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Attorneys for Plaintiff,
LUCERO POLA LOPEZ

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

LUCERO POLA LOPEZ, an individual,

Plaintiff,

vs.

SMARTWAY CLEANING SERVICE
LLC, a California limited liability
company; YOLANDA SANCHEZ, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 25STCV09047

COMPLAINT FOR:

- 1. DISCRIMINATION BASED ON
GENDER IN VIOLATION OF GOVT.
CODE §12940 (a);**
- 2. HOSTILE WORK ENVIRONMENT
IN VIOLATION OF GOVT. CODE
§12940 ET SEQ.;**
- 3. RETALIATION IN VIOLATION OF
GOVT. CODE §12940 ET SEQ.;**
- 4. FAILURE TO PREVENT
DISCRIMINATION FROM
OCCURRING IN VIOLATION OF
GOVT. CODE §12940(K);**
- 5. HARASSMENT BASED ON GENDER
IN VIOLATION OF GOVT. CODE
§12940 (a);**
- 6. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY IN
VIOLATION OF GOVT. CODE
§12940 *et seq.*;**
- 7. WILLFUL MISCLASSIFICATION AS
AN INDEPENDENT CONTRACTOR
(Cal. *Labor Code* §§226.8, 2750.5;
WAGE ORDER NO. 5);**
- 8. FAILURE TO PAY MINIMUM
WAGES (Cal. *Labor Code* §§1194,
1194.2, 1997, 1197.1, 1198; IWC Wage
Order No. 5)**
- 9. FAILURE TO PROVIDE REST**

PERIODS (Cal. *Labor Code* § 226.7; IWC Wage Order No. 5);
10. FAILURE TO ISSUE ACCURATE WAGE STATEMENTS (Cal. *Labor Code* §226; IWC Wage Order No. 5);
11. FAILURE TO PAY WAGES DUE UPON TERMINATION (Cal. *Labor Code* §§201-203);
12. FAILURE TO REIMBURSE BUSINESS EXPENSES (Cal. *Labor Code* §2802);
13. FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS (Cal. *Labor Code* §1198.5);
14. UNFAIR COMPETITION (Cal. *Bus. & Prof. Code* §§17200 *et seq.*);
15. RETALIATION (Cal. *Labor Code* §233).

DEMAND FOR A JURY TRIAL

Lucero Pola Lopez (“Plaintiff”) alleges the following:

I. JURISDICTION AND VENUE

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

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

II. PARTIES

3. At all times relevant hereto, Plaintiff was an individual over age 18 and a resident of South Gate, California.

1 4. Plaintiff is informed and believes and thereon alleges that at all times material
2 hereto, Defendant Smartway Cleaning Service LLC (“SCS”), has been, and is a California
3 limited liability company, with a principal place of business at 8750 Orion, Apt. 206, North
4 Hills, CA 91343. Plaintiff is informed and believes and thereon alleges that at all times material
5 hereto SCS has been authorized to do business and has been doing business in the State of
6 California.

7 5. Plaintiff is informed and believes and thereon alleges that Defendant Yolanda
8 Sanchez (“Yolanda”) (collectively with SCS “Defendants”) is an individual, who at all times
9 relevant herein, was a resident of Los Angeles County. Yolanda is the owner of SCS.

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

15 7. Plaintiff is ignorant of the true names and capacities of Defendants sued herein
16 as DOES 1 through 100, inclusive, and therefore Plaintiff sues these Defendants by such
17 fictitious names and capacities. Plaintiff will amend her Complaint to show their true names
18 and capacities when they have been ascertained. Plaintiff is informed and believes and thereon
19 alleges that at all times relevant, each of these fictitiously named DOE Defendants was an
20 individual person who owned, controlled, or managed the business for which Plaintiff worked
21 and/or who directly or indirectly exercised operational control over the discrimination practices
22 and wage policies of Plaintiff. These DOE Defendants held ownership, officer, director and/or
23 executive positions with the remaining Defendants, and acted on behalf of the remaining
24 Defendants, which included decision-making responsibility for, and establishment of, gender
25 discrimination practices and policies, and wage and hour violations for Defendants which have
26 damaged Plaintiff. Therefore, Does 1 through 100, in addition to the remaining Defendants, are
27 “employers” as a matter of law and are liable on the causes of action alleged herein.
28

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

9 9. Plaintiff is further informed and believes, and thereon alleges, that each of the
10 fictitiously named Defendants aided and assisted the named Defendants in committing the
11 wrongful acts alleged herein, and that Plaintiff's damages were proximately caused by each
12 Defendant.

13 **III. FACTUAL ALLEGATIONS THAT ARE COMMON TO ALL CAUSES OF**
14 **ACTION**

15 **Employment Information**

16 10. Plaintiff was an employee of SCS since on or about June 22, 2024. Plaintiff
17 worked as a Cleaner for SCS. Plaintiff's job entailed cleaning offices, parking lots, garbage
18 containers, apartments and sports facilities. Plaintiff was paid a biweekly salary of \$160.00 per
19 day. She typically worked 4 days a week and 32 hours per week. She was employed at SCS
20 until March 16, 2025, when Plaintiff was wrongfully terminated.

21 **Discrimination, Harassment and Wrongful Termination**

22 11. Plaintiff was denied a work environment free of gender discrimination and was
23 targeted for wrongful termination on or about March 16, 2025.

24 12. At the time that Plaintiff was hired by SCS, Yolanda told her that SCS only hires
25 men for the cleaning positions. However, Yolanda told Plaintiff that she could work for SCS if
26 she agreed to work under her husband's name.

27 13. Plaintiff needed the job so she agreed to work under her husband's name.
28

1 14. In or about August 2024, SCS requested that Plaintiff continue working for them
2 and also provided her with an additional day of work each week.

3 15. On or about March 10, 2025, Plaintiff became sick and missed one day of work.

4 16. Plaintiff properly followed SCS's instructions and notified her supervisor,
5 William, about her sickness. On the following day, March 11, 2025, Plaintiff also told
6 Yolanda that she had been sick and Yolanda told her it was fine.

7 17. On or about March 11, 2025, when Plaintiff returned to work, she asked
8 Yolanda if she could be paid for her sick day.

9 18. On or about March 16, 2025, Yolanda paid Plaintiff for her sick day. However,
10 later that same day, Yolanda told Plaintiff via text that she could no longer work for SCS
11 because they needed a man to work and could no longer have her working under her
12 husband's name.

13 19. On or about March 16, 2025, SCS wrongfully terminated Plaintiff.

14 20. As a result of the harassment and discrimination, Plaintiff suffered emotional
15 distress.

16 21. SCS's wrongful termination of Plaintiff was wrongfully motivated by
17 discrimination against her due to her gender and in retaliation for asking to be paid for her sick
18 day.

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

21 23. On March 27, 2025, Plaintiff filed an administrative complaint with the
22 Department of Fair Employment and Housing ("DFEH") alleging discrimination and
23 harassment by SCS and Yolanda. On March 27, 2025, the DFEH issued to Plaintiff a Right to
24 Sue Notice as to SCS and Yolanda.

25 **Wage and Hour Violations**

26 24. The employment by SCS of Plaintiff is governed by Industrial Welfare
27 Commission Wage Order No. 5, which covers those persons in the public housekeeping
28 industry.

25. Plaintiff was willfully misclassified as exempt in violation of Wage Order No. 5.

26. Plaintiff was not paid minimum wages.

27. Plaintiff was not afforded any rest breaks while she worked at SCS.

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

29. As a further result of Defendant SCS's failure to pay minimum wages and afford rest breaks to Plaintiff, when Plaintiff left their employ, she was not timely paid all wages due her, as required by Labor Code §§ 201, 202 and Wage Order No. 5.

30. Plaintiff was not reimbursed for her necessary business expenses.

31. Defendant SCS failed to provide Plaintiff with her requested employment records.

32. Defendant SCS retaliated against Plaintiff for taking a sick day.

33. Pursuant to the California Labor Code, on or about March 27, 2025, Plaintiff filed a notice with the Labor and Workforce Development Agency (LWDA) of his intent to pursue claims against Defendants under the Private Attorney General Act (PAGA). As such, Plaintiff reserves the right to amend this Complaint. Plaintiff intends to amend this Complaint to add a cause of action pursuant to PAGA under Labor Code §§2699 et seq.

FIRST CAUSE OF ACTION

(Discrimination Based on Gender in Violation of Violation of Government Code

§§12940(a) - By Plaintiff Against Defendant SCS and Does 1 through 100)

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

35. California Government Code section 12940(a) prohibits discrimination, including adverse employment action against an employee based on sex or gender, among other protected bases.

1 36. Defendant SCS's actions and conduct combined to create and allow a pattern of
2 discriminatory treatment toward Plaintiff due to her gender. Defendant SCS's actions
3 constituted a continuing violation of Cal. Gov. Code § 12940, et seq.

4 37. Defendant SCS created and maintained a hostile work environment. Plaintiff
5 was subjected to unfair and hostile treatment by Defendant SCS.

6 38. All of the conduct by Defendant SCS was done with the full knowledge and
7 ratification of the management employees of SCS, and was consistent with the recognized
8 policies and procedures of SCS, which tolerated and encouraged such discriminatory conduct.

9 39. Defendant SCS was aware of the hostile environment for women and did not
10 take effective, good faith action to investigate, remedy, prevent, or stop the harassment and
11 discrimination.

12 40. At all times herein mentioned, Defendant SCS was legally required to refrain
13 from discriminating against and harassing any employee on the basis of gender, among other
14 things. Within the time provided by law, Plaintiff filed a complaint with the California
15 Department of Fair Employment and Housing, in full compliance with these sections, and she
16 received a right to sue letter.

17 41. Defendant SCS's conduct resulted in the damages and injuries to Plaintiff as
18 alleged in this Complaint. As a direct and proximate result of the conduct of Defendant SCS,
19 Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and
20 physical pain and anguish, all to her damage in at least \$1,000,000, subject to proof at trial.

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

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

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28 //

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

SECOND CAUSE OF ACTION

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

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

46. The offensive conduct to which Plaintiff was subjected constitutes a hostile work environment in violation to FEHA, California Government Code §12940 et seq. During her employment, Defendant SCS violated FEHA, California Government Code §12940 (j), by discriminating against Plaintiff due to her gender.

47. Defendant SCS's harassment was hostile, abusive, continuous and pervasive to create a hostile work environment for the Plaintiff.

48. Defendant SCS's harassment was unwelcome, humiliating, offensive and adversely affected the terms of Plaintiff's employment.

49. Plaintiff was subjectively offended by Defendant SCS's conduct and any reasonable person in Plaintiff's position would perceive Defendant SCS's conduct as being offensive, hostile and abusive.

50. As a direct result of Defendant SCS's failure to take all reasonable steps necessary to prevent discrimination, Plaintiff has suffered and will continue to suffer pain and suffering, extreme and severe mental anguish and emotional distress, loss of earnings and earning capacity. Plaintiff is hereby entitled to general and compensatory damages in at least \$1,000,000, subject to proof at trial.

51. Defendant SCS did the things hereinabove alleged, intentionally, oppressively, and maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against

1 public policy, were obnoxious, despicable, and ought not to be suffered by any member of the
2 community.

3 52. All actions of Defendant SCS were known, ratified and approved by the officers
4 or managing agents of SCS. Therefore, Plaintiff is entitled to punitive or exemplary damages
5 against SCS in an amount to be determined at the time of trial.

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

8 **THIRD CAUSE OF ACTION**

9 **(Retaliation in Violation of Government Code §§12940 et seq. - By Plaintiff Against**
10 **Defendant SCS and Does 1 through 100)**

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

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

17 56. As a result of her gender, Plaintiff was denied the right to work in an
18 environment free of discrimination and harassment and was wrongfully terminated by SCS.

19 57. Defendant SCS's retaliatory conduct toward Plaintiff caused her emotional
20 injury, including, but not limited to, humiliation, anxiety, fear, and loss of self-esteem.
21 Defendant SCS's retaliatory conduct was a substantial factor and the proximate cause of
22 Plaintiff's damages.

23 58. Plaintiff's gender was the reason Defendant retaliated against her.

24 59. Plaintiff has suffered monetary damages, lost wages and privileges of
25 employment illegally caused by Defendant SCS's discriminatory conduct in an amount within
26 the jurisdiction of this Court, according to proof.

27 60. Defendant SCS's conduct was the proximate cause of the Plaintiff's damages.
28

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

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

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

FOURTH CAUSE OF ACTION

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

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

65. Defendant SCS's conduct in subjecting Plaintiff to discriminatory conduct due to Plaintiff's gender constituted breach of their duty under FEHA, including the duty to take immediate and appropriate corrective action and to take all reasonable steps to prevent discrimination and retaliation from occurring pursuant to California Government Code Section 12940(k).

66. Defendant SCS failed to take measures to prevent discrimination and retaliation.

67. As a direct result of Defendant SCS's failure to take all reasonable steps necessary to prevent discrimination, Plaintiff has suffered and will continue to suffer pain and suffering, extreme and severe mental anguish and emotional distress, loss of earnings and earning capacity. Plaintiff is hereby entitled to general and compensatory damages in the amount of at least \$1,000,000, subject to proof at trial.

68. Defendant SCS did the things hereinabove alleged, intentionally, oppressively, and maliciously with an evil and malevolent motive to injure Plaintiff. These acts were against

1 public policy, were obnoxious, despicable, and ought not to be suffered by any member of the
2 community.

3 69. All actions of Defendant SCS were known, ratified and approved by the officers
4 or managing agents of SCS. Therefore, Plaintiff is entitled to punitive or exemplary damages
5 against the Defendant SCS in an amount to be determined at the time of trial.

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

8 **FIFTH CAUSE OF ACTION**

9 **(Harassment Due to Gender in Violation of Govt. Code §12940(a)– By Plaintiff against all**
10 **Defendants and Does 1 through 100)**

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

13 72. Beginning in or about March 2025, Plaintiff was harassed by the actions,
14 conduct and comments of Yolanda, which actions, conduct and comments combined to create
15 and allow a pattern of discriminatory treatment towards her due to her gender. Defendants'
16 actions constituted a continuing violation of Cal. Gov. Code § 12940, et seq.

17 73. Defendants negligently and in bad faith failed to properly investigate Plaintiff's
18 claims of harassment and take appropriate remedial action.

19 74. Defendants, and each of them, engaged in retaliatory actions against Plaintiff for
20 complaining about and participating in the investigation of the above-referenced illegal
21 conduct. Because of her complaints about the illegal conduct as aforesaid, Plaintiff was
22 subjected to unfair and hostile treatment by Defendants and each of them.

23 75. At all times herein mentioned, Defendants, and each of them were legally
24 required to refrain from discriminating against and harassing any employee on the basis of
25 gender, among other things. Within the time provided by law, Plaintiff filed a complaint with
26 the DFEH, in full compliance with these sections, and received a right to sue letter.
27
28

76. Defendants' conduct resulted in the damages and injuries to Plaintiff as alleged in this Complaint. As a direct and proximate result of the conduct of Defendants and each of them, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to her damage in at least \$1,000,000, subject to proof at trial.

77. Defendants did the things hereinabove alleged, intentionally, oppressively, and maliciously with an evil and malevolent motive to injure Plaintiff. These acts, which resulted in Plaintiff's wrongful termination against public policy, were obnoxious, despicable, and ought not to be suffered by any member of the community.

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

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

SIXTH CAUSE OF ACTION

(Wrongful Termination in Violation of Public Policy, Govt. Code §§12940 et seq. – By Plaintiff Against Defendant SCS Does 1 through 100)

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

81. Plaintiff alleges that significant policies exist in the State of California that prohibit discrimination, retaliation, wrongfully terminating an employee for being female, complaining about harassment and protesting against unlawful employment practices. Among others, the right to be free from discrimination and retaliation are codified in the California and United States Constitutions and the provisions of Government Code §§12900 *et seq.*

82. These policies are set forth in various laws including but not limited to Government Code §§12940 (a), 12940 (k); Cal. Const. Art. 1, §8 (employment discrimination).

1 83. SCS, acting through its owner, intentionally created and knowingly permitted
2 the discrimination based on gender and harassment.

3 84. Defendant SCS wrongfully terminated Plaintiff in violation of important and
4 well-established public policies, including, but not limited to, policies against employment
5 discrimination based upon gender and against harassment.

6 85. Defendant SCS's wrongful conduct proximately caused Plaintiff to suffer
7 general, special and statutory damages in an amount within the jurisdiction of this Court,
8 according to proof.

9 86. As a further proximate result of the unlawful acts of Defendant SCS as alleged
10 above, Plaintiff has been harmed in that she has suffered humiliation, mental anguish, and
11 emotional and physical distress that a reasonable person would suffer upon losing her job. As
12 a result of such actions and consequent harm, Plaintiff has suffered such damages in the
13 amount of at least \$1,000,000, subject according to proof at trial.

14 87. The above acts of Defendant SCS constituted a wrongful termination of Plaintiff
15 and were in violation of public policy as described above. Such termination was a substantial
16 factor in causing damage and injury to Plaintiff as set forth below.

17 88. Plaintiff believes and thereon alleges that engaging in a protected activity,
18 including, but not limited to, complaining about harassment were factors in Defendant SCS
19 conduct as alleged hereinabove.

20 89. As a result of Defendant SCS's conduct, Plaintiff is entitled to recover punitive
21 damages in amount according to proof at trial.

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

24 **SEVENTH CAUSE OF ACTION**

25 **(Willful Misclassification as an Independent Contractor in violation of Cal. Lab. Code**
26 **§§226.8, 2750.5, Wage Order No. 5 By Plaintiff Against Defendant SCS and Does 1-100)**

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

1 92. Labor Code § 2750.5 provides in pertinent part: “Proof of independent
2 contractor status includes satisfactory proof of these factors:

3 a. That the individual has the right to control and discretion as to the manner of
4 performance of the contract for services in that the result of the work and not the
5 means by which it is accomplished is the primary factor bargained for;

6 b. That the individual is customarily engaged in an independently established
7 business; and

8 c. That the individual's independent contractor status is bona fide and not a
9 subterfuge to avoid employee status. A bona fide independent contractor status
10 is further evidenced by the presence of cumulative factors such as substantial
11 investment other than personal services in the business, holding out to be in
12 business for oneself, bargaining for a contract to complete a specific project for
13 compensation by project rather than by time, control over the time and place the
14 work is performed, supplying the tools and instrumentalities normally and
15 customarily provided by employees, hiring employees, performing work that is
16 not ordinarily in the course of the principal's work performing work that requires
17 “a particular skill holding a license pursuant to the Business and Professions
18 Code, the intent by the parties that the work relationship is of an independent
19 contractor status, or that the relationship is not severable or terminable at will by
20 the principal but gives rise to an action for the breach of contract.”

21 93. Under Labor Code § 226.8, it is unlawful for any person or employer to engage
22 in the “willful misclassification” of an individual as an independent contractor. “Willful
23 misclassification” is defined as “avoiding employee status for an individual by voluntarily and
24 knowingly misclassifying that individual as an independent contractor.” Labor Code
25 §226.8(i)(4).

26 94. On information and belief, SCS’s managing agents setting policy knowingly
27 advised the other Defendant, SCS, to wrongfully treat Plaintiff as an independent contractor
28

1 to avoid the payment of wages and other benefits in violation of the Labor Code and IWC
2 Wage Order No. 5.

3 95. Plaintiff performed work as a cleaner that was within the usual course of
4 Defendant SCS's business. Plaintiff was not engaged in an independently established business.

5 96. Defendant SCS's practice was unlawful and entitles Plaintiff to recover in a civil
6 action a civil penalty between \$5,000 and \$25,000 in accordance with Labor Code § 226.8(b)-
7 (c), as well as the appropriate withholding of federal, state, and local income taxes based upon
8 a flat withholding rate for supplemental wage payments in accordance with Treas. Re. §§
9 31.3402(g)-1(a)(2) as amended or supplemented, and any corresponding state or local law, and
10 the Plaintiff's share of FICA, Medicare, and state and local employment taxes that were
11 improperly not paid by Defendant SCS as a result of the unlawful "independent contractor"
12 classification.

13 97. Pursuant to Labor Code § 3353, Plaintiff was not an independent contractor.

14 98. Because of this misclassification, Plaintiff suffered damages as a result of SCS's
15 violation of the applicable Labor Code, in an amount within the jurisdiction of this Court,
16 according to proof.

17 99. Based on SCS's conduct as alleged herein, SCS is liable for damages and
18 statutory penalties pursuant to Labor Code § 226.8.

19 **EIGHTH CAUSE OF ACTION**

20 **(Failure to Pay Minimum Wages in Violation of Labor Code §§ 1194, 1197, 1197.1, 1198,**
21 **119, IWC Wage Order No. 5 – By Plaintiff Against Defendant SCS and Does 1 through**
22 **100)**

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

25 101. *Labor Code* § 1197 states the California requirement that employees must be
26 paid at least the minimum wage fixed by the Commission, and any payment of less than the
27 minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles "any employee receiving
28 less than the legal minimum wage... to recover in a civil action the unpaid balance of the full

1 amount of this minimum wage.” IWC Wage Order No. 5 also obligates employers to pay each
2 employee minimum wages for all hours worked. These minimum wage standards apply to each
3 hour employees worked for which they were not paid. Therefore, an employer’s failure to pay
4 for any particular hour of time worked by an employee is unlawful, even if averaging an
5 employee’s total pay over all hours worked, paid or not, results in an average hourly wage
6 above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324 (2005).

7 102. Here, Plaintiff was not paid minimum wages due to Defendant SCS’s failure to
8 afford Plaintiff compliant rest breaks.

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

12 104. *Labor Code* § 1194.2 allows an employee to recover liquidated damages in an
13 amount equal to the wages unlawfully unpaid and interest thereon for any action under *Labor*
14 *Code* § 1194. Where an employee, such as Plaintiffs are not paid for all hours worked under
15 *Labor Code* § 1194, the employee may recover minimum wages for the time associated with
16 the overtime for which they received no compensation. *See Sillah v. Command Int’l Sec. Servs.*,
17 154 F. Supp. 3d 891 (N.D. Cal. 2015) (holding that employees suing for failure to pay overtime
18 could recover liquidated damages under § 1194.2 if they also showed they were paid less than
19 minimum wage); *accord Andrade v. Arby’s Rest. Grp., Inc.*, 225 F. Supp. 3d 1115, 1132-33
20 (N.D. Cal. 2016).

21 105. Plaintiff suffered and continued to suffer losses related to the use and
22 enjoyment of compensation due and owing to her as a direct result of Defendant SCS’s
23 unlawful acts and Labor Code violations in the amount of at least \$61,440, according to proof
24 at trial.

25 106. *Labor Code* § 1197.1(a) mandates a civil penalty for failure to pay minimum
26 wages against employers and those individuals acting on their behalf. Plaintiff requests that
27 this Court assess said penalty against Defendant SCS in an amount to be proven at trial.
28

1 107. Therefore, pursuant to Labor Code §§200, 203, 218.5, 226, 558,1194 and
2 1194.2, Plaintiff is entitled to recover the unpaid balances of the minimum wages Defendant
3 SCS owes her, plus interest, penalties, attorneys' fees, expenses and costs of suit, in amounts
4 according to proof.

5 **NINTH CAUSE OF ACTION**

6 **(For Failure to Provide Rest Breaks in violation of Cal. Labor Code §226.7– By Plaintiff**
7 **Against Defendant SCS and Does 1 through 100)**

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

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

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

17 111. Defendant SCS has intentionally and improperly not afforded any rest periods to
18 Plaintiff in violation of Labor Code § 226.7 and Wage Order No. 5.

19 112. At all times relevant hereto, Plaintiff has worked 8 or more hours daily.

20 113. At all times relevant hereto, Defendant failed to provide rest periods as required
21 by Labor Code § 226.7 and Wage Order No. 5.

22 114. By virtue of Defendant SCS's unlawful failure to provide rest periods to the
23 Plaintiff, Plaintiff has suffered, and will continue to suffer, damages in amounts which are
24 presently unknown to Plaintiff, but which exceed the jurisdictional limits of the Court and
25 which will be ascertained according to proof at trial.

26 **TENTH CAUSE OF ACTION**

27 **(Failure to Issue Accurate Wage Statements in Violation of Labor Code §226 - By**
28 **Plaintiff Against Defendant SCS and Does 1 through 100)**

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

3 116. At all times relevant hereto, Defendant SCS failed to issue any payrolls
4 statements to Plaintiff which complied with *Labor Code* § 226.

5 117. Defendant SCS knowingly and intentionally failed to comply with *Labor Code*
6 §226(a), causing damage to Plaintiff. These damages, including but not limited to, costs
7 expended calculating the actual hours worked and the amount of employment taxes which were
8 not properly paid to state and federal tax authorities, are difficult to estimate. Therefore,
9 Plaintiff elects to recover liquidated damages of \$50.00 for the initial pay period in which the
10 violations occurred, and \$100.00 for each violation in subsequent pay periods, pursuant to
11 *Labor Code* § 226(e), in the amount of \$4,000.00 plus reasonable attorneys' fees and costs.

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

14 **ELEVENTH CAUSE OF ACTION**

15 **FAILURE TO PAY WAGES UPON TERMINATION AND/OR RESIGNATION**
16 **(Labor Code §§201-203 By Plaintiff Against Defendant SCS and Does 1 through 100)**

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

19 120. Labor Code § 201(a) provides that a discharged employee's unpaid wages are
20 due and payable immediately. Labor Code § 202(a) provides that when an employee resigns or
21 is terminated from employment, unpaid wages are due and payable within 72 hours of
22 resignation or termination.

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

26 122. Plaintiff was discharged from Defendant SCS's employ and Defendant SCS
27 willfully failed to pay minimum wages, afford rest breaks and did not pay her premium pay for
28 rest breaks not afforded.

1 123. Defendant terminated Plaintiff on March 16, 2025, yet failed to pay her wages
2 due to her.

3 124. Under Labor Code § 203(a), Plaintiff is entitled to one day's wages for each day
4 she was not timely paid, not to exceed 30 days' wages.

5 **TWELFTH CAUSE OF ACTION**

6 **FAILURE TO REIMBURSE BUSINESS EXPENSES**

7 **(Cal. Labor Code §2802 By Plaintiff Against Defendant SCS and Does 1 through 100)**

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

10 126. Labor Code §2802 requires employers to indemnify employees for all necessary
11 expenditures incurred by employees in the discharge of their duties.

12 127. At all times relevant herein, Defendant SCS was aware that Plaintiff was using
13 her personal vehicle and cell phone for business and also purchasing cleaning supplies, but
14 failed to indemnify Plaintiff for all her business-related expenses, including wear and tear
15 expenses, in accordance with Labor Code §2802.

16 128. As a result of Defendant SCS's conduct, Plaintiff suffered damages in an
17 amount, subject to proof, to the extent she was not reimbursed for all of her business-related
18 expenses incurred in the discharge of her duties.

19 129. Pursuant to Labor Code §2802, Plaintiff is entitled to recover the full amount of
20 her unreimbursed business expenses, reasonable attorneys' fees and costs of suit.

21 **THIRTEENTH CAUSE OF ACTION**

22 **(For Failure to Allow Inspection of Employment Records in Violation of Cal. Labor Code**
23 **§1198.5 By Plaintiff Against Defendant SCS and Does 1 through 100)**

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

26 131. California Labor Code Section 1198.5 provides:

27 (a) Every current and former employee, or his or her representative, has the right
28 to inspect and receive a copy of the personnel records that the employer

1 maintains relating to the employee's performance or to any grievance concerning
2 the employee.

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

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

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

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

25 133. On or about March 19, 2025, Plaintiff's counsel issued a written request to SCS
26 for copies of her personnel records.

27 134. Under California Labor Code Sections 226, 432 and 1198.5, such records were
28 to include all records relating to Plaintiff's hours worked, wage statements and compensation.

1 Plaintiff's counsel and SCS did not enter into an agreement to enlarge the time for SCS's
2 compliance, and SCS has failed and refused to permit Plaintiff copies of her records.

3 135. As a direct result and consequence of SCS's failure and refusal to permit
4 Plaintiff full access to her records, Plaintiff seeks injunctive relief in the form of an order or
5 decree mandating SCS's compliance. Plaintiff has suffered and will suffer harm as a result of
6 SCS's ongoing refusal to comply. Plaintiff also seeks recovery of the statutory penalty of \$750
7 based upon SCS's violation of §1198.5.

8 **FOURTEENTH CAUSE OF ACTION**

9 **(For Unfair Competition in Violation of Unfair Business Practices, Cal. Bus. & Prof. Code**
10 **§17200 et. seq. – By Plaintiff Against Defendant SCS and Does 1 through 100)**

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

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

15 138. Defendant SCS's conduct as alleged herein has been and continues to be unfair,
16 unlawful, and deleterious to Plaintiff. Plaintiff hereby seeks to enforce important rights
17 affecting the public interest within the meaning of the Cal. Code of Civ. Proc. § 1021.5.
18 Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, and
19 therefore has standing to bring this suit for restitution.

20 139. Paying minimum wages and affording employees' rest breaks are fundamental
21 public policies of the State of California. It is also the public policy of this State to enforce
22 minimum labor standards, to ensure that employees are not required or permitted to work under
23 substandard and unlawful conditions, and to protect those employers who comply with the law
24 from losing competitive advantage to other employers who fail to comply with labor standards
25 and requirements.

26 140. Defendant SCS willfully misclassified Plaintiff as an independent contractor,
27 failed to pay minimum wages, afford rest breaks and reimburse expenses to Plaintiff. Further,
28 Defendant SCS failed to provide Plaintiff with her personnel records.

141. Through the conduct alleged herein, Defendant SCS acted contrary to these public policies and has thus engaged in unlawful and/or unfair business practices in violation of Business & Professions Code §§ 17200 *et. seq.*, depriving Plaintiff of the rights, benefits, and privileges guaranteed to employees under California law.

142. Defendant SCS regularly and routinely violated the following statutes and regulations with respect to Plaintiff:

- (a) Willful misclassification as exempt (Wage Order No. 5);
- (b) *Labor Code* § 1197 and Wage Order No. 5 (failure to pay minimum wages);
- (c) Labor Code §226 (failure to afford rest breaks);
- (e) *Labor Code* § 226 (failure to provide accurate wage statements to employees at the time of payment of wages);
- (f) *Labor Code* §§ 202 and 203 (failure to pay wages due at termination);
- (g) *Labor Code* § 2802 (failure to reimburse business expenses); and
- (h) *Labor Code* §1198.5 (failure to allow inspection of employment records).

143. By engaging in these business practices, which are unfair business practices within the meaning of Bus. & Prof. Code §§ 17200 *et seq.*, Defendant SCS harmed Plaintiff and gained an unfair competitive edge. Under the Business & Professions Code § 17203, Plaintiff is entitled to obtain restitution of these funds.

FIFTEENTH CAUSE OF ACTION

**(Retaliation in Violation of Cal. Labor Code §233 By Plaintiff Against Defendant SCS and
Does 1 through 100)**

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

145. Pursuant to Labor Code §233, an employer who provides sick leave for its employees shall permit its employees to use the employee's accrued and available sick leave for

1 diagnosis, care, or treatment of an existing health condition of, or preventive care for, an
2 employee or an employee's family member and/or the employee himself or herself.

3 Additionally, an employer shall not deny an employee the right to use sick leave or discharge,
4 threaten to discharge, demote, suspend, or in any manner discriminate against an employee for
5 using, or attempting to exercise the right to use, sick leave to attend to an illness or the
6 preventive care of an employee and/or the employee's family member.

7 146. Because Plaintiff attempted to exercise her rights to take sick leave and to be
8 paid therefor as permitted by California Labor Code section 233, SCS unlawfully retaliated
9 against, discriminated against and wrongfully terminated Plaintiff in violation of sections 233
10 and 234.

11 147. Defendant SCS's conduct, as alleged above, constituted unlawful retaliation,
12 discrimination, and wrongful termination in employment on account of Plaintiff's protected sick
13 leave in violation of California Labor Code sections 233 and 234.

14 148. As a proximate result of the acts of SCS as described above, Plaintiff has
15 suffered and will continue to suffer economic damages, including lost wages, lost benefits, loss
16 of promotional opportunity, and other compensatory damages in the amount of at least
17 \$61,440.00, according to proof at the time of trial.

18 149. As a proximate result of the acts of SCS, Plaintiff suffered and continues to
19 suffer humiliation, emotional, mental and physical distress, anxiety, nervousness, stress and has
20 been generally damaged in an amount to be ascertained at the time of trial.

21 150. As a direct and proximate result of the conduct of SCS, Plaintiff was forced to
22 incur substantial costs and attorneys' fees.

23 151. The acts of SCS which were carried out by managing agents, were intentional,
24 willful and malicious and done in conscious disregard of Plaintiff's rights, safety and well-being
25 and with the intent to vex, injure and annoy Plaintiff, as such Plaintiff requests that exemplary
26 and punitive damages be assessed against SCS in an amount sufficient to punish SCS and to
27 deter others from engaging in similar conduct.

1 152. Plaintiff also seeks her attorneys' fees as permitted by Labor Code Section
2 233(e).

3 **PRAYER FOR RELIEF**

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

6 1. For compensatory damages in the amount of unpaid minimum wages due to
7 Plaintiff, in the amount of at least \$61,440, according to proof;

8 2. For compensatory damages for lost wages and employment benefits, in the
9 amount of at least \$61,440, according to proof;

10 3. For compensatory damages in the amount of Plaintiff's out of pocket expenses
11 and/or reimbursement of monies incurred while performing Defendant SCS's business-related
12 duties, plus interest, costs and attorneys' fees pursuant to Cal. Code Civ. Proc. §2802(c);

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

16 5. For compensatory damages for physical and emotional distress, in the amount of
17 at least \$1,000,000, subject to proof;

18 6. For an award of consequential damages, according to proof;

19 7. For one (1) hour of pay at the regular rate of compensation for Plaintiff for each
20 workday that a rest period was not provided;

21 8. For statutory damages pursuant to *Cal. Lab. Code* §226, according to proof;

22 9. For payment to Plaintiff of waiting time penalties pursuant to *Cal. Lab. Code*
23 §203, in an amount equal to her respective daily rates of pay at the time of termination or
24 layoff, multiplied by the total amount of days elapsed between the date of the involuntary
25 termination, and/or 72 hours after notice of the voluntary termination, up to a maximum of 30
26 days' pay, according to proof;

27 10. For specific relief enforcing waiting time penalties of 30 days of per diem wages
28 pursuant to *Cal. Bus. & Prof. Code* §17200 and *Cal. Lab. Code* §203, according to proof;

1 11. For statutory penalties pursuant to *Cal. Lab. Code* §§ 203.1, 226.7, 226.8,
2 according to proof;

3 12. For reasonable costs, including attorneys' fees, in an amount according to proof
4 pursuant to *Government Code* § 12965(b), *Cal. Labor Code* §§218.5, 226.8, 233 (e), 1198.5,
5 2802, and/or *Cal. Code Civ. Proc.* §1021.5;

6 13. For injunctive relief ordering the continuing unfair business acts and practices to
7 cease, as the Court deems just and proper;

8 14. For other injunctive relief ordering Defendant SCS to notify Plaintiff that she
9 has not been paid the proper amounts in accordance with California law;

10 15. For injunctive relief requiring Defendant SCS to comply with Labor Code
11 1198.5(b)(1);

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

13 17. For such other and further relief as the Court deems just and proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff Lucero Pola Lopez hereby respectfully requests a trial by jury for all claims
16 and issues raised in her Complaint that may be entitled to a jury trial.

17
18 LIPELES LAW GROUP, APC

19 Date: March 27, 2025

20
21 By: Vanya Khanna
22 Vanya Khanna
23 Attorneys for Plaintiff
24 Lucero Pola Lopez
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