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

MIGUEL ANGEL TOLEDO TOLEDO, an
individual,

Plaintiff,

vs.

WANTON RESTAURANT OP, LLC, a
California limited liability company; FTM
HOSPITALITY GROUP DBA CHIN
CHIN, an entity of unknown form;
ROCKEY DOMINGUEZ, an individual;
PEDRO GARCIA, an individual; and
DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 25STCV10888

COMPLAINT FOR:

- 1. WILLFUL MISCLASSIFICATION
AS EXEMPT (Wage Order No. 5);**
- 2. FAILURE TO PAY PREMIUM
OVERTIME/DOUBLE TIME
WAGES DUE (Cal. Labor Code §§
510, 511, 1194, 1198; IWC Wage
Order No. 5);**
- 3. FAILURE TO PAY MINIMUM
WAGE AND PAY FOR ALL
WAGES EARNED (Labor Code §§
204, 1194 and 1197; IWC Wage
Order No. 5);**
- 4. FAILURE TO PAY FOR REST
PERIODS NOT PROVIDED (Cal.
Labor Code § 226.7; IWC Wage
Order No. 5);**
- 5. FAILURE TO PAY FOR MEAL
PERIODS NOT PROVIDED (Cal.
Labor Code §§ 226.7, 512; IWC
Wage Order No. 5);**
- 6. FAILURE TO PROVIDE
ACCURATE ITEMIZED WAGE
STATEMENTS (Cal. Labor Code
§226);**
- 7. FAILURE TO REIMBURSE
BUSINESS EXPENSES (Cal. Labor
Code §2802);**
- 8. FAILURE TO PROVIDE DAYS OF**

1 REST (Cal. Labor Code §§ 551,
2 552);

3 9. FAILURE TO ALLOW
4 INSPECTION OF EMPLOYMENT
5 RECORDS (Cal. *Labor Code*
6 §1198.5);

7 10. UNFAIR COMPETITION (Cal. Bus.
8 & Prof. Code §§17200 et seq.);

9 11. DISCRIMINATION BASED ON
10 PHYSICAL DISABILITY IN
11 VIOLATION OF GOVT. CODE
12 §12940(a);

13 12. HARASSMENT BASED ON
14 PHYSICAL DISABILITY IN
15 VIOLATION OF GOVT. CODE
16 §12940(a);

17 13. HOSTILE WORK
18 ENVIRONMENT IN VIOLATION
19 OF GOVT. CODE §12940 *ET. SEQ.*;

20 14. RETALIATION IN VIOLATION
21 OF GOVT. CODE §12940 *ET SEQ.*;

22 15. FAILURE TO PREVENT
23 DISCRIMINATION FROM
24 OCCURRING IN VIOLATION OF
25 GOVT. CODE §12940(K);

26 16. FAILURE TO ACCOMMODATE
27 PHYSICAL DISABILITY IN
28 VIOLATION OF GOVT. CODE
§12940(m); AND

17. FAILURE TO ENGAGE IN A
GOOD FAITH INTERACTIVE
PROCESS IN VIOLATION OF
GOVT. CODE §12940(n).

DEMAND FOR A JURY TRIAL

23 Miguel Angel Toledo Toledo (“Plaintiff”) alleges the following:

24 **I. JURISDICTION AND VENUE**

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

1 2. Venue is proper in this Court pursuant to *Code of Civil Procedure* §§ 395 and
2 395.5, because the claims made, and the *Labor Code* violations as against the persons identified
3 herein, occurred in the County of Los Angeles and because Defendants Wanton Restaurant OP,
4 LLC and FTM Hospitality Group dba Chin Chin owned and operated their businesses in the
5 County of Los Angeles.

6 **II. PARTIES**

7 3. At all times relevant hereto, Plaintiff Miguel Angel Toledo Toledo (hereinafter
8 “Plaintiff”) was an individual over age 18 and a resident of Hollywood, California.

9 4. Plaintiff is informed and believes and thereon alleges that at all times material
10 hereto, Defendant Wanton Restaurant OP, LLC, (“Wanton”), has been, and is, a California
11 limited liability company, with a principal place of business at 12100 W. Washington Blvd.,
12 Los Angeles, CA 90066. At all times material hereto, Wanton has been, and is, a company that
13 owns and operates restaurants. Plaintiff is informed and believes and thereon alleges that at all
14 times material hereto Wanton has been authorized to do business and has been doing business
15 in the State of California.

16 5. Plaintiff is informed and believes and thereon alleges that at all times material
17 hereto, Defendant FTM Hospitality Group dba Chin Chin (“Chin Chin”), has been, and is, an
18 entity of unknown form, with a principal place of business at 12100 W. Washington Blvd., Los
19 Angeles, CA 90066. At all times material hereto, FTM Hospitality Group dba Chin Chin has
20 been, and is, a developer, operator and franchisor of restaurants. Plaintiff is informed and
21 believes and thereon alleges that at all times material hereto Wanton has been authorized to do
22 business and has been doing business in the State of California.

23 6. Plaintiff is informed and believes and thereon alleges that Defendant Rockey
24 Dominguez (“Rockey”) is an individual, who at all times relevant herein, was a resident of Los
25 Angeles County. Rockey is Plaintiff’s supervisor at FTM Hospitality Group.

26 7. Plaintiff is informed and believes and thereon alleges that Defendant Pedro
27 Garcia (“Pedro”) (collectively with Wanton, Chin Chin and Rockey “Defendants”) is an
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1 individual, who at all times relevant herein, was a resident of Los Angeles County. Pedro is
2 Plaintiff's supervisor at Wanton.

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

8 9. Plaintiff is ignorant of the true names and capacities of Defendants sued herein
9 as DOES 1 through 100, inclusive, and therefore Plaintiff sues these Defendants by such
10 fictitious names and capacities. Plaintiff will amend his Complaint to show their true names
11 and capacities when they have been ascertained. Plaintiff is informed and believes and thereon
12 alleges that at all times relevant, each of these fictitiously named DOE Defendants was an
13 individual person who owned, controlled, or managed the business for which Plaintiff worked
14 and/or who directly or indirectly exercised operational control over the working conditions of
15 Plaintiff. These DOE Defendants held ownership, officer, director and/or executive positions
16 with the remaining Defendants, and acted on behalf of the remaining Defendants, which
17 included decision-making responsibility for, and establishment of, discrimination and
18 harassment practices and policies and wage and hour practices for Defendants which have
19 damaged Plaintiff. Therefore, DOES 1 through 100, in addition to the remaining Defendants,
20 are Plaintiff's "employers" as a matter of law and liable on the causes of action alleged herein
21 pursuant to the Lab. Code's wage and hour laws and regulations, and FEHA as alleged herein.

22 10. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
23 through 100 are, and at all times relevant hereto were, persons, corporations or other business
24 entities organized and existing under and by virtue of the laws of the State of California, and
25 are/were qualified to transact and conduct business in the State of California, and did transact
26 and conduct business in the State of California, and are thus subject to the jurisdiction of the
27 State of California. Specifically, DOES 1 through 100 maintain offices, operate businesses,
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1 employ persons, and conduct business and illegally pay employees by illegal payroll practices
2 and policies and engage in harassment and discrimination in the County of Los Angeles.

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

7 **III. PAGA NOTICE**

8 12. Pursuant to the California Labor Code, on or about April 11, 2025, Plaintiff filed
9 a notice with Labor and Workforce Development Agency (LWDA) of his intent to pursue
10 claims against Defendant under the Private Attorney General Act (PAGA). As such, Plaintiff
11 further reserves the right to amend this Complaint once he completes and complies with the
12 provisions under the law.

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

15 **Employment Information**

16 13. Plaintiff has been an employee of Chin Chin since 1996 and thereafter has been
17 an employee of Wanton. Plaintiff works as a Kitchen Manager.

18 14. Throughout his employment with Wanton and Chin Chin, Plaintiff worked 5
19 days per week, 10 or more hours per day. Plaintiff was paid a weekly salary of \$1,100.00. He
20 performed more hourly work than management work and he did not have discretion to make
21 independent decisions.

22 15. The employment by Defendants Wanton and Chin Chin of Plaintiff is governed
23 by Industrial Welfare Commission Wage Order No. 5, which covers those persons employed in
24 the public housekeeping industry.

25 **Wage and Hour Violations**

26 16. Defendants Wanton and Chin Chin willfully misclassified Plaintiff as exempt.
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28

1 17. Under California law, non-exempt employees as defined by Wage Order No. 5,
2 are entitled to overtime wages for work in excess of 8 hours per day.

3 18. Under California law, non-exempt employees as defined by Wage Order No. 5,
4 are entitled to double time wages for work in excess of 12 hours per day.

5 19. Defendants Wanton and Chin Chin failed to pay Plaintiff overtime/double time
6 wages.

7 20. Under California law, non-exempt employees as defined by Wage Order No. 5,
8 are entitled to a 30-minute lunch period for each 5 hours worked, a 10-minute paid rest break
9 for every four hours worked, or major fraction thereof. Non-exempt employees are also
10 entitled to one hour pay at their regular pay rate for each day the requisite rest and/or meal
11 periods are not provided. Wanton and Chin Chin failed to afford Plaintiff meal breaks, Wanton
12 and Chin Chin also failed to afford Plaintiff rest breaks.

13 21. Wanton and Chin Chin required Plaintiff to use his personal vehicle and
14 purchase tools for work-related purposes. Plaintiff was not reimbursed for his vehicle and
15 supplies expenses.

16 22. Defendants Wanton and Chin Chin routinely failed to provide Plaintiff with
17 itemized wage statements that properly and accurately itemized the number of hours he worked
18 at the effective regular rates of pay.

19 23. Defendants Wanton and Chin Chin failed to provide Plaintiff days of rest.

20 24. Plaintiff was not provided his personnel records.

21 **Discrimination, Harassment and Retaliation**

22 25. Plaintiff was denied a work environment free of disability discrimination and
23 was retaliated against due to his disability.

24 26. On or about June 26, 2023, while at work, Plaintiff injured his back and re-
25 injured his arm. As such, these conditions, singularly and in the aggregate, constitutes a
26 physical disability, as that term is defined in *Government Code* § 12926(l)(1)(A), (B).

1 27. Plaintiff was taken off work and went on disability leave from June 26, 2023
2 until March 21, 2025.

3 28. Plaintiff was permitted to return to work with the restrictions of no excessive
4 bending, stooping or twisting. Also, Plaintiff is not permitted to sit or stand for long periods of
5 time. Further, Plaintiff is not allowed to engage in repeated gripping, grasping, vibration,
6 torquing or fine finger manipulation.

7 29. Plaintiff was told via email that there was no work for him to do at Wanton and
8 Chin Chin and that he would instead be working at Friends Helping Friends, a sober living
9 home.

10 30. Plaintiff was told that he would be answering phones, responding to emails and
11 performing other clerical work.

12 31. However, as soon as Plaintiff began working at Friends Helping Friends he was
13 assigned to do cleaning of the home.

14 32. Pedro did not abide by the restrictions that Plaintiff's physician provided.
15 Additionally, Rockey ridiculed Plaintiff in front of other employees and pressured him more
16 than other employees. Rockey told Plaintiff "Can you do this job or not?" Rockey would also
17 yell and curse at Plaintiff.

18 33. The work exacerbated Plaintiff's injuries. As a result, Plaintiff complained on
19 multiple occasions.

20 34. On March 21, 2025, his first day at Friends Helping Friends, Plaintiff attempted
21 to speak to Lorenza in the Human Resources Department. However, he was told to speak with
22 his workers compensation attorney.

23 35. Plaintiff also sent multiple emails concerning the issue on the following dates:
24 March 24, 2025, March 25, 2025, March 27, 2025 and March 31, 2025. However, no one has
25 responded to Plaintiff's emails. Plaintiff also attempted to speak with individuals in charge at
26 the location, Jonathan Jones and Chris, but nothing has been done to rectify the situation.

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

37. On April 11, 2025, Plaintiff filed an administrative complaint with the California Civil Rights Department ("CCRD") alleging discrimination based on physical disability by Wanton, Chin Chin, Rockey and Pedro. On April 11, 2025, the CCRD issued to Plaintiff a Right to Sue Notice as to Wanton, Chin Chin, Rockey and Pedro.

FIRST CAUSE OF ACTION

**(Willful Misclassification as Exempt in Violation of IWC Wage Order No. 5 by Plaintiff
against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

39. Wanton and Chin Chin misclassified Plaintiff as an exempt employee rather than non-exempt in violation of Wage Order No. 5, for their own financial benefit.

40. The California Industrial Welfare Commission Wage Order No. 5 identifies three exemptions to the provisions of the wage order: executive exemption, administrative exemption, and professional exemption. The executive exemption at issue applies to an employee: 1) whose duties and responsibility involve the management of the enterprise or a subdivision thereof, 2) who customarily and regularly directs the work of two or more employees, 3) who has the authority to hire or fire other employees or who can suggest and recommend as to the hiring, firing, or advancement of another employee, 4) who exercises discretion and independent judgment, 5) must earn a monthly salary equivalent to no less than two (2) times the state minimum wage for full time employment, and 6) who is primarily engaged in duties which meet the test of the exemption. *Ramirez v. Yosemite Water Co.*, 20 Cal. 4th 785 (1999) holds that an employee meets the “primarily engaged in managerial duties” requirement only when the employee spends more than half of their work time on exempt duties. *Id.* at 804 n.4.

1 41. On information and belief Wanton and Chin Chin's managing agents and/or
2 officers setting policy knowingly advised Wanton and Chin Chin to wrongfully treat Plaintiff
3 as an exempt employee.

4 42. Plaintiff did not meet the requirements of being "salary exempt" as set forth by
5 California Labor Code § 515(a). Plaintiff did not have independent judgment or discretion in
6 his job position and he performed more hourly work than management work. Plaintiff did not
7 spend more than 50% of his time supervising other employees.

8 43. Defendants Wanton and Chin Chin thus improperly classified Plaintiff as
9 exempt from the wage and hour requirements set forth in the Labor Code and IWC Wage Order
10 No. 5.

11 44. Because of this misclassification, Plaintiff suffered damages as a result of
12 Wanton and Chin Chin's violation of IWC Wage Order No. 5, in an amount according to proof.

13 45. Based on Wanton and Chin Chin's conduct as alleged herein, Wanton and Chin
14 Chin are liable for damages and statutory penalties pursuant to Labor Code §226, Labor Code
15 §218.5 and penalties pursuant to Labor Code §§203 and 206.

16 **SECOND CAUSE OF ACTION**

17 **(Failure to Pay Premium Overtime/Double Time Wages Due in Violation of Cal. Labor**
18 **Code §§ 510, 511, 558, 1194, 1198; IWC Wage Order No. 5 – By Plaintiff Against**
19 **Defendants Wanton, Chin Chin and Does 1 through 100)**

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

22 47. During Plaintiff's entire employment with Wanton and Chin Chin, pursuant to
23 Cal. Lab. Code §§ 200, 510, 1194, and 1198, and IWC Wage Order No. 5, Wanton and Chin
24 Chin were required to compensate Plaintiff with premium pay for all overtime performed, for
25 hours worked in excess of eight hours per day and/or 40 hours per week and for the first eight
26 hours on the seventh consecutive day of any work week. Further, Wanton and Chin Chin were
27 required to compensate Plaintiff with premium pay for all double time performed, for hours
28 worked in excess of twelve hours per workday.

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

5 49. California Labor Code section 510, subdivision (a), states in relevant part:

6 Any work in excess of 12 hours in one day shall be compensated at the
7 rate of no less than twice the regular rate of pay for an employee. In
8 addition, any work in excess of eight hours on any seventh day of a
9 workweek shall be compensated at the rate of no less than twice the
10 regular rate of pay of an employee.

11 50. Further, California Labor Code section 1198 provides as follows:

12 The maximum hours of work and the standard conditions of labor fixed
13 by the commission shall be the maximum hours of work and the standard
14 conditions of labor for employees. The employment of any employee for
15 longer hours than those fixed by the order or under conditions of labor
16 prohibited by the order is unlawful.

17 51. Pursuant to IWC Wage Order No. 5-2001, § 3, "Employment beyond eight (8)
18 hours in any workday is permissible provided the employee is compensated for such overtime
19 at not less than: ...(b) Double the employee's regular rate of pay for all hours worked in excess
20 of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh
21 (7th) consecutive day of work in a workweek."

22 52. California Labor Code section 558 provides in pertinent part:

23 (a) Any employer or other person acting on behalf of an employer who
24 violates, or causes to be violated, a section of this chapter or any
25 provision regulating hours and days of work in any order of the
26 Industrial Welfare Commission shall be subject to a civil penalty as
follows:

27 (1) For any initial violation, fifty dollars (\$50) for each underpaid
28 employee for each pay period for which the employee was underpaid in
addition to an amount sufficient to recover underpaid wages.

1 (2) For each subsequent violation, one hundred dollars (\$100) for each
2 underpaid employee for each pay period for which the employee was
3 underpaid in addition to an amount sufficient to recover underpaid
wages.

4 (3) Wages recovered pursuant to this section shall be paid to the affected
5 employee...

6 (c) The civil penalties provided for in this section are in addition to any
7 other civil or criminal penalty provided by law.

8 53. Plaintiff routinely worked hours where he was due overtime, but was never paid
9 overtime. Further, Plaintiff was at times required to work seven consecutive days, but was not
10 paid double time.

11 54. Throughout Plaintiff's employment, Wanton and Chin Chin failed and refused
12 to pay and properly calculate overtime/double time compensation to Plaintiff as required by
13 law.

14 55. The foregoing overtime/double time compensation is owed and unpaid. As a
15 direct and proximate result of Wanton and Chin Chin's failure and refusal to pay
16 overtime/double time compensation, Plaintiff suffered damages in the amount of at least
\$158,400.00.

17 56. Pursuant to Cal. Lab. Code §1194(a), Plaintiff, who retained the services of legal
18 counsel in order to enforce Plaintiff's rights to overtime/double time pay, is entitled to recover
19 Plaintiff's attorneys' fees, costs and interest.

20 **THIRD CAUSE OF ACTION**

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

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

26 58. *Labor Code* § 1197 states the California requirement that employees must be
27 paid at least the minimum wage fixed by the Commission, and any payment of less than the
28 minimum wage is unlawful. Similarly, *Labor Code* § 1194 entitles "any employee receiving

1 less than the legal minimum wage...entitled to recover in a civil action the unpaid balance of
2 the full amount of this minimum wage.” IWC Wage Order No. 5-2001 also obligates employers
3 to pay each employee minimum wages for all hours worked. These minimum wage standards
4 apply to each hour employees worked for which they were not paid. Therefore, an employer’s
5 failure to pay for any particular hour of time worked by an employee is unlawful, even if
6 averaging an employee’s total pay over all hours worked, paid or not, results in an average
7 hourly wage above minimum wage. *Armenta v. Osmose, Inc.*, 135 Cal. App. 4th 314, 324
8 (2005).

9 59. Here, Plaintiff was not paid minimum wages that were due to him due to
10 Wanton and Chin Chin’s failure to afford compliant meal/rest breaks.

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

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

23 62. Plaintiff suffered and continues to suffer losses related to the use and enjoyment
24 of compensation due and owing to him as a direct result of Defendants Wanton and Chin
25 Chin’s unlawful acts and Labor Code violations in the amount of at least \$158,400.00, to be
26 shown according to proof at trial.

27 63. *Labor Code* § 1197.1(a) mandates a civil penalty for failure to pay minimum
28 wages against employers and those individuals acting in their behalf. Plaintiff requests that this

1 Court assess said penalty against Defendants Wanton and Chin Chin in an amount to be proven
2 at trial.

3 64. Therefore, pursuant to Labor Code §§ 200, 203, 218.5, 226, 558, 1194 and
4 1194.2, Plaintiff is entitled to recover the unpaid balances of the minimum wages Wanton and
5 Chin Chin owe him, plus interest, penalties, attorneys' fees, expenses and costs of suit, in the
6 amount of \$158,400.00.

7 65. Under *Labor Code* § 1194.2, Plaintiff is entitled to recover as liquidated
8 damages, amounts equal to the wages unlawfully unpaid and interest thereon.

9 **FOURTH CAUSE OF ACTION**

10 **(Compensation for Required Rest Periods Not Provided - Cal. Lab. Code § 226.7 – By**
11 **Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

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

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

21 69. Wanton and Chin Chin have intentionally and improperly denied any rest
22 periods to Plaintiff in violation of Labor Code § 226.7 and the IWC Wage Order No. 5.

23 70. At all times relevant hereto, Plaintiff has worked 9 or more hours daily.

24 71. At all times relevant hereto, Wanton and Chin Chin failed to provide rest periods
25 as required by Labor Code § 226.7 and IWC Wage Order No. 5.

26 72. By virtue of Wanton and Chin Chin's unlawful failure to provide rest periods to
27 the Plaintiff, Plaintiff has suffered, and will continue to suffer, damages in the amount of
28 \$158,400.00.

73. Defendants Wanton and Chin Chin further violated IWC Wage Order No. 5, and Cal. Lab. Code §226.7 by failing to pay Plaintiff one hour of pay at his regular rate of pay for each rest period not provided, and thus Plaintiff is owed compensation in an amount according to proof. This amount remains owed and unpaid.

FIFTH CAUSE OF ACTION

**(Compensation for Required Meal Periods Not Provided - Cal. Lab. Code §§ 226.7, 512 –
By Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

75. California Labor Code § 226.7(a) prohibits an employer from requiring an employee to work during any meal period mandated by an applicable Industrial Wage Order. Section 226.7(b) of the California Labor Code provides that "[a]n employer shall not require an employee to work during a meal or rest break or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..."

76. California Labor Code § 1198 makes unlawful the employment of an employee under conditions the IWC prohibits.

77. IWC Wage Order No. 5 provides, in relevant part: "No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30-minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee."

78. IWC Wage Order No. 5 further provides, in relevant part: "Unless the employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked."

79. Section 512(a) of the California Labor Code provides, in relevant part, that:
An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less

1 than 30-minutes, except that if the total work period per day of the employee is
2 no more than six hours, the meal period may be waived by mutual consent of
3 both the employer and employee. An employer may not employ an employee for
4 a work period of more than 10 hours per day without providing the employee
5 with a second meal period of not less than 30-minutes, except that if the total
6 hours worked is no more than 12 hours, the second meal period may be waived
7 by mutual consent of the employer and the employee only if the first meal
8 period was not waived.

9 80. The Labor Code and Wage Order provisions cited above require California
10 employers to provide employees with off-duty 30-minute meal periods on or before the fifth
11 hour of their shifts. To satisfy this obligation, California employers must: (1) make employees
12 aware of their right to off-duty 30-minute meal periods before the fifth hour of their shifts, and
13 (2) ensure that employees are actually free of job duties for thirty minutes per day on or before
14 the fifth hour of their shifts.

15 81. Wanton and Chin Chin violated Labor Code § 512 and IWC Wage Order No. 5
16 by routinely failing to provide Plaintiff any meal breaks.

17 82. Wanton and Chin Chin further violated IWC Wage Order No. 5 and Labor Code
18 § 226.7 by failing to pay one hour of compensation to Plaintiff at him individual and regular
19 rate of pay for each work day that the meal period was not provided, in the amount of
20 \$158,400.00. This amount remains owed and unpaid.

21 83. Cal. Labor Code § 218 authorizes Plaintiff to bring a private right of action to
22 recover wages due based on the deprivation of timely meal periods under Cal. Labor Code
23 § 226.7(b).

24 84. As a direct and proximate result of Wanton and Chin Chin's unlawful conduct
25 as alleged herein, Plaintiff has sustained economic damages, including but not limited to unpaid
26 wages and lost interest, in an amount to be established at trial, and is entitled to recover
27 economic and statutory damages, attorneys' fees and penalties and other appropriate relief due
28

1 to Wanton and Chin Chin's violations of the California Labor Code and IWC Wage Order No.
2 5.

3 **SIXTH CAUSE OF ACTION**

4 **(Failure to Provide Accurate Itemized Wage Statements in Violation of Cal. Lab. Code**
5 **§226 – By Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

8 86. At all times relevant herein, Defendants Wanton and Chin Chin issued payroll
9 statements to Plaintiff which violated Cal. Lab. Code §226(a), in that Defendant failed to
10 properly and accurately itemize the number of hours he worked at the effective regular rates of
11 pay.

12 87. Defendants Wanton and Chin Chin knowingly and intentionally failed to comply
13 with Cal. Lab. Code §226(a), causing damage to Plaintiff. These damages, including but not
14 limited to costs expended calculating his true hours worked, and the amount of employment
15 taxes which were not properly paid to state and federal tax authorities, are difficult to estimate.
16 Therefore, Plaintiff elects to recover liquidated damages of \$50.00 for the initial pay period in
17 which the violation occurred, and \$100.00 for each violation in subsequent pay periods
18 pursuant to Cal. Lab. Code § 226(e), in an amount to be proven at trial, plus reasonable
19 attorneys' fees and costs.

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

22 **SEVENTH CAUSE OF ACTION**

23 **(For Reimbursement of Business Expenses in violation of Cal. Lab. Code §2802 - By**
24 **Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

27 90. Labor Code § 2802 requires employers to indemnify employees for all necessary
28 expenditures incurred by employees in the discharge of her duties.

1 91. At all times relevant herein, Wanton and Chin Chin were aware that Plaintiff
2 was using his personal vehicle and purchasing work tools for business, but failed to indemnify
3 Plaintiff for all his business-related expenses, including wear and tear expenses, in accordance
4 with Labor Code § 2802.

5 92. Plaintiff was required to use his personal vehicle to get supplies and Plaintiff
6 even made trips to Las Vegas.

7 93. As a result of Wanton and Chin Chin's conduct, Plaintiff suffered damages in an
8 amount, subject to proof, to the extent he was not reimbursed for all of his business-related
9 expenses incurred in the discharge of his duties.

10 94. Pursuant to Labor Code § 2802, Plaintiff is entitled to recover the full amount of
11 his unreimbursed business expenses, reasonable attorneys' fees and costs of suit, in an amount
12 according to proof at trial.

13 **EIGHTH CAUSE OF ACTION**

14 **(Failure to Provide Days of Rest in violation of Cal. Labor Code §§ 551, 552 By Plaintiff**
15 **Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

18 96. Labor Code section 551 states: "Every person employed in any occupation of
19 labor is entitled to one day's rest therefrom in seven."

20 97. Labor Code section 552 states in part: "No employer of labor shall cause his
21 employees to work more than six days in seven...."

22 98. Wage Order No. 5 requires employers to pay employees one and one-half times
23 their regular rate of pay for the first eight hours worked on the seventh consecutive day of
24 work in any workweek, and twice their regular rate for hours worked in excess of eight on the
25 seventh day.

26 99. Defendants Wanton and Chin Chin knowingly and intentionally failed to pay
27 Plaintiff premium pay for working seven consecutive days as required by Labor Code sections
28 551 and 552 and Wage Order 5.

1 100. As a direct and proximate result of Defendants Wanton and Chin Chin's conduct
2 as alleged herein, Plaintiff has suffered monetary damages in an amount equal to his unpaid
3 wages for work performed during seven consecutive work days, pursuant to Labor Code
4 sections 551 and 552 and Wage Order No. 5, plus interest thereon pursuant to Labor Code
5 218.6.

6 101. Plaintiff further is entitled to recover from Defendants Wanton and Chin Chin
7 additional sums as a penalty, pursuant to Labor Code section 558 equal to fifty dollars (\$50)
8 per unpaid pay period for Defendants Wanton and Chin Chin's initial violation, and one
9 hundred dollars (\$100) per unpaid pay period for each subsequent violation, in addition to the
10 underpaid wages from each pay period.

11 102. In addition, Plaintiff has retained the services of an attorney to maintain and
12 prosecute this action and these attorneys are entitled to recover fees and costs incurred on
13 Plaintiff's behalf pursuant to Labor Code section 218.5.

14 **NINTH CAUSE OF ACTION**

15 **(Failure to Allow Inspection of Employment Records in violation of Cal. Lab. Code**
16 **§1198.5 - By Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

19 104. California Labor Code Section 1198.5 provides:

20 (a) Every current and former employee, or his or her representative, has the right
21 to inspect and receive a copy of the personnel records that the employer
22 maintains relating to the employee's performance or to any grievance concerning
23 the employee.

24 (b) The employer shall make the contents of those personnel records available
25 for inspection to the current or former employee, or his or her representative, at
26 reasonable intervals and at reasonable times, but not later than 30 calendar days
27 from the date the employer receives a written request, unless the current or
28 former employee, or his or her representative, and the employer agree in writing

1 to a date beyond 30 calendar days to inspect the records, and the agreed-upon
2 date does not exceed 35 calendar days from the employer's receipt of the written
3 request to inspect the records. Upon a written request from a current or former
4 employee, or his or her representative, the employer shall also provide a copy of
5 the personnel records ... later than 30 calendar days from the date the employer
6 receives the request...

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

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

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

18 106. On or about April 11, 2025, Plaintiff's counsel issued a written request to
19 Wanton and Chin Chin for copies of his personnel records.

20 107. Under California Labor Code Sections 226, 432 and 1198.5, such records were
21 to include all records relating to Plaintiff's hours worked, wage statements and compensation.
22 Plaintiff's counsel and Wanton and Chin Chin did not enter into an agreement to enlarge the
23 time for Wanton and Chin Chin's compliance, and Wanton and Chin Chin have failed and
24 refused to permit Plaintiff copies of his records.

25 108. As a direct result and consequence of Wanton and Chin Chin's failure and
26 refusal to permit Plaintiff full access to his records, Plaintiff seeks injunctive relief in the form
27 of an order or decree mandating Wanton and Chin Chin's compliance. Plaintiff has suffered
28 and will suffer harm as a result of Wanton and Chin Chin's ongoing refusal to comply. Plaintiff

1 also seeks recovery of the statutory penalty of \$750 based upon Wanton and Chin Chin's
2 violation of §1198.5.

3 **TENTH CAUSE OF ACTION**

4 **(For Unfair Competition in Violation of Unfair Business Practices, Cal. Bus. & Prof. Code**
5 **§17200 et. seq. – By Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through**
6 **100)**

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

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

11 111. Wanton and Chin Chin's conduct as alleged herein has been and continues to be
12 unfair, unlawful, and deleterious to Plaintiff. Plaintiff hereby seeks to enforce important rights
13 affecting the public interest within the meaning of the Cal. Code of Civ. Proc. § 1021.5.

14 Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, and
15 therefore has standing to bring this suit for restitution.

16 112. Paying overtime/double time, minimum wages, affording employees rest/meal
17 breaks, reimbursing of business expenses and providing days of rest, are fundamental public
18 policies of the State of California. It is also the public policy of this State to enforce minimum
19 labor standards, to ensure that employees are not required or permitted to work under
20 substandard and unlawful conditions, and to protect those employers who comply with the law
21 from losing competitive advantage to other employers who fail to comply with labor standards
22 and requirements.

23 113. Wanton and Chin Chin failed to pay overtime/double time wages, minimum
24 wages, allow Plaintiff to take meal and rest breaks, to issue accurate wage statements,
25 reimburse business expenses and provide days of rest.

26 114. Through the conduct alleged herein, Wanton and Chin Chin acted contrary to
27 these public policies and have thus engaged in unlawful and/or unfair business practices in
28

1 violation of Business & Professions Code §§ 17200 *et. seq.*, depriving Plaintiff of the rights,
2 benefits, and privileges guaranteed to employees under California law.

3 115. Wanton and Chin Chin regularly and routinely violated the following statutes
4 and regulations with respect to Plaintiff:

5 Wage Order No. 5 (willful misclassification as exempt);

6 *Labor Code* §§ 510 and 1194 and IWC Wage Order No. 5 as amended (failure
7 to pay overtime/double time);

8 *Labor Code* § 1197 and IWC Wage Order No. 5 (failure to pay minimum
9 wages);

10 Cal. Lab. Code § 226 (failure to provide accurate wage statements to employees
11 at the time of payment);

12 Cal. Lab. Code §§ 226.7 and 512, and IWC Wage Order No. 5 (failure to
13 provide meal and rest periods);

14 Cal. Lab. Code §§ 551, 552 (failure to provide days of rest);

15 Cal. Lab. Code § 2802 (failure to reimburse business expenses); and

16 Cal. Lab. Code § 1198.5 (failure to allow inspection of personnel records).
17

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

22 **ELEVENTH CAUSE OF ACTION**

23 **(Physical Disability Discrimination in Violation of *Government Code* § 12940(a) – By**
24 **Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

27 //

28 //

1 118. Under the California Fair Employment and Housing Act ("FEHA"),
2 Government Code § 12940(a), an employer cannot discriminate against an employee, because
3 of a physical disability.

4 119. Plaintiff suffered from the physical limitation as set forth above and was
5 therefore a member of the class of persons protected from disability discrimination under
6 California Government Code § 12940(a).

7 120. Upon learning about Plaintiff's disability, and not wanting to accommodate
8 Plaintiff's disability, Wanton and Chin Chin retaliated against Plaintiff in violation of
9 California Government Code § 12940.

10 121. By retaliating against Plaintiff because of his physical disability, Wanton and
11 Chin Chin violated Government Code § 12940(a).

12 122. As a direct and proximate result of Wanton and Chin Chin's conduct,
13 individually and collectively, Plaintiff has suffered and continues to suffer substantial losses in
14 income, earnings, and benefits and has been damaged in his capacity to earn his salary, and
15 has lost and will continue to lose employment benefits.

16 123. As a direct and proximate result of Wanton and Chin Chin's actions, Plaintiff
17 has suffered severe and serious injury to his person, all to his damage in a sum within the
18 jurisdiction of this Court and to be shown according to proof.

19 124. Wanton and Chin Chin's conduct in discriminating against Plaintiff because of
20 his physical disability subjected him to cruel and unjust hardship in conscious disregard of his
21 rights. Plaintiff is informed and believes, and thereon alleges, that the retaliation by Wanton
22 and Chin Chin was done with the intent to cause him injury. As a consequence of the aforesaid
23 oppressive, malicious and despicable conduct, Plaintiff is entitled to an award of punitive
24 damages in a sum to be shown according to proof.

25 125. Pursuant to California Government Code §12965(c)(6), Plaintiff requests an
26 award of attorneys' fees in this action.
27
28

TWELFTH CAUSE OF ACTION

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

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

127. Beginning in or about June 2023 and continuing thereafter, Plaintiff was harassed by the actions, conduct and comments of Defendants Wanton and Chin Chin's employees, Rockey and Pedro, which actions, conduct and comments combined to create and allow a pattern of discriminatory treatment towards him due to his disability. Defendants' actions constituted a continuing violation of Cal. Gov. Code § 12940, et seq.

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

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

130. All of the conduct by Defendants, and each of them, was done with the full knowledge and ratification of the management employees of Wanton and Chin Chin, and was consistent with the recognized policies and procedures of Wanton and Chin Chin, which tolerated and encouraged such discriminatory conduct.

131. At all times herein mentioned, Defendants, and each of them were legally required to refrain from discriminating against and harassing any employee on the basis of physical disability, among other things. Within the time provided by law, Plaintiff filed a complaint with the CCRD, in full compliance with these sections, and received a right to sue letter.

132. Defendants' conduct resulted in the damages and injuries to Plaintiff as alleged in this Complaint. As a direct and proximate result of the conduct of Defendants and each of

1 them, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental
2 and physical pain and anguish, all to his damage in a sum according to proof.

3 133. Defendants did the things hereinabove alleged, intentionally, oppressively, and
4 maliciously with an evil and malevolent motive to injure Plaintiff. These acts, which resulted
5 in retaliation against public policy, were obnoxious, despicable, and ought not to be suffered
6 by any member of the community.

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

11 **THIRTEENTH CAUSE OF ACTION**

12 **(Hostile Work Environment in Violation Govt. Code §12940 *et seq.*– By Plaintiff Against**
13 **Defendants Wanton, Chin Chin and Does 1 through 100)**

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

16 136. The offensive conduct to which Plaintiff was subjected constitutes a hostile
17 work environment in violation to FEHA, California Government Code §12940 *et seq.* During
18 his employment, Defendant violated FEHA, California Government Code §12940 (j), by
19 discrimination against Plaintiff due to his physical disability.

20 137. Defendant Wanton and Chin Chin's harassment was hostile, abusive, continuous
21 and pervasive to create a hostile work environment for the Plaintiff.

22 138. Defendant Wanton and Chin Chin's harassment was unwelcome, humiliating,
23 offensive and adversely affected the terms of Plaintiff's employment.

24 139. Plaintiff was subjectively offended by Defendant Wanton and Chin Chin's
25 conduct and any reasonable person in Plaintiff's position would perceive Defendant Wanton
26 and Chin Chin's conduct as being offensive, hostile and abusive.

27 140. As a direct result of Defendant Wanton and Chin Chin's failure to take all
28 reasonable steps necessary to prevent discrimination and harassment, Plaintiff has suffered and

1 will continue to suffer pain and suffering, extreme and severe mental anguish and emotional
2 distress, loss of earnings and earning capacity. Plaintiff is hereby entitled to general and
3 compensatory damages in amounts to be proven at trial.

4 141. Pursuant to California Government Code §12965(c)(6), Plaintiff requests an
5 award of attorneys' fees in this action.

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

10 **FOURTEENTH CAUSE OF ACTION**

11 **(Retaliation in Violation of *Government Code* §§12940 *et seq.* – By Plaintiff Against**
12 **Defendants Wanton, Chin Chin and Does 1 through 100)**

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

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

19 145. As a result of his disability, Plaintiff was denied the right to work in an
20 environment free of discrimination and was retaliated against by Defendants Wanton and Chin
21 Chin.

22 146. Defendants Wanton and Chin Chin's retaliatory conduct toward Plaintiff caused
23 him emotional injury, including, but not limited to, humiliation, anxiety, fear, and loss of self-
24 esteem. Defendant's retaliatory conduct was a substantial factor and the proximate of
25 Plaintiff's damages.

26 147. Plaintiff's disability was the reason Defendants Wanton and Chin Chin retaliated
27 against him.

148. Plaintiff has suffered monetary damages, lost wages and privileges of employment illegally caused by Defendant Wanton and Chin Chin's discriminatory conduct in an amount according to proof.

149. Defendants Wanton and Chin Chin's conduct was the proximate cause of the Plaintiff's damages.

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

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

FIFTEENTH CAUSE OF ACTION

(Failure to Prevent Retaliation from Occurring in Violation of *Government Code*
 §12940(k) – By Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)

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

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

154. Defendants Wanton and Chin Chin failed to take measures to prevent discrimination and retaliation.

155. As a direct result of Defendants Wanton and Chin Chin's failure to take all reasonable steps necessary to prevent discrimination, Plaintiff has suffered and will continue to suffer pain and suffering, extreme and severe mental anguish and emotional distress, loss of earnings and earning capacity. Plaintiff is hereby entitled to general and compensatory damages in amounts to be proven at trial.

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

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

SIXTEENTH CAUSE OF ACTION

**(Failure to Accommodate Physical Disability in Violation, Govt. Code §§12940 (m) – By
Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

159. As alleged herein, in or about March 2025, Plaintiff requested that Wanton and Chin Chin, make a reasonable accommodation for his physical disability so that he would be able to work without further injuring himself. Wanton and Chin Chin refused said accommodation and refused to discuss any other potential reasonable accommodation it might afford to Plaintiff.

160. By refusing to afford Plaintiff a reasonable accommodation, Wanton and Chin Chin violated Government Code § 12940(m).

161. As a direct and proximate result of Wanton and Chin Chin's conduct, individually and collectively, Plaintiff has suffered and continues to suffer substantial losses in income, earnings, and benefits and has been damaged in his capacity to earn his salary, and has lost and will continue to lose employment benefits in an amount according to proof.

162. As a direct and proximate result of Wanton and Chin Chin's actions, Plaintiff has suffered severe and serious injury to his person, all to his damage in the amount of at least \$1,000,000, according to proof.

163. Wanton and Chin Chin did the things hereinabove alleged, intentionally, oppressively, and maliciously with an evil and malevolent motive to injure Plaintiff. These acts

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

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

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

9 **SEVENTEENTH CAUSE OF ACTION**

10 **(Failure to Engage in a Good Faith Interactive Process in Violation of *Government Code***
11 **§12940(n)– By Plaintiff Against Defendants Wanton, Chin Chin and Does 1 through 100)**

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

14 167. At all times hereto, FEHA, including in particular Government Code §12940(n),
15 was in full force and effect and was binding on Wanton and Chin Chin. This subsection
16 imposes a duty on Wanton and Chin Chin to engage in a timely, good faith, interactive process
17 with the employee to determine reasonable accommodation, if any, in response to a request for
18 a reasonable accommodation by an employee with a known physical disability or known
19 medical condition.

20 168. At all relevant times, Plaintiff was a member of a protected class within the
21 meaning of Government Code §12940(a) et seq. because he had a disability, due to injuries
22 suffered, of which Wanton and Chin Chin had both actual and constructive notice.

23 169. Plaintiff reported his disability to Wanton and Chin Chin, triggering Wanton and
24 Chin Chin's obligation to engage in a good faith interactive process with Plaintiff, but at all
25 times herein, Wanton and Chin Chin failed and refused to do so.

26 170. Wanton and Chin Chin breached their statutory duty under FEHA to engage in a
27 timely good faith interactive process to determine a reasonable accommodation for Plaintiff's
28 physical disability. Plaintiff further alleges: (1) that Wanton and Chin Chin was the Plaintiff's

1 employers; (2) that Plaintiff was an employee of Wanton and Chin Chin; (3) that Plaintiff
2 sustained injuries that required reasonable accommodation and which injuries were known to
3 Wanton and Chin Chin; (4) that Plaintiff requested that Wanton and Chin Chin make
4 reasonable accommodation for his injuries and/or physical condition so that he would be able to
5 perform the essential functions of his job requirements; (5) that Plaintiff was willing to
6 participate in the interactive process to determine whether reasonable accommodation could be
7 made so that he would be able to perform the essential job requirements; (6) that Wanton and
8 Chin Chin failed to participate in a timely good faith interactive process with Plaintiff to
9 determine whether reasonable accommodation could be made; (7) that Plaintiff was harmed
10 financially; and (8) that Wanton and Chin Chin's failure to engage in a good faith interactive
11 process was a substantial factor in causing Plaintiff's damage and harm. Instead of engaging in
12 a good faith interactive process, Wanton and Chin Chin ignored Plaintiff's requests.

13 171. The above acts of Wanton and Chin Chin constitute violations of FEHA, and
14 were a proximate cause in Plaintiff's damages as stated below.

15 172. Wanton and Chin Chin did the things hereinabove alleged, intentionally,
16 oppressively, and maliciously with an evil and malevolent motive to injure Plaintiff. These acts
17 were against public policy, were obnoxious, despicable, and ought not to be suffered by any
18 member of the community.

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

23 174. Pursuant to Government Code §12965(c)(6), Plaintiff requests a reasonable
24 award of attorneys' fees and costs.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in his favor
27 and against Defendants, and each of them, as follows:
28

- 1 1. For compensatory damages in the amount of unpaid overtime/double time due to
2 Plaintiff, in an amount of \$158,400.00;
- 3 2. For compensatory damages in the amount of unpaid minimum wages due to
4 Plaintiff, in an amount of \$158,400.00;
- 5 3. For compensatory damages for lost wages and employment benefits, in an
6 amount according to proof;
- 7 4. For compensatory damages for physical injury and emotional distress, in an
8 amount according to proof;
- 9 5. For an award of consequential damages, in an amount to be proven at trial;
- 10 6. For general damages in Plaintiff's favor and against Defendants Wanton and
11 Chin Chin, according to proof;
- 12 7. For compensation of one hour at the regular rate of pay for each rest period
13 denied in violation of *Cal. Lab. Code* § 226.7 and IWC Wage Order No. 5, according to proof;
- 14 8. For compensation of one hour at the regular rate of pay for each meal period
15 denied in violation of *Cal. Lab. Code* §§ 226.7, 512 and IWC Wage Order No. 5, according to
16 proof;
- 17 9. For compensatory damages in the amount of Plaintiff's out of pocket vehicle,
18 and tool expenses and/or reimbursement of monies incurred while performing Wanton and
19 Chin Chin's business-related duties plus interest, costs and attorneys' fees pursuant to *Cal.*
20 *Code Civ. Proc.* §2802(c), in an amount according to proof;
- 21 10. For payment of unpaid wages in accordance with California labor and
22 employment law, in the amount of \$158,400.00;
- 23 11. For statutory damages pursuant to *Cal. Lab. Code* § 226, according to proof;
- 24 12. For statutory penalties pursuant to *Cal. Lab. Code* §§ 558, 206, 218.4, 226.7,
25 according to proof;
- 26 13. For injunctive relief requiring Defendants Wanton and Chin Chin to comply
27 with Labor Code 1198.5(b)(1);
- 28

14. For prejudgment interest accrued on all due and unpaid overtime/double time and minimum wages from the date that wages were due and payable, pursuant to *Cal. Lab. Code* §§218.6 and 1194(a), according to proof;
15. For an award of restitution of wages to Plaintiff in an amount equal to the amount of wages owed and unpaid, according to proof;
16. For an award of liquidated damages pursuant to *Cal. Lab. Code* § 1194.2, to Plaintiff in an amount equal to the wages unlawfully unpaid and interest thereon;
17. For punitive and exemplary damages, in a sum to be determined at trial;
18. For attorneys' fees under *Government Code* § 12965(b), Cal. Labor Code §§ 218.5, 1194, 2802, 1198.5 and/or *California Code of Civil Procedure* § 1021.5, according to proof;
19. For reasonable costs of suit, in an amount according to proof; and
20. For such other and further relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Miguel Angel Toledo Toledo hereby respectfully requests a trial by jury for all claims and issues raised in his Complaint that may be entitled to a jury trial.

LPELES LAW GROUP, APC

Date: April 11, 2025

By: *Jasmine J. Badawi*
Jasmine J. Badawi
Attorneys for Plaintiff
Miguel Angel Toledo Toledo