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Attorneys for Plaintiff
DAVIS JOSUE PACHECO MENDOZA

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

DAVIS JOSUE PACHECO MENDOZA
aka DAVID ERNANDES, an individual,

Plaintiff,

vs.

LAZY DOG FAMILY, LLC, a Delaware
limited liability company; LAZY DOG
RESTAURANTS, LLC, a Delaware limited
liability company; LAZY DOG
RESTAURANTS, INC., a Delaware
corporation and DOES 1 through 100,
inclusive,

Defendants.

CASE NO. 25STCV07506

COMPLAINT FOR:

- 1. FAILURE TO PAY OVERTIME;**
- 2. VIOLATION OF LABOR CODE §226;**
- 3. FAILURE TO PAY FOR REST PERIODS NOT PROVIDED;**
- 4. FAILURE TO PAY FOR MEAL PERIODS NOT PROVIDED;**
- 5. WAITING TIME PENALTIES;**
- 6. FAILURE TO PAY MINIMUM WAGE;**
- 7. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;**
- 8. FAILURE TO PREVENT HARASSMENT – GOV'T CODE § 12940(k)**
- 9. UNFAIR COMPETITION;**
- 10. HARASSMENT;**
- 11. DISCRIMINATION – GOV'T CODE § 12940(a)**
- 12. HOSTILE WORK ENVIRONMENT/HARASSMENT – GOV'T CODE § 12940(j)**

DEMAND FOR JURY TRIAL

I.
PARTIES

1. Plaintiff DAVIS JOSUE PACHECO MENDOZA aka DAVID ERNANDES (“Plaintiff” or “Plaintiffs”) is an individual and a resident of the County of Los Angeles, State of California.

2. Plaintiff is a former employee of Defendant LAZY DOG FAMILY, LLC.

3. Plaintiff is informed and believes and thereon allege that Defendant LAZY DOG FAMILY, LLC is a limited liability company organized pursuant to the laws of State of Delaware. Plaintiff is informed and believes and thereon allege that Defendant Lazy Dog Family, LLC is authorized to do business and is doing business in the State of California.

4. Plaintiff is informed and believes and thereon allege that Defendant LAZY DOG RESTAURANTS, LLC is a limited liability company organized pursuant to the laws of State of Delaware. Plaintiffs are informed and believe and thereon allege that Defendant Lazy Dog Restaurants, LLC is authorized to do business and is doing business in the State of California.

5. Plaintiff is informed and believes and thereon alleges that Defendant LAZY DOG RESTAURANTS INC. is a corporation organized pursuant to the laws of State of Delaware. Plaintiff is informed and believes and thereon allege that Defendant Lazy Dog Restaurants Inc. is authorized to do business and is doing business in the State of California.

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

7. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1 through 100, inclusive, and therefore Plaintiff sues these Defendants by such fictitious names and capacities. Plaintiff will amend his Complaint to show their true names and capacities when they have been ascertained. Plaintiff is informed and believes and thereon alleges that at all times relevant, each of these fictitiously named Doe Defendants was an

1 individual person who owned, controlled, or managed the business for which Plaintiffs worked
2 and/or who directly or indirectly exercised operational control over the wages, hours, and
3 working conditions of Plaintiff. These Does Defendants held ownership, officer, director and/or
4 executive positions with the remaining Defendants, and acted on behalf of the remaining
5 Defendants, which included decision-making responsibility for, and establishment of, illegal
6 payroll practices and policies for Defendants which have damaged Plaintiff. Therefore, Does 1
7 through 100, in addition to the remaining Defendants, are “employers” as a matter of law and
8 personally liable on the causes of action alleged herein pursuant to California wage and hour
9 laws and regulations as alleged herein.

10 8. Plaintiff is informed and believes and thereon alleges that Defendant Does 1
11 through 100 are, and at all times relevant hereto were, persons, corporations or other business
12 entities organized and existing under and by virtue of the laws of the State of California, and
13 are/were qualified to transact and conduct business in the State of California, and did transact
14 and conduct business in the State of California, and are thus subject to the jurisdiction of the
15 State of California. Specifically, Does 1 through 100 maintain offices, operate businesses,
16 employ persons, and conduct business in, and illegally pay employees by illegal payroll
17 practices and policies in the County of Los Angeles.

18 9. Plaintiff is informed and believes and thereon alleges that Defendants, and each
19 of them, directly employed or exercised control over each of their wages, hours, or working
20 conditions.

21 10. Plaintiff further alleges that Defendants, directly or indirectly controlled or
22 affected the working conditions, wages, working hours, and conditions of employment of
23 Plaintiff, and the Aggrieved Employees so as to make each of said Defendants employers and
24 employers jointly liable under the statutory provisions set forth herein.

25 11. Plaintiff is informed and believes, and based thereupon alleges, that at all times
26 relevant hereto, Defendants, and each of them, were the agents, employees, managing agents,
27 supervisors, coconspirators, parent corporation, joint employers, alter egos, successors, and/or
28 joint ventures of the other Defendants, and each of them, and in doing the things alleged herein,

1 were acting at least in part within the course and scope of said agency, employment,
2 conspiracy, joint employer, alter ego status, successor.

3 12. Plaintiff is informed and believes and thereon alleges that each of the fictitiously
4 named Defendants aided and assisted the named Defendants in committing the wrongful acts
5 alleged herein, and that each of their damages were proximately caused by each defendant.

6 13. Pursuant to the California Labor Code, Plaintiff intends to file a notice with
7 Labor and Workforce Development Agency (LWDA) and pursue claims against Defendants
8 under the Private Attorney General Act (PAGA). As such, Plaintiff further reserves the right to
9 amend this Complaint once he completes and complies with the provisions under the law.

10 II.

11 JURISDICTION

12 14. Plaintiff has exhausted his administrative remedies as to the causes of action
13 brought under the Fair Employment and Housing Act by obtaining a right to sue letter from the
14 California Department of Fair Employment and Housing, dated March 14, 2025.

15 15. Venue is appropriate in this judicial district because some or all of the events or
16 omissions giving rise to the claims alleged herein occurred within the County of Los Angeles
17 and more than \$50,000 is at stake.

18 III.

19 FACTUAL ALLEGATIONS THAT ARE COMMON TO ALL CAUSES OF ACTION

20 Employment information

21 16. Defendants employed Plaintiff as a cook at Defendants' restaurant located in Los
22 Angeles, California commencing November 1993 and ending August 31, 2024.

23 17. Plaintiff is a gay male.

24 18. A chef employed by defendants, Jose Doe would harass and torture Plaintiff by
25 striking Plaintiff in the back, leaving marks on Plaintiff's body and causing Plaintiff great pain.

26 19. Plaintiff was subjected to ongoing harassment by employees of Defendants
27 because of Plaintiff's sexual orientation as a gay male.

20. Plaintiff detailed the ongoing and egregious hostile work environment, harassment, and assault being inflicted upon him to supervisors and management.

21. Defendants failed to stop or address the harassment, discrimination, and mistreatment directed towards Plaintiff.

22. Plaintiff was terminated on August 31, 2024 based on false and pretextual reasons.

23. Such discrimination by Defendants created a hostile, intimidating, and oppressive work environment for Plaintiff, whereby the conditions of Plaintiff's employment were adversely altered. Moreover, the discrimination, including Plaintiff's unlawful termination, impeded Plaintiff's progress and the enjoyment of her employment with Defendant. The discriminatory work environment existed on a continuing and ongoing basis up to, and including, Plaintiff's unlawful termination

Defendants' managers and employees discriminated against and/or sexually harassed
several Plaintiffs

24. Plaintiff was subject to continuous and pervasive sexual harassment from other employees, including his manager. Plaintiff's manager and other agents and employees of Defendants harassed Plaintiff and created a hostile work environment because of Plaintiff's sexual orientation.

FIRST CAUSE OF ACTION

(Failure to Pay Overtime – By Plaintiffs against All Defendants)

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

26. During their entire employment with Defendants, pursuant to Cal. Lab. Code §§ 200, 510, 1194, and 1198, and IWC Wage Order No. 5, Defendants were required to compensate Plaintiffs with premium pay for all overtime work performed, for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week and for the first eight (8) hours on the seventh (7th) consecutive day of any work week, and double time after twelve (12)

1 hours in any single workday and/or after eight (8) hours on the seventh (7th) consecutive day of
2 any work week.

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

7 28. Within at least the last year preceding the filing of this Complaint, Defendants
8 employed Plaintiffs as servers.

9 29. Throughout Plaintiffs' employment, Defendants failed and refused to pay and
10 properly calculate overtime compensation to Plaintiffs as required by law.

11 30. The foregoing overtime compensation is owed and unpaid. As a direct and
12 proximate result of Defendants' failure and refusal to pay overtime, Plaintiffs suffered damages
13 in an amount to be proven at trial.

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

17 18 **SECOND CAUSE OF ACTION**

19 **(For Violation of Cal. Lab. Code § 226 – By Plaintiffs against All Defendants)**

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

22 33. At all times relevant herein, Defendants issued payroll statements to Plaintiff
23 which violated Cal. Lab. Code § 226(a), in that Defendants failed to properly and accurately
24 itemize the number of hours each plaintiff worked at the effective regular rates of pay and the
25 effective overtime rates of pay.

26 34. Defendants knowingly and intentionally failed to comply with Cal. Lab. Code §
27 226(a), causing damage to Plaintiff. These damages, including but not limited to costs expended
28 calculating their true hours worked, and the amount of employment taxes which were not

1 properly paid to state and federal tax authorities, are difficult to estimate. Therefore, Plaintiff
2 elects to recover liquidated damages of \$50.00 for the initial pay period in which the violation
3 occurred, and \$100.00 for each violation in subsequent pay periods pursuant to Cal. Lab. Code
4 § 226(e), in the amount of \$4,000.00 plus reasonable attorney's fees and costs.

5 35. Plaintiff requests a permanent injunction to stop this unlawful conduct, plus
6 attorneys' fees and costs in obtaining the injunction, pursuant to Cal. Lab. Code § 226(g).

8 **THIRD CAUSE OF ACTION**

9 **(Compensation for Required Rest Periods Not Provided - Cal. Lab. Code § 226.7 and IWC**
10 **Wage Order No. 5 – Against Defendant Employers)**

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

13 37. Pursuant to IWC Wage Order No. 5, Defendants were required to authorize and
14 permit employees such as Plaintiff to take rest periods, based upon the total hours worked at a
15 rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof, with no
16 deduction from wages.

17 38. During the employment with Defendants of Plaintiff, Defendants failed and
18 refused to authorize and permit Plaintiff to take 10-minute rest periods for every four hours
19 worked or major fraction thereof, in violation of IWC Wage Order No. 5.

20 39. Defendant further violated IWC Wage Order No. 5, and Cal. Lab. Code § 226.7
21 by failing to pay Plaintiff one hour of pay at each of their regular rate of pay for each rest period
22 not provided, and thus Plaintiff is owed compensation in an amount according to proof. This
23 amount remains owed and unpaid.

25 **FOURTH CAUSE OF ACTION**

26 **(Compensation for Required Meal Periods Not Provided - Cal. Lab. Code §§ 226.7, 512,**
27 **and IWC Wage Order No. 5 – By Plaintiffs against All Defendant Employers)**

40. Plaintiff realleges and incorporates by reference all of the allegations set forth in this complaint.

41. Labor Code § 512 and IWC Wage Order No. 5 generally require an employer to provide a meal period of not less than 30 minutes for employees in the “Public Housekeeping Industry” who work a period of more than five hours per day, and a second meal period of not less than 30 minutes for employees who work more than 12 hours per day.

42. Defendants violated Labor Code § 512 and IWC Wage Order No. 5 by failing to provide Plaintiffs the requisite 30-minute meal periods required by law.

43. Defendants further violated IWC Wage Order No. 5, and Labor Code § 226.7 by failing to pay one hour of compensation to Plaintiff at their individual and regular rate of pay for each work day that the meal period was not provided, in an amount according to proof. This amount remains owed and unpaid.

FIFTH CAUSE OF ACTION

(Waiting Time Penalties – Cal. Lab. Code § 203 – By Plaintiffs against All Defendant Employers)

44. Plaintiff realleges and incorporate by reference all of the allegations set forth in this complaint.

45. By willfully failing to pay Plaintiff separate amounts owed for overtime pay, and for rest and meal periods not provided, as set forth above, in a timely manner as required by Cal. Lab. Code §§ 201 & 202, Defendants are liable to Plaintiff for penalties pursuant to Cal. Lab. Code § 203, in an amount equal to 30 days of Plaintiff's per diem wage rate in an amount according to proof.

SIXTH CAUSE OF ACTION

(Failure to Pay Minimum Wage – Cal. Lab. Code §1197 – against All Defendants)

46. Plaintiff realleges and incorporate by reference all of the allegations set forth in this complaint.

1 47. Pursuant to Labor Code § 1197, it is unlawful to pay employees less than the
2 mandated minimum wage.

3 48. For the four years preceding the filing of this lawsuit, Defendants were required
4 to compensate Plaintiff at the minimum wage, but failed to carry out their duties and
5 responsibilities as an employer imposed under the laws and regulations of the State of
6 California by failing to pay Plaintiff a minimum wage as required by the California Labor Code
7 and/or IWC Wage Order No. 5. Specifically, Defendants committed the following acts:

- 8 a. failing to pay for all hours worked;
- 9 b. taking employees “off the clock” in order to avoid overtime
10 requirements;
- 11 c. failing to provide rest breaks as required by law;
- 12 d. failing to provide meal periods as required by law;
- 13 e. illegally, unfairly, and unreasonably requiring Plaintiff to pay portions of
14 their income to “assist” in maintaining the tip pool;
- 15 f. illegally failing to record the time Plaintiff worked accurately; and
- 16 g. all other reasons to be discovered.

17 49. Defendants knowingly and willfully refused to perform their obligations to
18 compensate Plaintiff for all minimum wages earned and all hours worked. As a direct and
19 proximate result of Defendants’ conduct, Plaintiff has suffered, and continue to suffer,
20 substantial losses related to the use and enjoyment of such wages, lost interest on such wages,
21 and expenses and attorney’s fees in seeking to compel Defendants to fully perform their
22 obligation under state law, all to their respective damage in amounts according to proof.

23 50. Therefore, pursuant to Cal. Lab. Code §§ 200, 203, 218.5, 226, 1194, and
24 1194.2, Plaintiff is entitled to recover the unpaid balance of wages Defendants owe Plaintiff,
25 plus interest, penalties, attorney’s fees, expenses, and costs of suit.

26 51. Pursuant to Cal. Lab. Code § 1194.2, Plaintiff is entitled to recover as liquidated
27 damages an amount equal to the wages unlawfully unpaid and interest thereon.

28

1 **SEVENTH CAUSE OF ACTION**

2 **(Wrongful Termination in Violation of Public Policy Against Employers)**

3 52. Plaintiff realleges and incorporates by reference all of the allegations set forth in
4 this complaint.

5 53. Plaintiff was Employers' employee as that term is defined and used pursuant to
6 Cal. Lab. Code §2750, et seq., and Cal. Gov't. Code §12940, et seq., and common law.

7 54. Employers illegally terminated Plaintiff from his employment because of his
8 sexual orientation in violation of the public policy expressed in California law, including but not
9 limited to *Tameny v. Atlantic Richfield Co. (1980) 27 Cal.3d 167*.

10 55. As a proximate result of this wrongful termination in violation of public policy,
11 Plaintiff was caused to suffer, and continues to suffer, from humiliation, anxiety, severe
12 emotional distress, worry, and fear all to Plaintiff's general damage according to proof at the
13 time of trial, but in an amount not less than \$1,000,000.00.

14 56. As a proximate result of this wrongful termination in violation of public policy,
15 Plaintiff was caused to suffer special damages of lost wages according to proof at the time of
16 trial.

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

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

25
26 **EIGHTH CAUSE OF ACTION**

27 **(Failure to Prevent Harassment, Discrimination, or Retaliation – Gov. Code § 12940(k) –**
28 **Against Defendant Lazy Dog Restaurant)**

1 59. Plaintiff realleges and incorporate by reference all the allegations set forth above.

2 60. Government Code § 12940(k) provides that it shall be an unlawful employment
3 practice for an employer to fail to take all reasonable steps necessary to prevent discrimination,
4 harassment, and retaliation from occurring.

5 61. Defendants had a duty to prevent unlawful harassment and discrimination.
6 Defendants knew or should have known about discrimination and harassment of Plaintiff set
7 forth above. Defendant failed to implement adequate training, policies, or instructions that
8 would have prevented the aforementioned discrimination and harassment. Defendant breached
9 its duty to prevent discrimination, harassment, and retaliation against Plaintiff. Accordingly,
10 Defendants violated Government Code § 12940(k).

11 62. Defendants violated their duty under the FEHA by failing to take all reasonable
12 measures to prevent discrimination, harassment, and retaliation against Plaintiff.

13 63. As a direct, proximate, and legal result of Defendants' failure to take preventative
14 steps, Plaintiff suffered harm, including emotional distress and lost income, and Defendants'
15 conduct was substantial factor in causing harm to Plaintiff.

16 64. Pursuant to Government Code §12965, Plaintiff is entitled to recover against
17 Defendants the emotional distress and lost income directly caused by Defendants' conduct, and
18 Plaintiff is entitled to recover their attorney's fees and costs. Plaintiff also seeks "affirmative
19 relief" or "prospective relief" as defined by Government Code § 12926, subsection (a).

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

24
25 **NINTH CAUSE OF ACTION**

26 **(For Unfair Competition in Violation of Unfair Business Practices, Cal. Bus. & Prof. Code**
27 **§ 17200 et. seq. – By Plaintiffs against All Defendants)**

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

3 67. California Business & Professions Code § 17200 et seq. prohibits acts of unfair
4 competition, which shall mean and include any “unlawful and unfair business practices.”

5 68. Defendants’ conduct as alleged herein has been and continues to be unfair,
6 unlawful, and deleterious to Plaintiffs. Plaintiffs hereby seek to enforce important rights
7 affecting the public interest within the meaning of the Cal. Code of Civ. Proc. § 1021.5.
8 Plaintiffs are “persons” within the meaning of Business & Professions Code § 17204, and
9 therefore has standing to bring this suit for restitution.

10 69. The prompt payment of overtime is a fundamental public policy of the State of
11 California. It is also the public policy of this State to enforce minimum labor standards, to
12 ensure that employees are not required or permitted to work under substandard and unlawful
13 conditions, and to protect those employers who comply with the law from losing competitive
14 advantage to other employers who fail to comply with labor standards and requirements.

15 70. Through Defendants’ tip pool, Defendants were able to fund raises to its cooks
16 by taking tips away from its servers.

17 71. Through the conduct alleged herein, Defendants acted contrary to these public
18 policies and have thus engaged in unlawful and/or unfair business practices in violation of
19 Business & Professions Code §§ 17200 et. seq., depriving Plaintiffs of the rights, benefits, and
20 privileges guaranteed to employees under California law.

21 72. Defendants regularly and routinely violated the following statutes and
22 regulations with respect to Plaintiffs:

23 a. Cal. Lab. Code §§ 510 and 1194 and IWC Wage Order No. 5 as amended
24 (failure to pay overtime);

25 b. Cal. Lab. Code § 226 (failing to provide accurate wage statements to
26 employees at the time of payment);

27 c. Cal. Lab. Code §§ 201, 202 and 203 (failure to pay wages due on
28 termination);

- 1 d. Cal. Lab. Code §§ 226.7 and 512, and IWC Wage Order No. 5 (failure to
2 provide meal and rest periods);
3 e. Cal. Lab. Code § 218.5 and IWC Wage Order No. 5 (failure to
4 compensate for all hours worked);
5 f. Cal. Lab. Code § 1197 and IWC Wage Order No. 5 (failure to pay
6 minimum wages); and
7 g. Cal. Lab. Code § 350, et seq. relating to the tip pool practices.

8 73. By engaging in these business practices, which are unfair business practices
9 within the meaning of Bus. & Prof. Code §§ 17200 et seq., Defendants harmed Plaintiffs and
10 gained an unfair competitive edge. Under the Business & Professions Code § 17203, Plaintiffs
11 are entitled to obtain restitution of these funds.

12
13 **TENTH CAUSE OF ACTION**

14 **(Harassment –Against All Defendants)**

15 74. Plaintiff realleges and incorporate by reference all of the allegations set forth in
16 this complaint.

17 75. At all relevant times, Plaintiff was continuously harassed and subjected to a
18 hostile work environment by the actions, conduct and comments of Defendants' employees,
19 which actions, conduct and comments combined to create and allow a pattern of discriminatory
20 treatment towards Plaintiff due his gender and sexual orientation. Defendants' actions
21 constituted a continuing violation of Cal. Gov. Code § 12940, et seq.

22 76. Defendants negligently and in bad faith failed to investigate these Plaintiffs'
23 claims of harassment properly and take appropriated remedial action, which caused and
24 contributed to the existence of the hostile work environment as alleged herein.

25 77. Defendants, and each of them, engaged in retaliatory actions against Plaintiff for
26 complaining about and participating in the investigation of the above-referenced illegal conduct,
27 in furtherance of the creation and maintenance of a hostile work environment. Because of their
28

1 complaints about the illegal conduct as described above, Plaintiff was subjected to unfair and
2 hostile treatment by Defendants and each of them.

3 78. All of the conduct by defendants, and each of them, was done with the full
4 knowledge and ratification of the management employees of Defendants and was consistent
5 with the recognized policies and procedures of Defendants, which tolerated and encouraged
6 such discriminatory conduct.

7 79. At all times herein mentioned, Defendants, and each of them were legally
8 required to refrain from discriminating against and harassing any employee on the basis of
9 gender and sexual orientation, among other things. Within the time provided by law, these
10 Plaintiffs filed complaints with the California Department of Fair Employment and Housing, in
11 full compliance with these sections, and they each received a right to sue letter.

12 80. Defendants' conduct resulted in the damages and injuries to these Plaintiffs as
13 alleged in this Complaint. As a direct and proximate result of the conduct of Defendants and
14 each of them, these Plaintiffs have suffered and continue to suffer humiliation, emotional
15 distress, and mental and physical pain and anguish, all to their damage in a sum according to
16 proof.

17 81. Defendants did the things hereinabove alleged, intentionally, oppressively, and
18 maliciously with an evil and malevolent motive to injure these Plaintiffs. These acts were
19 against public policy, were obnoxious, despicable, and ought not to be suffered by any member
20 of the community.

21 82. All actions of Defendants, and each of them, were known, ratified and approved
22 by the officers or managing agents of Defendants, and each of them. Therefore, these Plaintiffs
23 are entitled to punitive or exemplary damages against the Defendants, and each of them, in an
24 amount to be determined at the time of trial.

25
26 **ELEVENTH CAUSE OF ACTION**

27 **(Discrimination, Government Code § 12940(a) – By Plaintiff Against Defendant Lazy Dog**
28 **Family LLC, Lazy Dog Restaurants LLC, and LAZY DOG RESTAURANTS INC.)**

1 83. The allegations set forth in the paragraphs above are hereby realleged and
2 incorporated by reference.

3 84. This cause of action is asserted against Defendants Lazy Dog Family LLC, Lazy
4 Dog Restaurants LLC, and Lazy Dog Restaurants Inc.

5 85. At all times relevant to this matter, the Fair Employment and Housing Act and
6 California Government Code § 12940 were in full force and effect and binding on Defendants.

7 86. Plaintiff was subjected to unwanted harassing conduct. This harassing conduct
8 was conducted by Jose Doe who created an environment that, among other things, tolerated and
9 encouraged discrimination against Plaintiffs. The statements and conduct on the part of
10 Defendants complained of herein represent a violation of California Government Code § 12940,
11 subsection (a).

12 87. As an actual and proximate result of the aforementioned violations, Plaintiffs
13 have been harmed in an amount according to proof, but in an amount in excess of the
14 jurisdiction of this Court. Plaintiff also seeks “affirmative relief” or “prospective relief” as
15 defined by Government Code § 12926, subsection (a).

16
17 **TWELFTH CAUSE OF ACTION**

18 **(Hostile Work Environment/Harassment – Gov. Code § 12940(j) –against all Defendants)**

19 88. Plaintiff realleges and incorporates by reference all the allegations set forth
20 above.

21 89. Plaintiff was Defendants’ employee.

22 90. Plaintiff was harassed on the basis of their gender and sexual orientation.

23 91. Defendants engaged in the acts and conduct set forth in Paragraphs above with
24 the intent of harassing Plaintiff on the basis of their gender.

25 92. Defendants had actual knowledge of the intolerable conditions caused by the acts
26 of harassment alleged above, but failed to take any steps to end those conditions.

27 93. Defendants' actions constituted unlawful harassment in violation of §12940(a)
28 and 12940(h) of the Government Code.

1 94. As a proximate result of Defendants' discriminatory and unlawful actions against
2 Plaintiff, as alleged above, Plaintiff has been harmed in that Plaintiff has suffered the loss of the
3 wages, salary, benefits, and additional amounts of money Plaintiff would have received if
4 Plaintiff had not been discriminated and harassed by Defendants.

5 95. As a result of such harassment and consequent harm, Plaintiff has suffered such
6 damages in an amount according to proof.

7 96. As a further proximate result of Defendant's discriminatory actions against
8 Plaintiff, as alleged above, Plaintiffs has been damaged in that Plaintiff has suffered
9 humiliation, mental anguish, and emotional and physical distress, and has been injured in mind
10 and body in an amount according to proof.

11 97. The above-recited actions of Defendants were done with malice, fraud, or
12 oppression, and in reckless disregard of the Plaintiffs rights under the FEHA.

13 98. Therefore, Plaintiff is entitled to punitive damages because the actions of
14 Defendants were malicious and oppressive and were done with conscious disregard of
15 Plaintiff's rights under Cal. *Gov. Code*, §12940(a), (h) and Cal. *Civil Code*, §§3294 and 3295.

16
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in their favor
19 and against Defendants, and each of them, as follows:

20 1. For compensatory damages in the amount of unpaid overtime due to Plaintiffs,
21 according to proof;

22 2. For compensatory damages in the amount of unpaid minimum wages due to
23 Plaintiffs, according to proof;

24 3. For an award of consequential damages in Plaintiffs' favor and against
25 Defendants, in an amount to be proven at trial;

26 4. For general damages in Plaintiffs' favor and against Defendants, in an amount to
27 be proven at trial;

28 5. For compensatory damages in an amount according to proof:

- 1 6. For compensation of one hour at the regular rate of pay for each rest period
2 denied in violation of Cal. Lab. Code § 226.7 and Wage Order No. 5, according to proof;
- 3 7. For compensation of one hour at the regular rate of pay for each meal period
4 denied in violation of Cal. Lab. Code §§ 226.7, 512 and Wage Order No. 5, according to proof
- 5 8. For statutory damages pursuant to Cal. Lab. Code § 226, according to proof;
- 6 9. For payment to Plaintiffs of waiting time penalties pursuant to Cal. Lab. Code §
7 203, in an amount equal to their respective daily rates of pay at the time of termination or layoff,
8 multiplied by the total amount of days elapsed between the date of the involuntary termination,
9 and/or 72 hours after notice of the voluntary termination, up to a maximum of 30 days' pay,
10 according to proof;
- 11 10. For specific relief enforcing waiting time penalties of 30 days of per diem wages
12 pursuant to Business & Professions Code § 17200 and Labor Code § 203, according to proof;
- 13 11. For prejudgment interest accrued on all due and unpaid overtime wages from the
14 date that wages were due and payable, pursuant to Cal. Lab. Code §§ 218.6 and 1194(a),
15 according to proof;
- 16 12. For reasonable costs, including attorneys' fees, in an amount according to proof
17 and pursuant to statute;
- 18 13. For a preliminary and permanent injunction preventing Defendants from
19 requiring its employees to contribute any portion of their tips, wages, or both to a "tip pool" for
20 Defendants' benefit;
- 21 14. For an award of restitution of wages to each aggrieved employee of Defendants
22 in an amount equal to the amount of wages owed and unpaid, according to proof;
- 23 15. For an award of liquidated damages pursuant to Cal. Lab. Code §1194.2,
24 Plaintiffs in an amount equal to the wages unlawfully unpaid and interest thereon.
- 25 16. For treble damages in an amount to be determined at trial together with interest
26 thereon;
- 27 17. For back pay, front pay, and other monetary relief all according to proof;
- 28 18. For reasonable attorney fees pursuant to Government Code § 12965(b);

- 1 19. For reasonable attorney's fees and costs pursuant to Penal Code §496(c);
2 20. For costs of suit, generally and pursuant to Code of Civil Procedure § 1021.5;
3 21. For punitive and exemplary damages in a sum to be determined at trial;
4 22. For such other and further relief as the Court deems just and proper.

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff hereby respectfully requests a trial by jury for all claims and issues raised in
7 their Complaint that may be entitled to a jury trial.

8
9 LIPELES LAW GROUP, APC

10 Date: March 14, 2025

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12 By: Molly Hoot
13 Molly E. Hoot
14 Attorneys for Plaintiff,
15 Davis Josue Pacheco Mendoza
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