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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF IMPERIAL

MARTHA ALMEIDA, an Individual,

Plaintiff,

v.

PI PROPERTIES NO. 34 EL CENTRO LLC,  
a California Corporation; POSITIVE  
INVESTMENTS INC., a California  
Corporation; NORMAN J. FERBER, an  
individual; LINDA K. FERBER, an individual;  
and DOES 1-25, Inclusive,

Defendants.

Case No.: ECU002532

FIRST AMENDED COMPLAINT FOR  
DAMAGES AND INJUNCTIVE RELIEF

Judge: Hon. Jeffrey B. Jones  
Dept.: 7

Complaint Filed: August 18, 2022  
Trial Date: None Set

1 Plaintiff Martha Almeida (“Ms. Almeida or “Plaintiff”), by her attorneys, brings this action  
 2 on behalf of herself against Defendant PI Properties No. 34 El Centro LLC and Positive Investments,  
 3 Inc., collectively doing business as “Regency Park” (“Regency Park”), Norman J. Ferber, Linda K.  
 4 Ferber, and DOES 1-25 (collectively, “Defendants”). Ms. Almeida makes the following allegations  
 5 upon information and belief (except those allegations as to her attorneys which are based on personal  
 6 knowledge), based upon an investigation that is reasonable under the circumstances, which  
 7 allegations are likely to have evidentiary support after a reasonable opportunity for further  
 8 investigation and/or discovery.

### 9 NATURE OF THE ACTION

10 1. This case is about wage theft. A sophisticated business entity, Regency Park,  
 11 formerly run by Mr. and Mrs. Ferber, knowingly took advantage of a disadvantaged worker, Ms.  
 12 Almeida. For more than a decade, the company stole wages from Ms. Almeida and otherwise failed  
 13 to provide her the benefits of the labor laws, such as compliant off duty breaks, wage statements,  
 14 minimum wage, overtime compensation, and days off work. Regency Park discriminatorily took  
 15 advantage of Ms. Almeida, who has limited English proficiency, because of her national origin.

16 2. In short, Regency Park hired Ms. Almeida as a housekeeper, who was promoted to  
 17 an assistant property manager, for its 105-unit senior citizen apartment community, wherein the  
 18 company required Ms. Almeida work 12 hours shifts through the night and remain on-call 24 hours  
 19 a day on the weekends – *without any compensation*. Rather, without knowing her rights, in  
 20 exchange for her work, Regency Park provided Ms. Almeida with a one-bedroom apartment rent-  
 21 free. Regency Park valued Ms. Almeida’s apartment at approximately \$600-\$650 per month. In  
 22 other words, even though the housing could not be credited against the minimum wage obligation  
 23 because Regency Park did not have a compliant written agreement, even if the housing could be  
 24 credited, based on the hours worked by Ms. Almeida, Regency Park paid Ms. Almeida far below its  
 25 minimum wage obligation.

26 3. Ms. Almeida essentially became Regency Park’s serf, whereby it provided her with  
 27 more and more responsibility to manage the property at all hours of the day and night – without  
 28 compensation or full off-duty breaks. Even though she was unknowingly being taken advantage of,

Ms. Almeida enjoyed her job as she grew close with the community's residents. Unfortunately, after the company unlawfully took advantage of Ms. Almeida for over a decade with its egregious wage and hour violations, after the authorities, namely, the Federal Bureau of Investigation ("FBI") conducted an investigation on Regency Park's premises, Regency Park terminated Ms. Almeida's employment to hide and avoid the liability, punishment, and payment of wages it owed to Ms. Almeida, in violation of public policy. In the end, the company had Ms. Almeida take a "vacation", only for her to return to an eviction notice. The company is truly heartless and must pay for the harm it has caused.

4. To redress the harms suffered, Ms. Almeida brings claims for: (1) failure to pay minimum wages in violation of Labor Code §§1194 and 1197; (2) failure to pay overtime compensation in violation of Labor Code §§510 and 1194; (3) failure to provide meal breaks or pay premium wages in lieu thereof in violation of Labor Code §§226.7 & 512 and IWC Wage Order No. 5-2001; (4) failure to timely pay all wages due and owing in violation of Labor Code §218; (5) failure to provide accurate wage statements in violation of Labor Code §226; (6) failure to maintain employment records in violation of Labor Code §§226, 432, 1174, and 1198.5; (7) violation of California's Private Attorneys General Act ("PAGA"), Labor Code §2698, *et seq.*; (8) national origin discrimination in violation of the Fair Employment and Housing Act ("FEHA"), Government Code §12940(a); (9) wrongful termination in violation of public policy; (10) violation of California's Unfair Competition Law ("UCL"), Business & Professions Code §17200, *et seq.*

#### **JURISDICTION AND VENUE**

5. The Superior Court of the State of California has jurisdiction over this action pursuant to Article VI §10 of the California Constitution because this case is a cause not given by statute to other trial courts. Federal jurisdiction does not exist in this case because there is no federal question implicated and because there is not complete diversity of citizenship.

6. This Court has personal jurisdiction over Defendant because Defendant does business in, and conducts a substantial amount of business within, the State of California. During the relevant period, Defendant did sufficient business in, had sufficient contacts with, and intentionally availed itself of the laws and markets of California through the promotion, sale,

1 marketing, and operation of PI Properties, as to render exercise of jurisdiction by California courts  
2 permissible. The violations of law described hereinafter were carried out within the County of  
3 Imperial, State of California.

4 7. Venue is proper in the County of Imperial in accordance with Code of Civil  
5 Procedure §§395 and 395.5 because Defendant PI Properties hired Ms. Almeida to work in this  
6 County, and many of the acts and practices giving rise to Ms. Almeida's claims occurred in this  
7 County.

## 8 THE PARTIES

### 9 Plaintiff

10 8. Martha Almeida is a natural person, over 18 years old, residing in the State of  
11 California. Ms. Almeida was an employee of Regency Park from on or about 2008, until her  
12 termination on December 27, 2021, during which time Ms. Almeida was a resident of and  
13 performing services for PI Properties in the County of Imperial, State of California. Ms. Almeida  
14 is, and at all relevant times was, a member of a protected class within the meaning of the Labor  
15 Code. Ms. Almeida was employed by Regency Park from on or about 2008, until January 7, 2022.

### 16 Defendants

17 9. PI Properties No. 34 El Centro LLC, doing business as Regency Park, is a California  
18 corporation, registered with the California Secretary of State to do business in California, and with  
19 its principal place of business located at 610 N Santa Anita Avenue, Arcadia, CA, 91006. During  
20 the relevant period, Regency Park was an "employer" as defined within the Labor Code and  
21 employed Ms. Almeida from on or about 2008, until January 7, 2022.

22 10. Positive Investments Inc., doing business as Regency Park, is a California  
23 corporation, registered with the California Secretary of State to do business in California, and with  
24 its principal place of business located at 610 N Santa Anita Avenue, Arcadia, CA, 91006. During  
25 the relevant period, Regency Park was an "employer" as defined within the Labor Code and  
26 employed Ms. Almeida from on or about 2018, until January 7, 2022.

27 11. Based on information and belief, PI Properties No. 34 El Centro LLC and Positive  
28 Investments Inc. were joint employers of Ms. Almeida. Both entities had the authority to exercise

1 control over Ms. Almeida's wages, hours, and/or working conditions, they suffered and permitted  
2 Ms. Almeida to work for them, and they otherwise created a common law employment relationship  
3 with Ms. Almeida. In addition, the entities constitute a single employer under the integrated-  
4 enterprise test given their interrelations of operations, common management, centralized control of  
5 labor relations, and common ownership and control.

6 12. Defendant Norman J. Ferber is an individual who, at all relevant times, were an  
7 owner, director, officer, and/or managing agent of Regency Park within the meaning of subdivision  
8 (b) of Section 3294 of the Civil Code. Based on information and belief, Mr. Ferber is a resident of  
9 California. As the former owner and managing agent of Regency Park, Mr. Ferber directly or  
10 indirectly, or through an agent or other person employed or exercised control over the wages, hours,  
11 and/or working conditions of Ms. Almeida. He was acting on behalf of Regency Park when he  
12 caused the Labor Code provisions at issue to be violated, including the provisions regulating  
13 minimum wages and hours and days of work. Thus, during the relevant period, Mr. Ferber may be  
14 held liable as Ms. Almeida's employer for the Labor Code violations at issue pursuant to Labor  
15 Code §§558.1(a)-(c).

16 13. Defendant Linda K. Ferber is an individual who, at all relevant times, was an owner,  
17 director, officer, and/or managing agent of Regency Park within the meaning of subdivision (b) of  
18 Section 3294 of the Civil Code. As the former owner and managing agent of Regency Park, Ms.  
19 Ferber directly or indirectly, or through an agent or other person employed or exercised control over  
20 the wages, hours, and/or working conditions of Ms. Almeida. She was acting on behalf of Regency  
21 Park when she caused the Labor Code provisions at issue to be violated, including the provisions  
22 regulating minimum wages and hours and days of work. Thus, during the relevant period, Ms.  
23 Ferber may be held liable as Ms. Almeida's employer for the Labor Code violations at issue pursuant  
24 to Labor Code §§558.1(a)-(c).

25 14. In doing the acts alleged herein, Regency Park's employees, subcontractors, and  
26 agents acted within the course and scope of their employment and agency with defendant. Regency  
27 Park engaged in the acts alleged herein and/or condoned, permitted, authorized, and/or ratified the  
28

1 conduct of its employees, subcontractors, and agents, and is vicariously liable for the wrongful  
2 conduct of their employees, subcontractors, and agents alleged herein.

3 15. Ms. Almeida does not know the true names and capacities of defendants DOES 1  
4 through 25, inclusive, and therefore sues them by these fictitious names. Ms. Almeida will amend  
5 this Complaint to include their names and capacities once they are known. Ms. Almeida is informed  
6 and believes, and on that basis alleges, that each of the defendants designated as a DOE is legally  
7 responsible in some manner for the occurrences alleged in this Complaint, and unlawfully caused  
8 the injuries and damages to Ms. Almeida as alleged in this Complaint.

9 16. Ms. Almeida is informed and believes, and thereon alleges, that each defendant is,  
10 and at all times mentioned was, the agent, employee, or representative of each other defendant. Each  
11 defendant, in doing the acts, or in omitting to act as alleged in this Complaint, was acting within the  
12 scope of his or her actual or apparent authority, or the alleged acts and omissions of each defendant  
13 as agent were subsequently ratified and adopted by each other defendant as principal.

#### 14 **EXHAUSTION OF REMEDIES**

15 17. On August 18, 2022, Ms. Almeida filed a charge of discrimination with the  
16 California Department of Fair Employment and Housing (“DFEH”) against defendant Regency  
17 Park. That same day, the DFEH closed Ms. Almeida’s case against Regency Park and issued a Right-  
18 to-Sue letter. *See* Exhibit 1 attached hereto. Therefore, Ms. Almeida has exhausted her  
19 administrative remedies.

#### 20 **FACTS COMMON TO ALL CAUSES OF ACTION**

21 18. Regency Park is a senior housing apartment complex consisting of 105 units  
22 designated to meet the housing needs of the senior citizens residing in the community.

23 19. Ms. Almeida was born and raised in the small town of Mojolo, a suburb of Culiacán,  
24 Sinaloa, Mexico. In 1969, Ms. Almeida left her small town for hopes of a better life and moved to  
25 Mexicali, Baja California. There, she met her husband and came to the United States in the mid  
26 70’s. Ms. Almeida made her life in El Centro raising her daughters with her husband. Once her  
27 children were older, Ms. Almeida started working as an agricultural field worker picking crops such  
28

1 as broccoli and cantaloupe. After years of working in the fields, Ms. Almeida wanted a position that  
2 would allow her to leave the fields and provide for herself.

3 20. In or around 2007 or 2008, Regency Park hired Ms. Almeida as a housekeeper. The  
4 position required Ms. Almeida to work seven days a week from about 7 p.m. to 8 a.m. conducting  
5 general cleaning throughout the property, along with overseeing the maintenance of the laundry  
6 room and attending to any issues with the entrance gate. On the weekends, Ms. Almeida was  
7 required to be on-call for work twenty-four hours a day to attend to any issues the tenants may have.

8 21. Unfortunately, Regency Park failed to pay Ms. Almeida wages for her work. Ms.  
9 Almeida, who is from Mexico, has limited English proficiency. Because of her national origin, Ms.  
10 Almeida was unfamiliar with her labor rights in California and/or in the United States in general,  
11 and with her status as an immigrant, Regency Park intentionally took advantage of her. Regency  
12 Park knew Ms. Almeida was from Mexico and had limited English proficiency. As such, Regency  
13 Park took advantage of Ms. Almeida by failing to properly pay her wages. Instead, Regency Park  
14 offered Ms. Almeida a one-bedroom apartment free of charge in exchange for her labor. Ms.  
15 Almeida was unaware of the wage and hour protections under the law, believed this was a legal  
16 tender of payment, and accepted the position. Each month, Regency Park provided Ms. Almeida  
17 with a receipt for \$600. Regency Park told Ms. Almeida the receipt served both proof of her wages  
18 and proof of payment for her apartment.

19 22. At the time, Ms. Almeida was fifty-seven years old and felt lucky to have found  
20 employment. The apartment Regency Park provided Ms. Almeida was located on the ground floor  
21 next to the only entrance and exit gate to the complex. Ms. Almeida was required to attend to any  
22 issues tenants and their guests may have with the gate during her working hours.

23 23. If someone were having issues with the gate outside of Ms. Almeida's working hours,  
24 they would be required to inquire at the front-desk reception office for assistance. However, there  
25 was not always someone present to open the gate. In those instances, Regency Park expected Ms.  
26 Almeida to open the door. Consequently, Ms. Almeida needed to keep her bedroom window blinds  
27 open to indicate she was not there and to keep them closed to indicate she was there for assistance  
28 with the gate.

1           24.     Unfortunately, the gate was outdated, and tenants often had issues entering and  
2 exiting the complex. As a result, Ms. Almeida attended to the gate at all hours of the day and night,  
3 including times outside of her shift. Thus, instead of working a thirteen-hour shift, Ms. Almeida was  
4 generally on-call twenty-four hours a day, seven days a week.

5           25.     Despite the irregular hours, Ms. Almeida took pride in her position at Regency Park,  
6 and she diligently and competently performed her duties. Ms. Almeida's manager, Javier Gonzalez,  
7 quickly noted her work ethic and promoted Ms. Almeida to the position of Assistant Manager. Ms.  
8 Almeida went from serving as a housekeeper to serving as the company's multi-purpose employee.  
9 Because she was reliable, Regency Park had Ms. Almeida perform many different tasks around the  
10 property. The Property Manager, Mr. Gonzalez, became more removed from the day-to-day  
11 operations of Regency Park and he instructed Ms. Almeida to only contact him for emergencies.

12           26.     In her new role, Ms. Almeida collected rent from the tenants, collected Regency  
13 Park's business mail, cleaned the pool and property, replaced broken appliances within the  
14 apartments, and attended to the emergent needs of the tenants. Regency Park issued Ms. Almeida a  
15 cell phone for tenants to call her at any time of day for any issues with their apartment or the gate.  
16 Ms. Almeida was required to attend to the tenants concerns even if it was out of her scheduled 7  
17 p.m. to 8 a.m. shift. The interruptions ranged from tenant calls regarding getting locked out of their  
18 apartments to calling 911 for medical emergencies.

19           27.     Indeed, all apartments have an emergency assistance button that triggers an alarm  
20 within the complex. The alarm is a loud blaring sound that alerts the apartment complex a resident  
21 needs assistance. Residents pushed this button during medical emergencies or when they had an  
22 urgency for assistance. Unfortunately, the button was pushed often, about once a week. Each time  
23 the alarm rang, no matter the time of day, Ms. Almeida was forced to drop all tasks and assist the  
24 resident.

25           28.     As a result, Ms. Almeida was rarely ever able to take an "off-duty" break, and if she  
26 got the opportunity to rest, it was often interrupted. Unfortunately, despite the promotion and added  
27 duties, Ms. Almeida remained unpaid for the work she did at Regency Park.

1           29.     Due to her presence in the community, Ms. Almeida developed relationships with  
2 the community of senior citizens living there. The tenants grew to know and appreciate Ms.  
3 Almeida. The tenants encouraged Ms. Almeida to apply to obtain U.S. citizenship and helped her  
4 study for her exam. In 2012, Ms. Almeida was proudly able to become a U.S. citizen with the help  
5 of her family, friends, and the tenants of Regency Park.

6           30.     Ms. Almeida took active steps to cultivate a sense of community amongst the tenants  
7 and planned activities for them in the Regency Park's lobby. There, the community members  
8 gathered and spent time with one another. Ms. Almeida knew some of the tenants had no family and  
9 were nearing the end of their life and sought to provide as much comfort and support as she could  
10 within her role managing the property.

11          31.     Each morning, before the end of her shift, Ms. Almeida would walk the halls of the  
12 apartment complex to ensure the tenants' needs were cared for. The tenants knew of Ms. Almeida's  
13 morning rounds and many left their screen door open to welcome her conversation and inform Ms.  
14 Almeida of any issues they were having with their apartment or the property. Ms. Almeida's rounds  
15 also served as wellness checks for the residents. Regrettably, on occasion Ms. Almeida was the first  
16 person to discover a tenant had passed away. In those instances, Ms. Almeida was required to call  
17 911 and notify Regency Park of the passing.

18          32.     Ms. Almeida cherished her position at Regency Park and enjoyed serving its tenants.  
19 She believed she would spend the rest of her working years at Regency Park and hoped to one day  
20 retire and become a tenant at Regency Park.

21          33.     Unfortunately, that was not to be the case. In late 2021, the FBI conducted an  
22 investigation on Regency Park's premises and made some arrests, including arresting at least one  
23 Regency Park employee. As such, Regency Park knew the authorities had their eye on Regency  
24 Park's employees and likely Regency Park. Based on information and belief, knowing its gross  
25 labor code violations with respect to Ms. Almeida, Regency Park took actions to cover up and hide  
26 its misconduct by making the decision to terminate Ms. Almeida's employment. In light of the  
27 FBI's investigation, on December 6, 2021, Regency Park brought Jennifer Gastelum, who  
28 introduced herself to Ms. Almeida as the new manager, to the property to get rid of Ms. Almeida.

1           34.     Ms. Gastelum approached Ms. Almeida and told her “We really don’t know what  
2 we’re going to do with you and your position. You look so tired. I can tell you need rest. Why don’t  
3 you go on vacation while we figure it out. You can rest during this time.” In addition, she informed  
4 Ms. Almeida that she would have to start paying rent for the apartment she was staying in. Ms.  
5 Almeida was confused as to why Regency Park was now requiring her to pay for the apartment  
6 when the apartment was supposed to serve as a payment for the services she provided to Regency  
7 Park.

8           35.     Notwithstanding, Ms. Almeida went on her scheduled time off from December 30,  
9 2021 through January 7, 2022, with a scheduled return to work date of January 10, 2022.  
10 Unbelievably, without warning or notice, on January 7, 2022, Regency Park served Ms. Almeida  
11 with a notice to evict her from her apartment. Ms. Almeida confronted Ms. Gastelum about the  
12 eviction notice. There, she learned Regency Park was evicting her from the place she had called  
13 home for fifteen years and terminating her employment.

14           36.     To date, Ms. Almeida has never been paid for the work she performed for Regency  
15 Park for over a decade.

#### 16                               **PRIVATE ATTORNEYS GENERAL ACT**

17           37.     California’s PAGA (Labor Code §2698, *et seq.*) was in effect during all relevant  
18 times during Ms. Almeida’s employment with Regency Park. PAGA provides that any civil penalty  
19 which may be assessed and collected by the Labor and Workforce Development Agency (“LWDA”)  
20 for violations of the Labor Code may, as an alternative, be recovered through a civil action brought  
21 by an aggrieved employee on behalf of herself and other current or former employees pursuant to  
22 procedures outlined in Labor Code §2699.3.

23           38.     Under PAGA, an “aggrieved employee,” is “any person employed by the alleged  
24 violator and against whom one or more of the alleged violations was committed.” Ms. Almeida was  
25 employed by Regency Park and the alleged violations were committed against her during her  
26 employment and she is, therefore, an aggrieved employee as defined by Labor Code §2699(c).

27           39.     Pursuant to Labor Code §§2699.3 and 2699.5, an aggrieved employee, including Ms.  
28 Almeida, may pursue a civil action to recover PAGA civil penalties in addition to any other available

penalties after: (1) giving written notice by certified mail (“Employee’s Notice”) to the LWDA and the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations; and (2) the LWDA advises the employee and employer it declines to investigate the alleged violations within 60 calendar days of the postmark date of the Employee’s Notice. Labor (“Lab.”) Code §2699.3(a)(1)-(2).

40. On August 18, 2022, Ms. Almeida provided written notice by online submission and by certified mail to the LWDA and by certified mail to Regency Park of the specific provisions of the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations, pursuant to Labor Code §2699.3.

41. The employer may cure the alleged violation within 33 calendar days of the Employee’s Notice. Labor Code §2699.3(c)(2)(A). If the alleged violations are not cured within the 33-day period, Ms. Almeida may commence a civil action to recover penalties pursuant to Labor Code §2699.

42. If the alleged violations are not cured in whole within the 33-day period by Regency Park, Ms. Almeida intends on amending her complaint to add a cause of action arising under Labor Code §2699. *See* Labor Code §2699.3(a)(2)(C) (“Notwithstanding any other provision at law, a plaintiff may as a matter of right amend an existing complaint to add a cause of action arising under this part at any time within 60 days of the time periods specified in this part.”).

### **FIRST CAUSE OF ACTION**

#### **Failure to Pay Minimum Wages In Violation of Labor Code §§1194 and 1197**

#### **(Against All Defendants)**

43. Plaintiff hereby realleges and incorporates by reference the allegations contained in the paragraphs above, as if fully set forth herein.

44. Labor Code §1197 provides, “[t]he minimum wage for employees fixed by the commission . . . is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.” Lab. Code §1197. The statutory minimum wages are set forth in Labor Code §1182.12.

45. “All wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Lab. Code §204(a). “Every employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission or otherwise.” IWC Wage Order No. 5-2001 (4)(B).

46. The broad definition of “hours worked” includes “the time during which an employee is subject to the control of an employer and includes all the time the employee is suffered or permitted to work, whether or not required to do so . . . .” See 8 Cal. Code Regs. §11050(2)(K). California workers must receive the minimum wage for each hour worked during the payroll period, even if the agreed-upon compensation exceeds the minimum wage for the total hours worked. *See Gonzalez v. Downtown LA Motors, LP*, 215 Cal. App. 4th 36, 51-52 (2013); *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 323 (2005).

47. Regency Park valued Ms. Almeida’s apartment at approximately \$600-\$650 per month. “[L]odging may not be credited against the minimum wage without a voluntary written agreement between the employer and the employee. When credit for . . . lodging is used to meet part of the employer’s minimum wage obligation, the amounts so credited” for an apartment shall be either “two thirds (2/3) of the ordinary rental value, and in no event more than:”

- “\$621.28/ month” in 2019;
- “\$667.75/ month” in 2020;
- “\$734.21/ month” in 2021; and
- “\$847.12/ month” in 2022.

IWC Wage Order No. 5-2001 (10)(C); *see also* 8 Cal. Code Regs. §11050.

48. Here, there was no “written” agreement that the housing would be used to meet part of Regency Park’s minimum wage obligations. Notwithstanding, Defendants subjected Plaintiff to its control during hours for which Plaintiff was not compensated. In addition to her daily work shifts from 7 p.m. to 8 a.m., Plaintiff was on-call twenty-four hours per day on the weekends, and she was otherwise subjected to Defendants’ control as stated herein above, without being compensated at

1 least minimum wage. As a direct result, Defendants failed to pay Plaintiff the minimum wage for  
2 each hour worked during the payroll period.

3 49. “[A]ny employee receiving less than the legal minimum wage . . . applicable to the  
4 employee is entitled to recover in a civil action the unpaid balance of the full amount of this  
5 minimum wage . . . including interest thereon, reasonable attorney’s fees, and costs of suit.” Lab.  
6 Code §1194(a).

7 50. Because Plaintiff suffered damage as a direct result of Defendants’ failure to pay her  
8 for all hours worked, Plaintiff may recover the full amount of the difference between what she was  
9 paid and what she was required to be paid, including interest thereon, reasonable attorneys’ fees,  
10 and costs of suit. Lab. Code §§1194(a), 1194.3, 218, 218.5, and 218.6. Plaintiff may also “recover  
11 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.” Lab.  
12 Code §1194.2(a).

## 13 SECOND CAUSE OF ACTION

### 14 Failure to Pay Overtime Compensation 15 In Violation of Labor Code §§510 and 1194

#### 16 (Against All Defendants)

17 51. Plaintiff hereby realleges and incorporates by reference the allegations contained in  
18 the paragraphs above, as if fully set forth herein.

19 52. Employees must be paid one and one-half of their regular rate of pay for every hour  
20 worked above forty hours in a given work week, or above eight hours in a given workday. *See* 8  
21 Cal. Code Regs. §11050(3)(A). “[A]ny employee receiving less than . . . the legal overtime  
22 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance  
23 of the full amount of this minimum wage or overtime compensation, including interest thereon,  
24 reasonable attorney’s fees, and costs of suit.” Lab. Code §1194(a); *see also* Lab. Code §§218, 218.5,  
25 and 218.6.

26 53. Labor Code §510(a) provides:

27 Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in  
28 one workday and any work in excess of 40 hours in any one workweek and the first  
eight hours worked on the seventh day of work in any one workweek shall be

1 compensated at the rate of no less than one and one-half times the regular rate of  
 2 pay for an employee. Any work in excess of 12 hours in one day shall be  
 3 compensated at the rate of no less than twice the regular rate of pay for an employee.  
 4 In addition, any work in excess of eight hours on any seventh day of a workweek  
 shall be compensated at the rate of no less than twice the regular rate of pay of an  
 employee.

5 Lab. Code §510(a); *see also* 8 Cal. Code Regs. §11050(3)(A)(1).

6 54. During the time Plaintiff worked for Regency Park, Defendants had a pattern and  
 7 practice of not properly calculating and compensating Plaintiff for the overtime hours she worked.  
 8 Plaintiff did not work alternative workweek schedules pursuant to Labor Code §511, 514, and 554.

9 55. Plaintiff worked more than eight hours in a workday and/or in excess of 40 hours in  
 10 a workweek without being compensated at the applicable overtime rate. In addition, Plaintiff  
 11 worked in excess of 12 hours in one day without being compensated at the applicable overtime rate.  
 12 Finally, based on information and belief, Plaintiff worked in excess of eight hours on a seventh day  
 13 of a workweek without being compensated at the applicable overtime rate. Defendants failed to pay  
 14 Plaintiff's overtime wages.

15 56. As such, Defendants must pay Plaintiff all unpaid overtime wages, interest, costs of  
 16 suit, and reasonable attorneys' fees. Lab. Code §§218, 218.5, and 218.6.

### 17 **THIRD CAUSE OF ACTION**

#### 18 **Failure to Provide Meal Breaks or Pay** 19 **Premium in Lieu Thereof In Violation of Labor Code §§226.7 &** 20 **512 and IWC Wage Order No. 5-2001**

#### 21 **(Against All Defendants)**

22 57. Plaintiff realleges and incorporates by reference each allegation in the preceding and  
 23 subsequent paragraphs.

24 58. Plaintiff did not meet the criteria established for exemption as an executive or  
 25 administrative employee, and therefore, Plaintiff was a non-exempt housekeeper entitled to the  
 26 protections of Labor Code §§226.7 and 512 throughout her employment with Defendants.  
 27  
 28

1           59. Labor Code §512(a) provides that “[a]n employer shall not employ an employee for  
2 a work period of more than five hours per day without providing the employee with a meal period  
3 of not less than 30 minutes.” California’s accompanying Regulations further provide:

4           No employer shall employ any person for a work period of more than  
5 five (5) hours without a meal period of not less than 30 minutes,  
6 except that when a work period of not more than six (6) hours will  
7 complete the day’s work the meal period may be waived by mutual  
8 consent of the employer and the employee. Unless the employee is  
9 relieved of all duty during a 30 minute meal period, the meal period  
10 shall be considered an “on duty” meal period and counted as time  
11 worked. An “on duty” meal period shall be permitted only when the  
12 nature of the work prevents an employee from being relieved of all  
13 duty and when by written agreement between the parties an on-the-  
14 job paid meal period is agreed to. The written agreement shall state  
15 that the employee may, in writing, revoke the agreement at any time.

16 8 Cal. Code Regs. §11050(11)(A); IWC Wage Order No. 5-2001(11)(A).

17           60. Further, “an employer shall not require an employee to work during a meal . . . period  
18 mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the  
19 Industrial Welfare Commission.” Lab. Code §226.7(b). “If an employer fails to provide an employee  
20 a meal . . . period . . . , the employer shall pay the employee one additional hour of pay at the  
21 employee’s regular rate of compensation for each workday that the meal . . . period is not provided.”  
22 Lab. Code §226.7(c); 8 Cal. Code Regs. §11050(11)(B); IWC Wage Order No. 5-2001(11)(B).

23           61. During the relevant period, Defendants did not make available to Plaintiff full off  
24 duty meal breaks for working more than five and/or ten hours per day. Among other reasons, due to  
25 the nature of Defendants’ business model that required Plaintiff to attend to its tenants, Plaintiff was  
26 not able to take compliant off-duty meal breaks. Defendants knowingly failed to provide Plaintiff  
27 with off duty-free meal breaks. Plaintiff was not relieved of all duties during her meal breaks, if any,  
28 and the nature of Plaintiff’s job as a non-exempt housekeeper did not prevent her from being relieved  
of her duties. Thus, no on-duty meal break was permitted even had Plaintiff signed a meal period  
waiver. 8 Cal. Code Regs. §11050(11)(A).

62. Further, during the relevant period, Defendants failed to pay Plaintiff one additional hour of pay at her regular rate of compensation for each workday that a meal break was missed, late, and/or interrupted pursuant to Labor Code §226.7(b) and IWC Wage Order 5-2001(11).

#### FOURTH CAUSE OF ACTION

##### **Failure to Timely Pay All Wages Due at Termination in Violation of Labor Code §§201 and 203**

##### **(Against All Defendants)**

63. Plaintiff hereby realleges and incorporates by reference the allegations contained in the paragraphs above, as if fully set forth herein.

64. Pursuant to Labor Code §558.1, any “employer or person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage hours and days of work in any order of the Industrial Welfare Commission. . . may be held liable as the employer for such violation.” Lab. Code §558.1(a).

65. At all relevant times, Regency Park was an “employer” pursuant to Labor Code §558.1(a). Additionally, at all relevant times, Mr. and Mrs. Ferber were persons “acting on behalf of an employer” pursuant to Labor Code §558.1(a) and (b).

66. Labor Code §201 provides in pertinent part: “if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.” Lab. Code §201(a).

67. Labor Code §203 provides in pertinent part: “If an employer willfully fails to pay in accordance with Section [ ] 2021. . . any wages of an employee *who is discharged* or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid. . . ; but the wages shall not continue for more than 30 days.” Lab. Code §203(a). (emphasis added).

68. Defendants failed to pay earned wages to Plaintiff upon her termination. More than 30 days have passed since Plaintiff was terminated by Defendants and Defendants failed to pay Plaintiff all wages due and owing.

69. Because of Defendants' willful conduct in not paying all wages due upon termination of employment, Plaintiff is entitled to 30-day wages as a penalty under Labor Code §203, plus with interest thereon. Pursuant to Labor Code §218.5, Plaintiff is also entitled to attorney's fees and costs.

#### FIFTH CAUSE OF ACTION

#### Failure to Provide Accurate Wage Statements in Violation of Labor Code §226

#### (Against All Defendants)

70. Plaintiff hereby realleges and incorporates by reference the allegations contained in the paragraphs above, as if fully set forth herein.

71. "Employers are required to provide itemized wage statements to employees, containing specified information, all set forth in section 226(a)." *Heritage Residential Care, Inc. v. Div. of Labor Standards Enf't*, 192 Cal. App. 4th 75, 80 (2011). "The requirement is mandatory." *Id.* Each "detachable part of the check" must accurately itemize nine categories of information. Lab. Code §226(a). The categories applicable here include: (1) gross wages earned, (2) total hours worked, (3) all deductions, (4) net wages earned, (5) the inclusive dates of the period for which the employee is paid, (6) the name of the employee and only the last four digits of his or her social security number, (7) the name and address of the legal entity that is the employer, and (8) all applicable hourly rates and the corresponding number of hours worked at each rate. *Id.*

72. Defendants intentionally and willfully failed to provide Plaintiff with complete and accurate wage statements as required under Labor Code §226(a). Defendants' failure was not an isolated and unintentional payroll error due to a clerical or inadvertent mistake, but a knowing and intentional pattern and practice that occurred throughout Plaintiff's employment with Defendants.

73. As a result of Defendants' failures, Plaintiff is deemed to have suffered injury. Lab. Code §226(c)(2)(A), (B). Specifically, Plaintiff has been injured because she was denied both her legal right to receive, and her protected interest in receiving, accurate itemized wage statements under California Labor Code §226(a). In addition, because Defendants failed to provide the accurate hours worked and rates of pay on wage statements, Defendants have prevented Plaintiff from determining if all hours worked were paid at the appropriate rate and the extent of the underpayment.

1 Plaintiff has had to file this lawsuit to determine the extent of the underpayment and be made whole,  
 2 thereby causing Plaintiff to incur expenses and lost time. Plaintiff would not have had to engage in  
 3 these efforts and incur these costs had Defendants provided the accurate rate of pay. This has also  
 4 delayed Plaintiff's ability to demand and recover the underpayment of wages from Defendants.

5 74. As a proximate result of the Defendants' unlawful acts, Plaintiff has suffered and  
 6 continues to suffer harm and "is entitled to recover the greater of all actual damages or fifty dollars  
 7 (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per  
 8 employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four  
 9 thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." Lab.  
 10 Code §226(e)(1).

11 75. Defendants' violations of Labor Code §226(a) prevented Plaintiff from knowing,  
 12 understanding, and disputing the wages paid to her, and resulted in an unjustified economic  
 13 enrichment to Defendants. As a result of Defendants' knowing and intentional failure to comply  
 14 with Labor Code §226(a), Plaintiff has suffered an injury, the exact amount of damages and/or  
 15 penalties is all in an amount to be shown according to proof at trial.

16 76. Plaintiff is also entitled to injunctive relief under Labor Code §226(h), compelling  
 17 Defendants to comply with Labor Code §226 and seek the recovery of attorneys' fees and costs  
 18 incurred in obtaining this injunctive relief.

## 19 SIXTH CAUSE OF ACTION

### 20 Failure to Maintain Employment Records 21 In Violation of Labor Code §§226, 432, 1174, and 1198.5

#### 22 (Against All Defendants)

23 77. Plaintiff hereby realleges and incorporates by reference the allegations contained in  
 24 the paragraphs above, as if fully set forth herein.

25 78. Pursuant to Labor Code §226(b) an employer is required to maintain employees'  
 26 wage statements and "shall afford current and former employees the right to inspect or receive a  
 27 copy of records pertaining to their employment, upon reasonable request to the employer." Lab.  
 28 Code §226(b); *see also* 8 Cal. Code Regs. §11050(7)(A)-(C) (identify accurate information

employers are required to maintain). An employer who receives a written or oral request to receive a copy of these records “shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.” Lab. Code §226(c).

79. In addition, pursuant to Labor Code §432, upon request an employer must give an employee a copy of any instrument signed by the employee relating to the obtaining or holding of employment. Any person violating this article is guilty of a misdemeanor. Lab. Code §433.

80. Similarly, pursuant to Labor Code §1174(d), every person employing labor in this state shall keep at a central location in the state all payroll records showing the hours worked daily by and the wages paid to the respective employees at the establishment. These records “shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years.” Lab. Code §1174(d). “An employer shall not prohibit an employee from maintaining a personal record of hours worked . . . .” *Id.* Pursuant to the Industrial Welfare Commission (“IWC”) Wage Order 5-2001, codified at 8 Cal. Code Regs. §11050, pertaining to all persons employed in the public housekeeping industry, an employer “shall keep **accurate** information with respect to each employee” including “[t]ime records showing when the employee begins and ends each work period.” 8 Cal. Code Regs. §11050(7)(A)(3) (emphasis added). “Meal periods, split shift intervals and total daily hours worked shall also be recorded.” *Id.* In addition, “[t]otal wages paid each payroll period” and “[t]otal hours worked in the payroll period and applicable rates of pay” must be accurately maintained. 8 Cal. Code Regs. §11050(7)(A)(4)-(5).

81. Finally, pursuant to Labor Code §1198.5(a), every “current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee’s performance or to any grievance concerning the employee.” Lab. Code §1198.5(a). The employer shall make the contents of those personnel records available for inspection at a reasonable time, “but not later than 30 calendar days from the date the employer receives a written request.” Lab. Code §1198.5(b)(1).

82. A failure by an employer to permit a current or former employee to inspect or receive a copy of records within the time set forth in Labor Code §226(c) entitles the employee to recover

1 a \$750 penalty from the employer. Lab. Code §226(f). An employee may also bring an action for  
 2 injunctive relief to ensure compliance and is entitled to an award of costs and reasonable attorneys'  
 3 fees. Lab. Code §226(h).

4 83. An employer who willfully fails to maintain records as required by Labor Code  
 5 §1174(c) or accurate and complete records required by Labor Code §1175(d) shall be subject to a  
 6 civil penalty of \$500. Lab. Code §1174.5 (2022). Such conduct also constitutes a misdemeanor.  
 7 Lab. Code §1175(a)-(d).

8 84. An employer who fails to permit an employee to inspect or copy personnel records  
 9 within the times specified by Labor Code §1198.5(b)(1) may recover a "penalty" of \$750 from the  
 10 employer. Lab. Code §1198.5(k) (2022). An employee may also bring an action for injunctive relief  
 11 to ensure compliance and is entitled to an award of costs and reasonable attorney's fees. Lab. Code  
 12 §1198.5(l).

13 85. On February 23, 2022, Plaintiff requested in writing to inspect and copy of her  
 14 employment files and records. More than 30 days have elapsed, and Defendants failed to comply  
 15 with the request in a timely manner or otherwise make the records available for inspection and  
 16 copying. In addition, based on information and belief, Defendants failed to maintain "accurate"  
 17 records relating to Plaintiff's time records, wage records, and meal periods. As such, Defendants  
 18 violated Labor Code §§226, 432, 1174, 1198.5, and IWC Wage Order 5-2001.

19 86. Accordingly, pursuant to the above noted laws and Labor Code §§218, 218.5, and  
 20 218.6, Plaintiff seeks injunctive relief, penalties, costs of suit, including reasonable attorneys' fees,  
 21 and interest.

## 22 SEVENTH CAUSE OF ACTION

### 23 Violation of the Private Attorney General Act 24 ("PAGA"), Labor Code §§2698, *et seq.*

#### 25 (Against Defendants Regency Park and DOES 1-25)

26 87. Plaintiff hereby realleges and incorporates by reference the allegations contained in  
 27 the paragraphs above, as if fully set forth herein.  
 28

1           88. Pursuant to Labor Code §§2698, *et seq.*, any provision of the Labor Code that  
2 provides for a civil penalty to be assessed and collected by the LWDA or any of its departments,  
3 divisions, commissions, boards, agencies, or employees for violation of the code may, as an  
4 alternative, be recovered through a civil action brought by an aggrieved employee on behalf of  
5 herself and other current or former employees pursuant to the procedures specified in Labor Code  
6 §2699.3.

7           89. Defendants' conduct violates numerous Labor Code sections including, but not  
8 limited to, the following: Labor Code §§218, 223, 226, 226.7, 510, 512, 551, 552, 558, 558.1, 1194,  
9 1197, 1198.5, and 2926.

10          90. For all provisions of the Labor Code as noted in the statute except those for which  
11 a civil penalty is specifically provided, Labor Code §2699(f) imposes upon Defendants a penalty of  
12 \$100 for each aggrieved employee per pay period for the initial violation and \$200 for each  
13 aggrieved employee per pay period for each subsequent pay period in which Defendants violated  
14 these provisions of the Labor Code.

15          91. Plaintiff and other employees are "aggrieved employees" because they are and/or  
16 were employed by the alleged violator, Defendants, and had one or more of the alleged violations  
17 committed against them. Plaintiff is properly suited to represent the interests of all other aggrieved  
18 employees that also had one or more of the alleged violations committed against them.

19          92. Defendants' conduct, as alleged herein, has been and continues to be unfair,  
20 unlawful, and harmful to Plaintiff, other employees and the general public. Plaintiff seeks to enforce  
21 important rights affecting the public interest within the meaning of Code of Civil Procedure §1021.5.

22          93. Pursuant to Labor Code §§2699(a), 2699.3, and 2699.5, Plaintiff exhausted the  
23 time limits under PAGA, and as such, Plaintiff is entitled to seek to recover all civil penalties  
24 available under the law, in addition to other remedies, for violations of the Labor Code sections  
25 cited above.

26          94. For bringing this action, Plaintiff is entitled to reasonable attorneys' fees and costs  
27 pursuant to Labor Code §2699(g)(1), Code of Civil Procedure §1021.5, and/or as otherwise allowed  
28 by law.

**EIGHTH CAUSE OF ACTION****National Original Discrimination  
In Violation of Government Code §12940(a)****(Against Defendants Regency Park and DOES 1-25)**

95. Plaintiff hereby realleges and incorporates by reference the allegations contained in the paragraphs above, as if fully set forth herein.

96. Government Code §12940 states in pertinent part: “It is an unlawful employment practice ... (a) [f]or an employer, because of race, ... color, [or] national origin ... of any person ... to discriminate against the person in compensation or in terms, conditions, or privileges of employment.” Gov’t Code §12940(a). Race, color, and national origin “includes a perception that the person has any of those characteristics ....” Gov’t Code §12926(o).

97. At all times mentioned herein, Ms. Almeida was in a class of persons protected by FEHA because of her race and national origin, namely, Ms. Almeida is Mexican and from Mexico. Defendants knew Ms. Almeida was Mexican and from Mexico and it perceived her as such. Defendants also knew Ms. Almeida had limited English proficiency.

98. Defendants discriminated against Ms. Almeida in compensation and in terms, conditions, and privileges of employment. Defendants engaged in wage theft from Ms. Almeida because of her national origin. Based on information and belief, Defendants did not engage in similar wage theft with its employees who are from the United States. Rather, Defendants took advantage of Ms. Almeida and felt it could get away with failing to comply with California’s labor laws with respect to her because of Ms. Almeida’s immigration status being from Mexico and because she had limited English proficiency. English fluency was not necessary to perform Ms. Almeida’s essential job duties, as evidenced by the fact Ms. Almeida successfully performed her job duties for over a decade.

99. As a proximate result of Regency Park’s wrongful conduct, Ms. Almeida has suffered, and continues to suffer, substantial losses in earnings, earning capacity, and other benefits of employment, all in an amount to be determined according to proof at the time of trial. Ms. Almeida will also suffer tax consequences due to Defendants’ failure to pay Ms. Almeida money

owed, which will come due in a lump sum in the future. Accordingly, Ms. Almeida is entitled to an additional amount of damages to offset the tax consequences of a lump sum award for lost earnings, plus interest.

100. As a further proximate result of Defendants' wrongful conduct, Ms. Almeida has suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental anguish, all in an amount to be determined according to proof at the time of trial.

101. In performing the acts alleged, which were committed, authorized, and/or adopted and approved by Defendants' offices, directors, and/or managing agents, including without limitation, Defendants Normal and Linda Ferber, Defendants acted with oppression, fraud, malice, and with a conscious disregard for the rights of Ms. Almeida, and Ms. Almeida is therefore entitled to punitive damages against Defendants in an amount appropriate to punish and make an example of Defendants.

102. Ms. Almeida is also entitled to attorneys' fees and costs pursuant to Government Code §12965(c)(6), because of Defendants' conduct.

## **NINTH CAUSE OF ACTION**

### **Wrongful Termination In Violation of Public Policy**

#### **(Against Defendants Regency Park and DOES 1-25)**

103. Plaintiff hereby realleges and incorporates by reference the allegations contained in the paragraphs above, as if fully set forth herein.

104. In California, it is unlawful to terminate an employee's employment for a reason that violates fundamental public policy. Defendants terminated Ms. Almeida's employment to avoid the liability, punishment, and payment of wages it owed to Ms. Almeida, in violation of public policy.

105. After serving Defendants for over a decade, within weeks of an investigation by the FBI on Defendants' premises, Defendants suddenly terminated Ms. Almeida's employment. Based on information and belief, with the authorities now having an eye on Defendants' employees, and Defendants knowing its gross Labor Code violations with respect to Ms. Almeida's employment, Defendants terminated Ms. Almeida's employment to hide its liability and avoid the punishment

1 and payment of wages it owed to Ms. Almeida, in violation of public policy. As set forth in this  
2 Complaint, Defendants engaged in gross violations of the Labor Code, including, without limitation,  
3 §§218, 223, 226, 226.7, 510, 512, 551, 552, 558, 558.1, 1194, 1197, 1198.5, and 2926. California's  
4 laws establish a fundamental public policy in the payment of minimum wages and the prompt  
5 payment of wages. *Safety, Inc. v. Super. Ct.*, 238 Cal. App. 4th 1138, 1155 (2015); *Kerr's Catering*  
6 *Service v. Dept. of Ind. Relations*, 57 Cal. 2d 319, 326 (1962); *McLean v. State of Cal.*, 1 Cal. 5th  
7 615, 626 (2016); *Vasquez v. Franklin Mgmt. Real Estate Fund, Inc.*, 222 Cal. App. 4th 819, 831-32  
8 (2013) ("[W]e conclude that California's minimum wage law represents a fundamental policy for  
9 purposes of a claim for wrongful termination ... in violation of public policy."). Terminating Ms.  
10 Almeida's employment to skirt its Labor Code obligations violates public policy.

11 106. As a proximate result of Defendants wrongful conduct, Ms. Almeida has suffered,  
12 and continues to suffer, substantial losses in earnings, earning capacity, and other benefits of  
13 employment, all in an amount to be determined according to proof at the time of trial. Ms. Almeida  
14 will also suffer tax consequences due to Defendants' failure to pay Ms. Almeida money owed, which  
15 will come due in a lump sum in the future. Accordingly, Ms. Almeida is entitled to an additional  
16 amount of damages to offset the tax consequences of a lump sum award for lost earnings, plus  
17 interest.

18 107. As a further proximate result of Defendants' wrongful conduct, Ms. Almeida has  
19 suffered, and continues to suffer, humiliation, embarrassment, emotional distress, and mental  
20 anguish, all in an amount to be determined according to proof at the time of trial.

21 108. In performing the acts alleged, which were committed, authorized, and/or adopted  
22 an approved by Defendants' offices, directors, and/or managing agents, including without  
23 limitation, Defendants Normal and Linda Ferber, Defendants acted with oppression, fraud, malice,  
24 and with a conscious disregard for the rights of Ms. Almeida, and Ms. Almeida is therefore entitled  
25 to punitive damages against Defendants in an amount appropriate to punish and make an example  
26 of Defendants.

27 109. Ms. Almeida is also entitled to attorneys' fees and costs pursuant to Code of Civil  
28 Procedure §1021.5, and any other applicable authority, because of Defendants' conduct.

**Unlawful and Unfair Business Practices  
In Violation of Business & Professions Code §§17200, *et seq.*  
(Against All Defendants)**

94. Defendants engaged in unfair and unlawful activity prohibited by Business & Professions Code §17200, *et seq.* The actions of Defendants as alleged within this Complaint constitute unlawful and unfair business practices with the meaning of Business & Professions Code §§17200, *et seq.*

95. Defendants' activities also constitute unfair practices in violation of Business & Professions Code §§17200, *et seq.*, because Defendants' practices violate the above noted laws, and/or violate an established public policy, and/or the practice is immoral, unethical, oppressive, unscrupulous, and substantially injurious to Plaintiff.

96. The identified violations of the noted laws constitute business practices because they were done repeatedly over a period, and in a systematic manner to the detriment of Plaintiff.

97. Because of Defendants' violations of the Labor Code and other identified laws, Plaintiff has suffered injury-in-fact and has lost money or property because of Defendants' practices. This injury-in-fact and loss of money or property consists of the lost wages and other restitutionary remedies provided by the Labor Code as detailed in this Complaint and other resulting harms. Plaintiff is entitled to restitution, an injunction, declaratory, and other equitable relief against such unlawful practices to prevent future damage for which there is no adequate remedy at law.

98. As a direct and proximate result of the unfair business practices of Defendants, Plaintiff is entitled to equitable and injunctive relief, including full restitution of all wages which have been unlawfully lost because of the business acts and practices described herein and enjoining Defendants to cease and desist from engaging in the practices described herein for the maximum time permitted pursuant to Business & Professions Code §17208, including any tolling.

99. Based on information and belief, the unlawful and unfair conduct alleged herein is continuing, and there is no indication that Defendants will refrain from such activity in the future. Plaintiff believes and alleges that if Defendants are not enjoined from the conduct set forth in this Complaint, it will continue to violate California labor laws.

100. Plaintiff is also entitled to and hereby claims attorneys' fees and costs, pursuant to the private attorney general theory doctrine (Code of Civil Procedure §1021.5), and any other applicable provision for attorney fees and costs, based upon the violation of the underlying public policies.

### PRAYER

WHEREFORE, Ms. Almeida seeks judgment as follows:

- A. For compensatory damages, including but not limited to actual damages from unpaid wages and benefits, according to proof at trial;
- B. For meal period premiums pursuant to Labor Code §§226.7 and 512;
- C. For civil penalties pursuant to Labor Code §§203, 226, 1174, 558, 226(f), and 1198.5(k);
- D. For attorneys' fees and costs of suit pursuant to Code of Civil Procedure §1021.5, Labor Code §§218.5, 226(h), 2699(g)(1), Government Code §12965(c)(6), and any other applicable provision for attorneys' fees and costs;
- E. For pre-judgment and post-judgment interest to the extent allowable by law;
- F. For such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Ms. Almeida demands a trial by jury on all claims.

Dated: November 22, 2022

HAEGGQUIST & ECK, LLP  
ALREEN HAEGGQUIST (221858)  
AARON M. OLSEN (259923)  
MICHELLE PEREZ-YANEZ (330305)

By: 

AARON M. OLSEN

225 Broadway, Suite 2050  
San Diego, CA 92101  
Telephone: (619) 342-8000  
Facsimile: (619) 342-7878

Attorneys for Plaintiff Martha Almeida

PROOF OF SERVICE

*Almeida v. PI Properties No. 34 El Centro LLC*  
Case No. ECU002532

STATE OF CALIFORNIA, COUNTY OF IMPERIAL

1. I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 225 Broadway, Suite 2050, San Diego, CA 92101.

2. On November 22, 2021, I caused to be served the foregoing document described as FIRST AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF on the parties in this action as follows:

Trinity Taylor  
McManis Faulkner  
Fairmont Plaza  
10th Floor, 50 W San Fernando Street  
San Jose, CA 95113  
ttaylor@mcmanslaw.com  
[svannorman@mcmanslaw.com]  
  
Attorneys for Defendants Positive  
Investments, Inc. and PI Properties No. 34 El  
Centro LLC

|          |                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>X</u> | BY ELECTRONIC SERVICE. Pursuant to C.C.P. §1010.6 requiring a party represented by counsel, who has appeared in an action or proceeding, to accept electronic service of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission, I electronically served the document(s) to the person(s) at the electronic service address(es) listed above. |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 22nd day of November 2022, at San Diego, California.

  
RACHEL BRAY

# EXHIBIT 1



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

August 18, 2022

Michelle Perez-Yanez  
225 Broadway Ste. 2050  
San Diego, CA 92101

RE: **Notice to Complainant's Attorney**  
DFEH Matter Number: 202208-17960418  
Right to Sue: Almeida / PI Properties No. 34 El Centro LLC et al.

Dear Michelle Perez-Yanez:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

**Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer.** You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

August 18, 2022

RE: **Notice of Filing of Discrimination Complaint**  
DFEH Matter Number: 202208-17960418  
Right to Sue: Almeida / PI Properties No. 34 El Centro LLC et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

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

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,



## DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758  
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711  
<http://www.dfeh.ca.gov> | Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

Department of Fair Employment and Housing



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August 18, 2022

Martha Almeida  
225 Broadway Ste. 2050  
San Diego, CA 92101

RE: **Notice of Case Closure and Right to Sue**  
DFEH Matter Number: 202208-17960418  
Right to Sue: Almeida / PI Properties No. 34 El Centro LLC et al.

Dear Martha Almeida:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective August 18, 2022 because an immediate Right to Sue notice was requested.

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

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



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

Sincerely,

Department of Fair Employment and Housing



1 **Complainant was discriminated against** because of complainant's race, ancestry,  
2 national origin (includes language restrictions), color and as a result of the discrimination  
was terminated.

3 **Additional Complaint Details:** PI Properties No. 34 El Centro LLC and Positive  
4 Investments, Inc., collectively doing business as "Regency Park" ("Regency Park"), are a  
5 senior housing apartment complex consisting of 105 units designated to meet the housing  
6 needs of the senior citizens residing in the community. Regency Park, run by Norman  
7 Ferber and Linda Ferber, knowingly took advantage of a disadvantaged worker, Martha  
8 Almeida, from the start of her employment in or around 2008 until her wrongful termination  
on January 7, 2022. For more than a decade, the company stole wages from Ms. Almeida  
and otherwise failed to provide her the benefits of the labor laws, such as compliant off duty  
breaks, wage statements, minimum wage, overtime compensation, and days off work.  
Regency Park discriminatorily took advantage of Ms. Almeida, who has limited English  
proficiency, because of her national origin, Mexican.

9  
10 Regency Park hired Ms. Almeida as a housekeeper, who was promoted to an assistant  
property manager, for its 105-unit senior citizen apartment community, wherein the company  
11 required Ms. Almeida work 12 hours shifts through the night and remain on-call 24 hours a  
day on the weekends – without any compensation. Rather, without knowing her rights, in  
12 exchange for her work, Regency Park provided Ms. Almeida with a one-bedroom apartment  
rent-free. Regency Park valued Ms. Almeida's apartment at approximately \$600-\$650 per  
13 month. In other words, even though the housing could not be credited against the minimum  
wage obligation because Regency Park did not have a compliant written agreement, even if  
14 the housing could be credited, based on the hours worked by Ms. Almeida, Regency Park  
paid Ms. Almeida far below its minimum wage obligation.

15 Ms. Almeida essentially became Regency Park's serf, whereby it provided her with more  
16 and more responsibility to manage the property at all hours of the day and night – without  
compensation or full off-duty breaks. Even though she was unknowingly being taken  
17 advantage of, Ms. Almeida enjoyed her job as she grew close with the community's  
residents. Unfortunately, after the company unlawfully took advantage of Ms. Almeida for  
18 over a decade with its egregious wage and hour violations, after the authorities, namely, the  
Federal Bureau of Investigation ("FBI") conducted an investigation on Regency Park's  
19 premises, Regency Park terminated Ms. Almeida's employment to hide and avoid the  
liability, punishment, and payment of wages it owed to Ms. Almeida, in violation of public  
20 policy. In the end, the company had Ms. Almeida take a "vacation", only for her to return to  
an eviction notice. Regency Park terminated Ms. Almeida on January 7, 2022.

1 VERIFICATION

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

5 On August 18, 2022, I declare under penalty of perjury under the laws of the State of  
6 California that the foregoing is true and correct.

7 **San Diego, California**  
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