

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Jon Takasugi

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

ANA BAUTISTA, an individual,

Plaintiff,

v.

C.H. LABORATORIES, INC., a California
Corporation; BRID A. NOLAN, an
individual; and DOES 1 THROUGH 20,
inclusive,

Defendants.

Case No.: 22STCV33176
Unlimited Jurisdiction

COMPLAINT

- 1. WRONGFUL TERMINATION AND RETALIATION IN VIOLATION OF PUBLIC POLICY;**
- 2. DISCRIMINATION BASED ON PROTECTED STATUS – PREGNANCY, A FORM OF SEX DISCRIMINATION;**
- 3. FAILURE TO ACCOMMODATE;**
- 4. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;**
- 5. FAILURE TO TAKE REASONABLE STEPS TO PREVENT DISCRIMINATION AND/OR RETALIATION;**
- 6. FAILURE TO PROVIDE MEAL BREAKS;**
- 7. FAILURE TO PROVIDE REST PERIODS;**
- 8. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226(a)];**
- 9. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226.3];**
- 10. VIOLATION OF CALIFORNIA FAMILY RIGHTS ACT (“CFRA”) RIGHTS;**
- 11. UNLAWFUL WITHHOLDING OF**

Complaint

Ana Bautista v. C.H. Laboratories, Inc., et al.

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1 PLAINTIFF is informed and believes and thereon alleges that each defendant named as a DOE is
2 responsible for each and every act and obligation hereinafter set forth.

3 5. PLAINTIFF is informed and believes and thereon alleges that each defendant
4 named in this Complaint now is, and was at all times herein mentioned, the agent, servant,
5 employee, representative, alter ego, members of and/or engaged in a joint venture, partnership and
6 common enterprise of the other defendants herein, and was at all such times acting within the
7 course and scope of said agency and employment and with the consent and permission of each of
8 the other co-defendants, and each of the defendants herein ratified each of the acts of each of the
9 other co-defendants, and each of them.

10 **JURISDICTION AND VENUE**

11 6. Jurisdiction is proper because, upon information and belief, plaintiff worked for
12 defendants in the state of California, and all actions relevant to this Complaint occurred in the State
13 of California.

14 7. Venue is proper in Los Angeles County because, upon information and belief, at
15 least some of the transactions that are the subject matter of this Complaint occurred therein and/or
16 each defendant is found, maintains office, transacts business, and/or has an agent therein.

17 **FACTS COMMON TO ALL CAUSES OF ACTION**

18 8. On or around October 18, 2021, PLAINTIFF was employed as a packer by C.H.

19 9. PLAINTIFF was paid bi-weekly for \$13/hour

20 10. Scheduled for work from 6 a.m. to 2:30 p.m., Monday to Friday, PLAINTIFF was
21 only given lunch breaks at 12 p.m., more than five hours after she clocked in, and given two 15
22 minutes rest breaks at 8 and 10 a.m.

23 11. PLAINTIFF informed C.H. that she was pregnant in or about November 2021, and
24 that she needed to take time offs and see her doctor for ultrasound. However, C.H. did not provide
25 those requested day offs fully so she would often miss doctor visits.

26 12. Worse yet, on or around December 18, 2021, her manager Sergio Perez ("Perez")
27 terminated her on the job, claiming lack of work.

28 13. On the contrary, PLAINTIFF's mother Irma Bautista ("I. Bautista"), who was still

1 employed by C.H. at the time, knew for a fact that C.H. would not fire her daughter for such reason
2 because it was not true at work.

3 14. On August 23, 2022, PLAINTIFF complied with *Labor Code* §2699.3(a) in that
4 PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development
5 Agency (“LWDA”) and DEFENDANTS of the specific provisions of the labor Code alleged to
6 have been violated, including the facts and theories to support the alleged violation. As of the date
7 of filing this complaint, (more than 60 calendar days after PLAINTIFF’s LWDA letters were
8 mailed via certified mail), PLAINTIFF has not received any notification that the LWDA intended
9 to investigate the alleged violations.

10 15. On August 23, 2022, PLAINTIFF filed a complaint with the Department of Fair
11 Employment and Housing (“DFEH”) and obtained a Right to Sue letter on the same day.
12 PLAINTIFF herein with this Complaint serves DEFENDANTS with the DFEH complaint and
13 Right to Sue notices.

14 **FIRST CAUSE OF ACTION**

15 **WRONGFUL TERMINATION**

16 **AND RETALIATION IN VIOLATION OF PUBLIC POLICY**

17 **(PLAINTIFF against C.H. and DOE 1 through 10)**

18 16. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
19 Complaint by reference as though fully set forth herein.

20 17. PLAINTIFF was employed by DEFENDANTS.

21 18. PLAINTIFF was wrongfully terminated and retaliated against by DEFENDANTS
22 in violation of public policy and the California Fair Employment and Housing Act (“FEHA”) and
23 California Family Rights Act (“CFRA”) as a result of pregnancy, a form of sex discrimination,
24 and as a result of having a disability.

25 19. DEFENDANTS took adverse employment actions against PLAINTIFF because
26 PLAINTIFF was pregnant while on the job and sought an accommodation due to PLAINTIFF’s
27 pregnancy and a number of pregnancy-related impairments that impose work-related restrictions,
28 which will be substantially limiting one or more major life activities. *California Government Code*

§12940 provides that it is against the law to discriminate against an employee due to protected status such as sex and disability, and to retaliate against an employee for requesting an accommodation for pregnancy and disability regardless of whether the request was granted. These policies are also enumerated in *Labor Code* §132(a), FEHA, the California and United States Constitutions, among other laws and regulations.

20. DEFENDANTS' violations of public policy and FEHA described above were substantial motivating reasons for the adverse employment actions taken against PLAINTIFF by DEFENDANTS.

21. As a substantial result of DEFENDANTS' intentional acts in violation of public policy and FEHA, PLAINTIFF was harmed. Specifically, PLAINTIFF lost income, and endured emotional and mental damages, among other related damages. The exact amount of damage to PLAINTIFF shall be proved at trial.

22. PLAINTIFF believes that DEFENDANTS' conducts described above were done with malice, fraud and oppression and with conscious disregard for PLAINTIFF's rights and with the intent, design and purpose to cause PLAINTIFF harm. As such, PLAINTIFF is also entitled to punitive and exemplary damages.

23. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs, among other damages against DEFENDANTS.

SECOND CAUSE OF ACTION

DISCRIMINATION IN VIOLATION

OF CALIFORNIA GOVERNMENT CODE §12940, ET SEQ

(PLAINTIFF against C.H. and DOE 1 through 10)

24. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

25. PLAINTIFF was an employee of DEFENDANTS.

26. During PLAINTIFF's employment with DEFENDANTS, PLAINTIFF was pregnant, and PLAINTIFF's pregnancy is protected under FEHA as a form of sex protection. PLAINTIFF was also disabled within the meaning for disability under FEHA. DEFENDANTS

herein were aware of PLAINTIFF's pregnancy and disability. However, DEFENDANTS otherwise expected PLAINTIFF to work through the pregnancy without healthcare, pregnancy disability leave ("PDL"), or accommodation, and DEFENDANTS failed to take immediate and appropriate corrective action.

27. PLAINTIFF's pregnancy and disability were substantial motivating reasons for DEFENDANTS' conduct that caused the wrongful termination against PLAINTIFF.

28. As a substantial result of DEFENDANTS' intentional acts, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

29. PLAINTIFF believes that DEFENDANTS' conducts described above were done with malice, fraud and oppression and with conscious disregard for PLAINTIFF's rights and with the intent, design and purpose to cause PLAINTIFF harm. As such, PLAINTIFF is also entitled to punitive and exemplary damages.

30. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs, among other damages against DEFENDANTS.

THIRD CAUSE OF ACTION

FAILURE TO ACCOMMODATE – DISABILITY DISCRIMINATION

IN VIOLATION OF GOVERNMENT CODE §12940(m)

(PLAINTIFF against C.H. and DOE 1 through 10)

31. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

32. PLAINTIFF was employed as an employee by DEFENDANTS.

33. During PLAINTIFF's employment with DEFENDANTS, PLAINTIFF was pregnant, and PLAINTIFF's pregnancy rendered PLAINTIFF disabled within the meaning for disability under FEHA.

34. DEFENDANTS herein were aware of PLAINTIFF's disability that limited PLAINTIFF's work activities.

1 35. PLAINTIFF was able to perform the essential duties of the position or a vacant
2 alternative position to which PLAINTIFF could have been reassigned with reasonable
3 accommodation for PLAINTIFF's disability.

4 36. However, DEFENDANTS failed to provide such reasonable accommodation for
5 PLAINTIFF's disability. DEFENDANTS otherwise expected PLAINTIFF to work through the
6 pregnancy without treatment or accommodation.

7 37. As a substantial result of DEFENDANTS' failure to accommodate, PLAINTIFF
8 was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

9 38. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs,
10 among other damages against DEFENDANTS.

11 **FOURTH CAUSE OF ACTION**

12 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS**

13 **IN VIOLATION OF CALIFORNIA GOVERNMENT CODE §12940(n)**

14 **(PLAINTIFF against C.H. and DOE 1 through 10)**

15 39. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
16 Complaint by reference as though fully set forth herein.

17 40. PLAINTIFF was an employee of DEFENDANTS.

18 41. PLAINTIFF had a disability that was known to DEFENDANTS, and
19 PLAINTIFF's pregnancy rendered PLAINTIFF disabled within the meaning for disability under
20 FEHA.

21 42. PLAINTIFF requested that DEFENDANTS make reasonable accommodation for
22 PLAINTIFF so that PLAINTIFF would be able to perform the essential job requirements.

23 43. PLAINTIFF was willing to participate in an interactive process to determine
24 whether reasonable accommodation could be made so that PLAINTIFF would be able to perform
25 the essential job requirements.

26 44. However, DEFENDANTS failed to participate in a timely good-faith interactive
27 process with PLAINTIFF to determine whether reasonable accommodation could be made.

28 45. As a substantial result of DEFENDANTS' failure to engage in the interactive

1 process, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at
2 trial.

3 46. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs,
4 among other damages against DEFENDANTS.

5 **FIFTH CAUSE OF ACTION**

6 **FAILURE TO TAKE REASONABLE STEPS**
7 **TO PREVENT DISCRIMINATION AND RETALIATION**
8 **IN VIOLATION OF GOVERNMENT CODE §12940 (k)**
9 **(PLAINTIFF against C.H. and DOE 1 through 10)**

10 47. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
11 Complaint by reference as though fully set forth herein.

12 48. PLAINTIFF was employed as an employee by DEFENDANTS.

13 49. PLAINTIFF was subject to sex and disability discrimination and retaliation in
14 violation of public policy in the course of employment.

15 50. DEFENDANTS failed to take all reasonable steps to prevent discrimination and
16 retaliation. DEFENDANTS ignored PLAINTIFF's complaints about sex and disability
17 discrimination and as a result by not doing anything, had condoned, ratified and participated in the
18 acts causing PLAINTIFF harm.

19 51. As a substantial result of DEFENDANTS' failure to take reasonable steps to
20 prevent discrimination and retaliation, PLAINTIFF was harmed. The exact amount of damage to
21 PLAINTIFF shall be proved at trial.

22 52. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs,
23 among other damages against DEFENDANTS.

24 **SIXTH CAUSE OF ACTION**

25 **FAILURE TO PROVIDE MEAL BREAKS**
26 **(PLAINTIFF against all DEFENDANTS)**

27 53. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
28 Complaint by reference as though fully set forth herein.

1 54. *Labor Code* §512(a) provides that employees who work more than five hours in a
2 day are entitled to a meal period of at least 30 minutes; and a second meal period of at least 30
3 minutes if they work for more than 10 hours in a day.

4 55. *Labor Code* §512 further provides that “An employer may not employ an employee
5 for a work period of more than 10 hours per day without providing the employee with a second
6 meal period of not less than 30 minutes, except that if the total hours worked is no more than 12
7 hours, the second meal period may be waived by mutual consent of the employer and the employee
8 only if the first meal period was not waived.”

9 56. *Labor Code* §516 provides that the Industrial Welfare Commission may adopt or
10 amend working condition orders with respect to meal periods for any workers in California
11 consistent with the health and welfare of those workers.

12 57. Section 11(C) of the *IWC Wage Order(s)* provides that “Unless the employee is
13 relieved of all duty during a 30-minute meal period, the meal period shall be considered an “on
14 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only
15 when the nature of the work prevents an employee from being relieved of all duty and when by
16 written agreement between the parties an on-the-job paid meal period is agreed to. The written
17 agreement shall state that the employee may, in writing, revoke the agreement at any time.”

18 58. Section 11(D) of the *IWC Wage Order(s)* provides that “If an employer fails to
19 provide an employee a meal period in accordance with the applicable provisions of this order, the
20 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
21 compensation for each workday that the meal period is not provided.”

22 59. Furthermore, an employer may not undermine a formal policy of providing meal
23 breaks by pressuring employees to perform their duties in ways that omit breaks. The wage orders
24 and governing statute do not countenance an employer's exerting coercion against the taking of,
25 creating incentives to forego, or otherwise encouraging the skipping of legally protected breaks.

26 60. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
27 non-exempt position.
28

61. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to meal breaks.

62. PLAINTIFF was at times not given meal breaks and at other times meal breaks which were not compliant with labor laws.

63. PLAINTIFF had been harmed and DEFENDANTS are liable to PLAINTIFF for one (1) hour of additional premium pay at the regular rate of compensation for each day in which the proper meal was not provided. The exact amount of missed meal break wages owed to PLAINTIFF shall be proved at trial, and PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties and attorney's fees and costs.

SEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE REST PERIODS

(PLAINTIFF against all DEFENDANTS)

64. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

65. State law requires employers to authorize paid rest periods of a specified minimum duration of 10 minutes for every four hours an employee works. (See, e.g., *8 California Code Regulations* §§11010-11150 ¶2 and §11160 ¶1; Wage order No. 5)

66. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a non-exempt position.

67. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to rest breaks. PLAINTIFF's shifts that were over four (4) hours therefore were entitled to a rest period of not less than ten (10) minutes prior to exceeding four (4) hours of employment for each four (4) hours of work.

68. Throughout PLAINTIFF's employment, DEFENDANTS typically did not provide PLAINTIFF with rest breaks and/or compliant breaks for every four hours of work.

69. An employer who fails to provide rest periods as required by an applicable Wage Order must pay the employee one (1) additional hour of pay at the employee's regular rate of pay for each workday that a rest period was not provided. The exact amount of missed rest break wages

owed to PLAINTIFF shall be proved at trial, and PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties and attorney's fees and costs.

EIGHTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

IN VIOLATION OF LABOR CODE § § 226(a)(e)

(PLAINTIFF against all DEFENDANTS)

70. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

71. *Labor Code* §226(a) requires employers to provide accurate itemized wage statements for each wage payment. *Labor Code* §226(e) provides for a recovery of the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) (per employee).

72. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage statements, willfully or intentionally. DEFENDANTS also failed to account for accurate withholdings, meal and rest premiums, and PDLs, among other things.

73. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties promulgated under *Labor Code* §§226.

74. PLAINTIFF is also entitled to injunctive relief to ensure compliance with the aforementioned *Labor Code* provision.

NINTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

IN VIOLATION OF LABOR CODE § 226.3

(PLAINTIFF against all DEFENDANTS)

75. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

76. *Labor Code* §§226 and 226.3 provides for civil penalties against anyone who violates *Labor Code* §226. *Labor Code* §226(a) requires employers to provide accurate itemized wage statements for each wage payment. Specifically, *Labor Code* §226.3 provides a penalty 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 statement in compliance with *Labor Code* §226.

77. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage statements, willfully or intentionally. DEFENDANTS also failed to account for accurate withholdings, meal and rest premiums, and PDLs, among other things.

78. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties promulgated under *Labor Code* §§226 and 226.3.

TENTH CAUSE OF ACTION

VIOLATION OF CFRA RIGHTS

(PLAINTIFF against all DEFENDANTS)

79. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

80. PLAINTIFF was eligible for medical leave.

81. PLAINTIFF requested or took leave for PLAINTIFF's own serious health condition that made PLAINTIFF unable to perform the functions of PLAINTIFF's job with DEFENDANTS.

82. PLAINTIFF provided reasonable notice to DEFENDANTS of PLAINTIFF's need for medical leave, including its expected timing and length.

83. DEFENDANTS refused to grant PLAINTIFF's request for medical leave.

84. PLAINTIFF was harmed.

85. DEFENDANTS' decision and conduct were substantial factors in causing PLAINTIFF's harm.

1 86. As a result of DEFENDANTS’ aforementioned unlawful act, PLAINTIFF suffered
2 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties.

3 **ELEVENTH CAUSE OF ACTION**

4 **UNLAWFUL WITHHOLDING OF WAGES**

5 **(PLAINTIFF against all DEFENDANTS)**

6 87. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
7 Complaint by reference as though fully set forth herein.

8 88. *Labor Code* §216 provides that it is a misdemeanor for an employer to “willfully
9 refuse to pay wages due and payable after demand has been made” or “falsely deny the amount or
10 validity thereof.”

11 89. *Labor Code* §225.5 provides a penalty of \$100 for an initial violation and \$200 for
12 any subsequent violation of §216 plus 25% of the withheld amount.

13 90. Upon termination by DEFENDANTS, PLAINTIFF was entitled by law to receive
14 all of PLAINTIFF’s wages and paycheck(s) immediately. DEFENDANTS also unlawfully
15 withheld the balance of earned wages, missed meal and rest break wages. Moreover, these wages
16 were demanded thereafter.

17 91. As a result of DEFENDANTS’ aforementioned unlawful acts, PLAINTIFF
18 suffered damage. DEFENDANTS are subject to the penalty under *Labor Code* §225.5. The exact
19 amount of penalties will be proved at trial, and PLAINTIFF is entitled to such penalties plus
20 interest as required by law in addition to restitution of all wages earned but not paid.

21 **TWELFTH CAUSE OF ACTION**

22 **WAITING TIME PENALTIES**

23 **(PLAINTIFF against all DEFENDANTS)**

24 92. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
25 Complaint by reference as though fully set forth herein.

26 93. *Labor Code* §203 provides that “if an employer willfully fails to pay, without
27 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages
28 of an employee who is discharged or who quits, the wages of the employee shall continue as a

1 penalty from the due date thereof at the same rate until paid or until an action therefor is
2 commenced; but the wages shall not continue for more than 30 days.”

3 94. PLAINTIFF’s employment with DEFENDANTS ended.

4 95. DEFENDANTS failed to pay PLAINTIFF all wages when due since PLAINTIFF’s
5 termination until the date of filing this Complaint.

6 96. DEFENDANTS willfully failed to pay PLAINTIFF final wages in full.

7 97. As a result of DEFENDANTS’ aforementioned unlawful act, PLAINTIFF suffered
8 damage. PLAINTIFF is entitled to recover from DEFENDANTS the statutory penalty wages for
9 each day they were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum
10 pursuant to *Labor Code* sections 203, plus interest and attorney’s fees in the amount to be proven
11 at trial.

12 **THIRTEENTH CAUSE OF ACTION**

13 **CALIFORNIA PRIVATE ATTORNEY GENERAL ACT**

14 **LABOR CODE § 2698**

15 **(PLAINTIFF against all DEFENDANTS)**

16 98. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
17 Complaint by reference as though fully set forth herein.

18 99. PLAINTIFF and the other non-exempt employees are “aggrieved employees” as
19 defined by *Labor Code* §2699(c) in that they are all current or former employees of
20 DEFENDANTS, and one or more of the causes of action in this complaint was committed against
21 PLAINTIFF and the aggrieved employees.

22 100. PLAINTIFF is a proper representative to bring a civil action on behalf of
23 PLAINTIFF and other current and former employees of DEFENDANTS pursuant to the
24 procedures specified in *Labor Code* §2699.3.

25 101. As such, PLAINTIFF and the aggrieved employees are entitled to civil penalties
26 pursuant to *Labor Code* §558 and §2699(a), (f) and (g), cost, expenses, and attorneys’ fees for
27 violation of *Labor Code* Sections listed in this complaint.

28 //

1 **FOURTEENTH CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(PLAINTIFF against all DEFENDANTS)**

4 102. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
5 Complaint by reference as though fully set forth herein.

6 103. DEFENDANTS owe, and at all times relevant owed, a duty to their employees to
7 provide a safe, non-discriminating and non-retaliatory work environment, to make sure that its
8 supervisors take action against employees practicing workplace discrimination and retaliation, to
9 make sure supervisors and managers look after the safety of employees during their watch, to pay
10 employees proper wages when due, and to provide them with proper wage statements.

11 104. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

12 105. DEFENDANTS' breach was and is the actual and proximate cause of
13 PLAINTIFF's harm.

14 106. As a substantial result of DEFENDANTS' negligent acts, PLAINTIFF was harmed.
15 The exact amount of damage to PLAINTIFF shall be proved at trial.

16 **FIFTEENTH CAUSE OF ACTION**

17 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

18 **(PLAINTIFF against all DEFENDANTS)**

19 107. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
20 Complaint by reference as though fully set forth herein.

21 108. DEFENDANTS owe, and at all times relevant owed, a duty to their employees to
22 provide a safe, non-discriminating, non-retaliatory and harassment-free work environment, to
23 make sure that its supervisors take action against employees practicing workplace discrimination,
24 retaliation, and harassment, to make sure supervisors and managers look after the safety of
25 employees during their watch, to pay employees proper wages when due, and to provide them with
26 proper wage statements.

27 109. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.
28

1 110. DEFENDANTS' breach was and is the actual and proximate cause of
2 PLAINTIFF's harm.

3 111. As a result of this negligence, PLAINTIFF suffered and continues to suffer serious
4 emotional distress in the form of suffering, anguish, fright, horror, nervousness, grief, anxiety,
5 worry, shock, humiliation, shame, embarrassment, and depression. This was a foreseeable result
6 of DEFENDANTS' negligence.

7 **SIXTEENTH CAUSE OF ACTION**

8 **NEGLIGENT HIRING, SUPERVISION, AND RETENTION**

9 **(PLAINTIFF against all DEFENDANTS)**

10 112. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
11 Complaint by reference as though fully set forth herein.

12 113. DEFENDANTS hired PLAINTIFF's supervisors.

13 114. PLAINTIFF's supervisors became unfit and incompetent to perform the work for
14 which PLAINTIFF's supervisors were hired.

15 115. DEFENDANTS knew or should have known of PLAINTIFF's supervisors became
16 unfit and incompetent to perform the work, and PLAINTIFF's supervisors created a particular risk
17 to others.

18 116. PLAINTIFF's supervisors' unfitness and incompetence harmed PLAINTIFF.

19 117. DEFENDANTS' negligence in hiring, supervising and retaining of PLAINTIFF's
20 supervisors was a substantial factor in causing PLAINTIFF's harm. The exact amount of damage
21 to PLAINTIFF shall be proved at trial.

22 **SEVENTEENTH CAUSE OF ACTION**

23 **UNFAIR BUSINESS PRACTICES**

24 **IN VIOLATION OF CAL. BUS. & PROF. CODE § § 17200 ET. SEQ.**

25 **(PLAINTIFF against all DEFENDANTS)**

26 118. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
27 Complaint by reference as though fully set forth herein.
28

1 119. DEFENDANTS, themselves or through their supervisors, in an effort to exploit,
2 harass, and discriminate against their employees for profit or otherwise, have engaged in the
3 following unlawful, unfair, deceptive, and misleading business practices, amongst others outlined
4 in this complaint:

- 5 a. Wrongfully terminating and retaliating against employees with disability and
6 sex-based reasons;
- 7 b. Discriminating against employees based on disability and sex;
- 8 c. Failing to accommodate;
- 9 d. Failing to properly supervise and train its employees;
- 10 e. Failing to provide proper meal breaks and rest periods, or to pay premium
11 wages for missed meal and rest periods to PLAINTIFF;
- 12 f. Failing to provide CFRA required PDLs; and,
- 13 g. The foregoing wrongful activities have caused harm, fear, pressure, and
14 humiliation to the employee(s) at DEFENDANTS.

15 120. PLAINTIFF is entitled to enforce all applicable penalty provisions of the California
16 Business and Professions Code §17202.

17 121. Pursuant to the provisions of §17203 of the California Business and Professions
18 Code, PLAINTIFF is entitled to restoration of lost wages, meal breaks and rest periods premium
19 wages, interests, and profits DEFENDANTS have collected by the use of the unfair, deceptive,
20 and misleading business practices described in this Complaint.

21 122. Pursuant to provisions of §17203 et seq. of the California Business and Professions
22 Code, DEFENDANTS must be ordered to disgorge all the unlawful profits in the relevant statutory
23 to PLAINTIFF, which DEFENDANTS have received from improperly billing clients and cheating
24 of employees in terms of their hours reported as having been worked but not paid.

25 123. Pursuant to the provisions of §17203 of the California Business and Professions
26 Code, this Court should issue an injunction prohibiting DEFENDANTS from engaging in the
27 foregoing unfair, deceptive, and misleading business practices.

28 //

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and DOES 1 through 20 inclusive, as follows:

1. General and compensatory damages in an amount to be subject to proof at trial to the extent permitted by law;

2. Liquidated damages (if applicable);

3. Special damages;

4. Emotional distress damages;

5. Civil and statutory penalties (including under PAGA where applicable);

6. Restoration of all money PLAINTIFF lost that DEFENDANTS have collected by the use of the unfair, deceptive, and misleading business practices described as in unfair business practices cause of action;

7. Injunctive relief prohibiting DEFENDANTS from engaging in the unfair, deceptive, and misleading business practices described as in unfair business practices cause of action;

8. Declaration that DEFENDANTS' business practices are unfair within the meaning described as in unfair business practices cause of action;

9. Punitive and exemplary damages;

10. Pre-judgment interest;

11. Costs of lawsuit herein incurred;

12. Attorneys' fees; and

13. For an award of such other and further equitable and legal relief as this Court may deem appropriate.

1 Dated: October 10, 2022

BITTON & ASSOCIATES

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4 _____
5 Ophir J. Bitton, Esq.
6 Lei Wei, Esq.
7 Attorneys for Plaintiff,
8 Ana Bautista
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Dated: October 10, 2022

A handwritten signature in black ink, appearing to be "Mrs".

Complaint
Ana Bautista v. C.H. Laboratories, Inc., et al.
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