, hourly wages, gross wages, total deductions net wages earned and name of the employer. An employer who violates these Code sections is liable to its employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay period, up to a statutory maximum of \$4,000.00.

255. Pursuant to Cal. Labor Code § 558.1, any employer or other person acting on behalf of an employer, who violates, or causes to be violated, Labor Code § 226, may be held liable as the employer for such violation. The term ‘other person acting on behalf of an employer’ is limited to a natural person who is an owner, director, officer, or managing agent of the employer.

256. At all relevant times, Employer Defendants have knowingly and intentionally provided Plaintiff with uniform, incomplete, and inaccurate wage statements.

257. Because Employer Defendants failed to document and deducted time worked from Plaintiff’s wage statements and employment records for meal periods they did not actually receive, Employer Defendants unlawfully deducted wages earned and meal period premiums that should have been paid. Thus, Employer Defendants did not furnish wage statements to Plaintiff containing: the correct amount of gross wages earned in violation of Cal. Labor Code § 226(a)(1), the accurate total hours worked in violation of Cal. Labor Code § 226(a)(2), correct amount of net wages earned in violation of Cal. Labor Code § 226(a)(5), or accurate number of hours worked at each corresponding hourly rate in violation of Cal. Labor Code § 226(a)(9).

258. To the extent that Employer Defendants paid any meal break premium and/or rest break premium payments, Employer Defendants failed to identify such payments on Plaintiff’s wage statements and employment records, and Employer Defendants otherwise failed to provide information on the wage statements sufficient to identify how many premium payments were paid during each pay period, the specific dates worked giving rise to the premium payments

owed, or to determine whether such premium payments adequately and/or accurately compensated Plaintiff for any and all premiums owed.

259. California Labor Code § 1198 provides that the maximum hours of work and the standard conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the applicable IWC Wage Orders. California Labor Code § 1198 further provides that “the employment of any employees for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order, employers are required to keep accurate time records showing when the employee begins and ends each work period and meal period. At all relevant times, Employer Defendants failed, on a company-wide basis, to keep records of meal period start and stop times for Plaintiff in violation of Cal. Labor Code § 1198.

260. California Labor Code §1174(d) provides that “every person employing labor in this state shall... keep a record showing the names and addresses of all employees employed and the ages of all minors” and “keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments...” At all relevant times, and in violation of Cal. Labor Code § 1174(d), Employer Defendants willfully failed to maintain accurate payroll records for Plaintiff showing the daily hours she worked and the wages paid thereto as a result of unlawfully classifying Plaintiff as an independent contractor.

261. Plaintiff is entitled to recover from Employer Defendants the greater of her actual damages caused by Defendants’ failure to comply with Cal. Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars \$4,000 per employee, in addition to attorneys’ fees and costs.

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1 XIII.

2 **THIRTEENTH CAUSE OF ACTION**

3 **For Unfair Business Practices**

4 **[California Business & Professions Code §§ 17200 et seq.]**

5 **Against Defendant Farallon & DOES 1 Through 100, Only**

6 262. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
7 Complaint as though duly set forth in full herein.

8 263. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful
9 termination on or about January 7, 2022.

10 264. Defendants engaged in unfair, unlawful, fraudulent, deceptive, untrue, and/or misleading
11 business practices through the following, among others:

12 a) Defendants intentionally misclassified Plaintiff as an independent contractor
13 throughout her employment, thereby depriving Plaintiff of overtime compensation, rest
14 periods, and other protections under the California Labor Code.

15 b) Defendants failed to lawfully provide meal and rest periods to Plaintiff, in
16 violation of Cal. Labor Code §§ 226.7, 512 and IWC Wage Order No. 4.

17 265. Through the aforementioned acts, Defendant's engaged in unfair, unlawful, fraudulent,
18 deceptive, untrue, and/or misleading business practices in direct violation of Cal. Bus. & Prof.
19 Code § 17200, which prohibits conducting such business.

20 266. Defendant's willful and/or reckless conduct constituted unfair business practices and acts
21 because the harm to the general public outweighed any utility that its conduct may have
22 produced.

23 267. As a direct result of the conduct, act and omissions of Defendant's and DOES 1 through
24 100, and each of them, Plaintiff has been harmed and damaged in an amount to be shown at the
25 time of trial, together with prejudgment interest thereon from the time owed until paid, all within
26 an amount within the jurisdictional limits of this Court.

27 268. Plaintiff is also entitled to all penalties provided by Cal. Bus. & Prof. Code § 17206.
28

269. Additionally, Cal. Bus. & Prof. Code § 17205 declares, unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

270. As a result of the retaliatory acts of Defendants and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Code of Civil Procedure § 1021.5. Plaintiff's action enforces important rights affecting the public interest by bringing forth this lawsuit to ensure Defendants, as an employer, does not engage in unfair business practices, thereby conferring a significant benefit on the general public's health and well-being as a result. The necessity and financial burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to reasonable attorneys' fees and costs under Cal. Code of Civil Procedure § 1021.5.

271. The acts of Defendants and DOES 1 through 100, were willful, wanton, malicious, intentional, oppressive and despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

272. Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

273. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

XIV.

FOURTEENTH CAUSE OF ACTION

For Wrongful Termination and Retaliation in Violation of Public Policy

Against Defendant Farallon & DOES 1 Through 100, Only

274. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

1 275. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful
2 termination on or about January 7, 2022.

3 276. Plaintiff was retaliated against due to Plaintiff's race/national origin, actual/perceived
4 disability, and/or her aforesaid legally protected activities (complaints/protests against the
5 harassment, discrimination, retaliation, among others) as aforesaid.

6 277. As such, Plaintiff was retaliated against for reasons that violate a public policy(s).

7 278. At all times relevant herein, Plaintiff was employed by Defendants.

8 279. At all times herein mentioned, the public policy of the State of California, as codified,
9 expressed and mandated by Cal. Gov. Code §§ 12920 and 12940 et seq., was to prohibit
10 employers from harassing, discriminating, and retaliating against and/or wrongfully terminating
11 any individual on the grounds of their race/national origin and actual/perceived disability. This
12 public policy of the State of California is designed to protect all employees and to promote the
13 welfare and well-being of the community at large. The policy inures to the benefit of the public
14 and is fundamental and substantial.

15 280. At all times herein mentioned, the public policy of the State of California, as codified,
16 expressed and mandated by Cal. Gov. Code §§ 12940 et seq., was to prohibit employers from
17 failing to engage in the mandatory good-faith interactive process with disabled employees to
18 determine the extent of their disabilities and determine how they could be reasonably
19 accommodated. This public policy of the State of California is designed to protect all employees
20 and to promote the welfare and well-being of the community at large. The policy inures to the
21 benefit of the public and is fundamental and substantial.

22 281. At all times herein mentioned, the public policy of the State of California, as codified,
23 expressed and mandated by Cal. Gov. Code §§ 12940 et seq., was to prohibit employers from
24 failing to provide reasonable accommodations to disabled employees. This public policy of the
25 State of California is designed to protect all employees and to promote the welfare and well-
26 being of the community at large. The policy inures to the benefit of the public and is fundamental
27 and substantial.

1 282. At all times herein mentioned, the public policy of the State of California, as codified,
2 expressed and mandated by Cal. Labor Code § 1102.5 prohibited discrimination and/or
3 retaliation against employees blowing the whistle about their employers' unlawful activities.
4 This public policy of the State of California is designed to protect all employees and to promote
5 the welfare and well-being of the community at large.

6 283. Accordingly, the actions of Defendants and DOES 1 through 100, in retaliating against
7 Plaintiff on the grounds alleged and described herein were wrongful and do not promote the
8 welfare and well-being of the community at large.

9 284. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
10 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both
11 internally and/or externally, and suffered, among other things, emotional distress, including but
12 not limited to shock, pain, discomfort and/or anxiety.

13 285. As a further legal result of the acts and omissions of Defendants, and DOES 1 through
14 100, and each of them, Plaintiff has been forced to incur expenses for medical care, X-rays,
15 and/or laboratory costs during the period of Plaintiff's disability, and is informed and believes,
16 and/or thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of
17 the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court
18 to show the exact amount of said expenses at the time of trial.

19 286. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since
20 said incidents has been unable to engage fully in Plaintiff's occupation, and/or is informed and
21 believes, and thereon alleges, that Plaintiff will be partially and/or fully incapacitated and/or
22 unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to
23 Plaintiff's damages in an amount which is at present unascertained. Plaintiff will pray leave of
24 court to show the total amount of loss of earnings at the time of trial.

25 287. As a further direct and legal result of the acts and conduct of Defendants, and DOES 1
26 through 100, and each of them, Plaintiff has been caused, and did suffer, and continues to suffer
27 severe and/or permanent emotional and/or mental distress and anguish, humiliation,
28 embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of

1 said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same
2 when they are ascertained.

3 288. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were
4 willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful
5 and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by
6 managerial agents and employees of Defendants, and with the express knowledge, consent,
7 and/or ratification of managerial agents and employees of Defendants and DOES 1 through 100,
8 thereby justifying the awarding of punitive and exemplary damages in an amount to be
9 determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

10 289. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of
11 them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal.
12 Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity,
13 medical and related expenses for care and procedures both now and in the future, attorneys' fees,
14 and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to
15 amend when ascertained.

16 290. As a result of the unlawful acts of Defendants and DOES 1 through 100, and each of
17 them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as
18 specifically provided in Cal. Code of Civil Procedure § 1021.5. Plaintiff's action enforces
19 important rights affecting the public interest by bringing forth this lawsuit to ensure Defendants
20 refrain from unlawfully and wrongfully terminating their employees, thereby conferring a
21 significant benefit on the general public's health and well-being as a result. The necessity and
22 financial burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to
23 reasonable attorneys' fees and costs under Cal. Code of Civil Procedure § 1021.5.

24 291. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

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1 XV.

2 **FIFTEENTH CAUSE OF ACTION**

3 **For Civil Penalties Under PAGA**

4 **[California Labor Code §§ 2698, 2699; Private Attorneys General Act (“PAGA”)]**

5 **Against Defendant Farallon & DOES 1 Through 100, Only**

6 292. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
7 Complaint as though duly set forth in full herein.

8 293. Plaintiff is an “aggrieved employee” under the Labor Code Private Attorneys General Act
9 (“PAGA”), as Plaintiff is or was employed by Employer Defendants during the applicable
10 statutory period and suffered one or more of the Cal. Labor Code violations set forth herein.
11 Accordingly, Plaintiff seeks to recover, on behalf of Plaintiff and all other aggrieved current and
12 former employees of Defendants, the civil penalties provided by PAGA, plus reasonable
13 attorneys’ fees and costs.

14 294. Plaintiff seeks to recover the PAGA civil penalties through a representative action
15 permitted by PAGA and the California Supreme Court in, among other authorities, Arias v.
16 Superior Court, (2009) 46 Cal.4th 969. According to the same authorities, class certification of
17 the PAGA allegations described herein is not required.

18 295. California Labor Code § 2699(a) and (g), as well as Cal. Labor Code §§ 210, 226.3, 558,
19 1174.5 and 1197.1 authorizes aggrieved employees such as Plaintiff, on behalf of herself and
20 other current and former employees within the statutory period, to bring a civil action to recover
21 civil penalties pursuant to the procedures specified in Cal. Labor Code § 2699.3.

22 296. Plaintiff complied with the procedures for bringing suit specified in Cal. Labor Code
23 § 2699.3. Specifically, on or about July 7, 2022, Plaintiff gave written notice to the California
24 Labor and Workforce Development (“LWDA”) and to Employer Defendants of the specified
25 provisions of the Cal. Labor Code alleged to have been violated and those included below
26 (“PAGA Notice”). Plaintiff is informed and believes that, to date, the LWDA has still not elected
27 to investigate, pursuant to Amaral v. Cintas Corp. No. 2, (2008) 163 Cal.App.4th 1157.

297. During the period beginning one (1) year preceding the filing of the Complaint in this Action (the “Civil Penalty Period”), Defendants violated, *inter alia*, Cal. Labor Code §§ 200, 201, 203, 204, 226, 226.7, 227.3, 510, 512, 2810.5 and the applicable Wage Order(s), among other things. In connection with the violations of Cal. Labor Code §§ 200, 201, 203, 204, 226, 226.7, 227.3, 510, 512, 2810.5, Plaintiff seeks to represent only non-exempt current and former employees of Defendants working in California from one (1) year prior to filing the PAGA Notice with the LWDA through the present. In connection with the violation of Cal. Labor Code §§ 227 et seq., and 2810.5, Plaintiff seeks to represent all current and former employees of Defendants working in California from one (1) year prior to filing the PAGA Notice with the LWDA through the present. Collectively, the employees that Plaintiff plans to represent shall be referred to as “Aggrieved Employees.”

298. For at least four (4) years prior to the filing of this action and continuing to the present, Employer Defendants have, at times, failed to pay overtime wages to Plaintiff and Aggrieved Employees, or some of them, in violation of California state wage and hour laws as a result of, without limitation, Plaintiff and Aggrieved Employees working over eight (8) hours per day, forty (40) hours per week, and seven consecutive work days in a work week without being properly compensated for hours worked in excess of (8) hours per day in a work day, forty (40) hours per week in a work week, and/or hours worked on the seventh consecutive work day in a work week by, among other things, failing to, at times, accurately track and/or pay for all hours actually worked at the proper overtime rate of pay to the detriment of Plaintiff and Aggrieved Employees including, without limitation, due to failure to account for skill differential pay.

299. For at least four (4) years prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to provide Plaintiff and Aggrieved Employees, or some of them, full, timely thirty (30) minute uninterrupted meal period for days on which they worked more than five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period for days on which they worked in excess of ten (10) hours in a work day, and failing to, at times, provide compensation for such unprovided meal periods as required by California wage and hour

laws due to, without limitation, assigning tasks to employees during what should be an uninterrupted meal period.

300. For at least three (3) years prior to the filing of this action and continuing to the present, Defendants have, at times, failed to pay Plaintiff and Aggrieved Employees, or some of them, the full amount of their wages owed to them upon termination and/or resignation as required by Cal. Labor Code §§ 201 and 202, including for, without limitation, Defendants' occasional failing to pay overtime wages and premium wages.

301. For at least one (1) year prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to furnish Plaintiff and Aggrieved Employees, or some of them, with itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; and other such information as required by Cal. Labor Code § 226(a). As a result thereof, Defendants have occasionally failed to furnish employees with an accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

302. Plaintiff, on Plaintiff's own behalf and on behalf of Aggrieved Employees, pursuant to Cal. Bus. & Prof. Code §§ 17200 through 17208, also seeks (an) injunction(s) prohibiting Defendants from further violating the Cal. Labor Code and requiring the establishment of appropriate and effective means to prevent further violations, as well as all monies owed but withheld and retained by Defendants to which Plaintiff and Aggrieved Employees are entitled, as well as restitution of amounts owed.

303. California Labor Code § 204, requires and required that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month."

304. California Labor Code § 210(a) states that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of

each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

305. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Employer Defendants had and have a consistent policy or practice of failing to pay Plaintiff and during their employment on a timely basis as per Cal. Labor Code § 204.

306. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code § 210, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Cal. Labor Code § 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee for each subsequent violation in connection with each payment that was made in violation of Cal. Labor Code § 204.

307. California Labor Code § 226.3 states that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

308. California Labor Code § 226.3 further provides that “[t]he civil penalties provided for in this section are in addition to any other penalty provided by law.”

309. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, had and have a policy or practice of failing to comply with Cal. Labor Code § 226(a) by intentionally failing to furnish Plaintiff and Aggrieved Employees with itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages earned; the name and address of each employer with whom they have been placed to work; all applicable hourly rates in effect during the pay period and the corresponding number of

hours worked at each hourly rate; the legal name of the employer and/or the name and address of the legal entity securing the employer's services if the employer is a farm labor contractor and other such information as required by Cal. Labor Code § 226(a).

310. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code § 226.3, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' violation of Cal. Labor Code § 226(a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the initial violation, and one thousand dollars (\$1000) for each Aggrieved Employee per pay period for each subsequent violation.

311. California Labor Code § 558(a) states: "Any employer or other person acting on behalf of an employer who violates, or causes to be violated... any provision regulating hours and days of work in any of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (3) Wages recovered pursuant to this section shall be paid to the affected employee."

312. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Employer Defendants, and each of them, violated, or caused to be violated, the Cal. Labor Code sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during their employment and after their employment separation; and receive accurate, itemized wage statements.

313. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code § 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Cal. Labor Code violations in the

1 amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation,
2 and one hundred dollars.

3 314. California Labor Code § 1174(b) states that every person employing labor in California is
4 required to “[a]llow any member of the commission or the employees of the Division of Labor
5 Standards Enforcement free access to the place of business or employment of the person to
6 secure any information or make any investigation that they are authorized by this chapter to
7 ascertain or make. The commission may inspect or make excerpts, relating to the employment of
8 employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

9 315. California Labor Code § 1174(c) has required every person employing labor in California
10 to “[k]eep a record showing the names and addresses of all employees employed and the ages of
11 all minors.”

12 316. California Labor Code § 1174(d) has required every person employing labor in California
13 to “[k]eep, at a central location in the state or at the plants or establishments at which employees
14 are employed, payroll records showing the hours worked daily by and the wages paid to, and the
15 number of piece-rate units earned by and applicable piece rate paid to, employees employed at
16 the respective plants or establishments. These records shall be kept in accordance with rules
17 established for this purpose by the commission, but in any case, shall be kept on file for not less
18 than three years. An employer shall not prohibit an employee from maintaining a personal record
19 of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

20 317. California Labor Code § 1174.5 states that, “[a]ny person employing labor who willfully
21 fails to maintain the records required by subdivision (c) of [Cal. Labor Code] Section 1174 or
22 accurate and complete records required by subdivision (d) of [Cal. Labor Code] Section 1174, or
23 to allow any member of the commission or employees of the division to inspect records pursuant
24 to subdivision (b) of [Cal. Labor Code] Section 1174, shall be subject to a civil penalty of five
25 hundred dollars (\$500).”

26 318. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges,
27 that Defendants, and each of them, have willfully failed to maintain the records required by Cal.
28 Labor Code 1174(c), failed to maintain accurate and complete records required by Cal. Labor

Code 1174(d), and/or failed to allow inspection of records as required by Cal. Labor Code 1174(b).

319. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code § 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Cal. Labor Code violations in the amount of five hundred dollars (\$500) per violation per Aggrieved Employee.

320. California Labor Code § 2699(f), provides that for all provisions of the Cal. Labor Code "except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows:... (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation."

321. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, violated the Cal. Labor Code sections described herein, including, without limitation, for the failure to: pay overtime wages; provide meal and rest periods or compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during employment and after the cessation of the employment relationship; reimburse Aggrieved Employees for costs incurred in furtherance of their work duties as required under Cal. Labor Code § 2802; provide notice as required under Cal. Labor Code § 2810.5; paying employees all owed paid time off and vacation time owed by separation at the proper rate of pay; placing restraints on competition, whistleblowing and freedom of speech; and entitling Plaintiff and other Aggrieved Employees to civil penalties for each of these Cal. Labor Code violations in the amounts set forth in Cal. Labor Code § 2699(f).

322. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code section 2699(g), among other authorities, Plaintiff and similarly Aggrieved Employees are entitled to recover civil penalties for Defendants' violations of the herein and therein described Cal. Labor Code violations during the Civil Penalty Period in the amount of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial

violation, and two hundred dollars (\$200) for each Aggrieved Employee per pay period for each subsequent violation.

323. Moreover, Plaintiff and Aggrieved Employees are also entitled to an award of reasonable attorneys' fees and costs in connection with their herein-described claims for civil penalties.

XVI.

SIXTEENTH CAUSE OF ACTION

For Failure to Provide Employee Personnel Files

[California Labor Code §§ 432 and 1198.5]

Against Defendant Farallon & DOES 1 Through 100, Only

324. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

325. Plaintiff began working at Farallon as a Packer around October 2021 until her wrongful termination on or about January 7, 2022.

326. Through her counsel, via a letter dated May 23, 2022, Plaintiff sent a written request to receive copies of her employee personnel file and any instrument she signed during her employment with Defendants.

327. California Labor Code § 432 declares that if an employee or applicant signs any instrument relating to the obtaining or holding of employment, he/she shall be given a copy of the instrument upon request.

328. Further, Cal. Labor Code § 1198.5(a) declares that every employee has the right to inspect the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee.

329. Defendants failed to abide by Cal. Labor Code § 432 to timely provide Plaintiff with copies of any instruments she signed.

330. Plaintiff's letter dated May 23, 2022, specifically stated: "...pursuant to Cal. Labor Code § 432, Ms. Olguin requests copies of all documents she signed relating to obtaining and retaining employment with you. Ms. Olguin also requests copies of documents in her personnel file related to her performance and any grievances concerning her pursuant to Cal. Labor Code § 1198.5(a).

Section 1198.5(a) authorizes Ms. Olguin's representatives to receive copies of said documents."

331. However, Defendants never provided said files or an inspection of said files.

332. As such, Plaintiff is entitled to the remedies and penalties provided by Cal. Labor Code § 1198.5(k), which declares:

If an employer fails to permit a current or former employee, or his or his representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer.

333. Plaintiff is also entitled to costs and attorney's fees for instituting this action pursuant to Cal. Labor Code § 1198.5(l).

334. Plaintiff also prays for damages and remedies as this Court deems appropriate.

WHEREFORE, PLAINTIFF JEANETT OLGUIN prays for judgment against the Defendants, and each of them, as follows:

1. For general damages in an amount within the jurisdictional limits of this Court;
2. For special damages in an amount within the jurisdictional limits of this Court;
3. For medical expenses and related items of expense, according to proof;
4. For loss of earnings, according to proof;
5. For consequential and incidental damages according to proof;
6. For prejudgment interest according to proof;
7. For declaratory relief;
8. For injunctive relief;
9. For damages, penalties and attorneys' fees and costs of suit as provided for by Cal. Gov. Code §§ 12926.1, 12940 and 12965(b);
10. For damages, penalties, cost of suit, and attorney fees against Defendants provided for by Cal. Labor Code §§ 226, 226.7, 432, 510, 512, 558.1, 1174, 1198.5, and IWC Wage Order No. 4;
11. For civil penalties and attorneys' fees for each violation of Cal. Labor Code §§ 226.3, 558, 1102.5, 2699;

- 1 12. For punitive and exemplary damages as provided for by Cal. Civil Code § 3294;
2 13. For damages, penalties and costs of suit as provided for by Cal. Civil Code § 3333;
3 14. For civil penalties as provided for by Cal. Bus. & Prof. Code §§ 17200 and 17206;
4 15. For damages, penalties and reasonable attorneys' fees and costs of suit against
5 Defendants as provided for by Cal. Code of Civil Procedure § 1021.5, according to proof;
6 16. For such other and further relief as the Court may deem just and proper.
7

8 Dated: December 22, 2022

AKHAVAN & ASSOCIATES

9
10 By: 

11 BARDIA AARON AKHAVAN, ESQ.
12 Attorney for PLAINTIFF
13 JEANETT OLGUIN
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EXHIBIT A

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Jeanett Olguin

CRD No. 202212-19213122

Complainant,

vs.

Farallon Brands, Inc.
33300 Central Avenue
Union City, CA 94587

Dolly Vierra
33300 Central Avenue
Union City, CA 94587

Respondents

1. Respondent **Farallon Brands, Inc.** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Dolly Vierra** individual as Co-Respondent(s).

3. Complainant **Jeanett Olguin**, resides in the City of **Encino**, State of **CA**.

4. Complainant alleges that on or about **January 7, 2022**, respondent took the following adverse actions:

Complainant was harassed because of complainant's race, national origin (includes language restrictions), disability (physical or mental).

Complainant was discriminated against because of complainant's race, national origin (includes language restrictions), disability (physical or mental) and as a result of the discrimination was terminated, laid off, forced to quit, denied hire or promotion, reprimanded, suspended, demoted, asked impermissible non-job-related questions, denied any employment benefit or privilege, denied reasonable accommodation for a disability, denied work opportunities or assignments, denied or forced to transfer.

1 **Complainant experienced retaliation** because complainant reported or resisted any form
2 of discrimination or harassment, requested or used a disability-related accommodation,
3 participated as a witness in a discrimination or harassment complaint and as a result was
4 terminated, laid off, forced to quit, denied hire or promotion, reprimanded, suspended,
5 demoted, asked impermissible non-job-related questions, denied any employment benefit or
6 privilege, denied reasonable accommodation for a disability, denied work opportunities or
7 assignments, denied or forced to transfer.

8 **Additional Complaint Details:** In the months preceding her wrongful termination, Ms.
9 Olguin protested the Company's continuous practice of violating the California Labor Code
10 by intentionally misclassifying its workers as independent contractors, as opposed to
11 employees. For example, on several occasions, Ms. Olguin reported to Supervisor Dolly
12 Vierra that she was unlawfully being paid via Form-1099s, and was not properly being
13 providing with accurate itemized wage statements. Ms. Olguin also requested information
14 regarding her hourly rate of pay. Egregiously, in response to her requests, Supervisor Vierra
15 said to Ms. Olguin that she, "was not entitled to that information."

16 Despite requesting information that she was entitled to under California law, Ms. Olguin's
17 inquiries were ignored. Instead, Ms. Olguin was then subjected to negative comments based
18 on her race/national origin, and alleged immigration status as an undocumented worked.

19 On a routine basis, Ms. Olguin was subjected to disparate treatment due to her race/national
20 origin as a Latino. By way of example, in the presence of several employees, Supervisor
21 Vierra said to and regarding Ms. Olguin, "why is she complaining and asking for information
22 if she knows she is undocumented?" in an attempt to insinuate that Ms. Olguin was an
23 undocumented worker simply due to her race/national origin.

24 Around January 4, 2022, Ms. Olguin began feeling ill after displaying Covid-19 like
25 symptoms, which included stomach pain and nausea. Immediately thereafter, Ms. Olguin
26 notified her direct supervisor, Supervisor Vierra of her symptoms. Ms. Olguin added that,
27 given the situation with the Covid-19 pandemic, it would be best for her to complete a Covid
28 test before risking infecting others with the virus. Of note, there were at least two employees
of the Company who tested positive for the novel coronavirus during this time.

On January 5, 2022, Ms. Olguin sent a text message to Supervisor Vierra providing her with
an update of her continued symptoms and while sharing that she was waiting on the results
of her Covid-19 test.

As opposed to engaging with Ms. Olguin regarding her actual/perceived disability(ies),
around January 7, 2022, Ms. Olguin received a text from the Company informing her that
she was being terminated because "upper management has decided not to continue [her]
employment," as aforementioned. Accordingly, Ms. Olguin was terminated only two days
after she informed management of her Covid-19 symptoms.

1 VERIFICATION

2 I, **Bardia Akhavan**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On December 22, 2022, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

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Encino, CA

EXHIBIT B



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@dfeh.ca.gov

December 22, 2022

Jeanett Olguin

c/o Akhavan & Associates: A Professional Law Corporation 15760 Ventura Boulevard
Suite #950
Encino, CA 91436

RE: Notice of Case Closure and Right to Sue

CRD Matter Number: 202212-19213122

Right to Sue: Olguin / Farallon Brands, Inc. et al.

Dear Jeanett Olguin:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective December 22, 2022 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing



Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@dfeh.ca.gov

DRDOnlineRequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department