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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN**

EVA G. AGUILAR,

Plaintiff,

vs.

JSS ALMONDS, LLC; JSS ALMONDS
SPECIALTY PRODUCTS, LLC;
INTEGRITY LABOR SERVICES, LLC; and
DOES 1-25, inclusive,

Defendants.

CASE NO: BCV-23-100034

Assigned for All Purposes to:

COMPLAINT

[Unlimited Civil Case – Exceeds \$25,000]

Trial Date: None

Complaint filed:

JURY TRIAL DEMANDED

Comes now EVA G. AGUILAR (“Plaintiff”), who asserts claims against JSS ALMONDS, LLC, JSS ALMONDS SPECIALTY PRODUCTS, LLC, and INTEGRITY LABOR SERVICES, LLC, and Does 1 through 25, inclusive, (collectively “Defendants”) as follows:

INTRODUCTION

1. Plaintiff brings this action in her individual capacity for various wrongdoing she experienced personally while employed by Defendants. Plaintiff also brings this action in her representative capacity under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code sections 2698, *et seq.*, on behalf of himself, approximately more than 250 similarly situated current and former aggrieved employees employed by Employer in California, and the

1 People of the State of California (hereinafter collectively “Employees”), employed between
2 October 26, 2021, and the conclusion of the forthcoming action (“Statutory Period”).

3 **JURISDICTION AND VENUE**

4 2. Jurisdiction and venue are proper in this Court because the unlawful conduct
5 alleged to have been committed occurred in Kern County. *See* Gov. Code, § 12965, subd. (b)
6 (stating venue is appropriate in, inter alia, any county in which the unlawful conduct is alleged to
7 have been committed).

8 3. The amount in controversy in this matter exceeds the sum of \$25,000.00, exclusive
9 of interest and costs.

10 **PARTIES**

11 4. Plaintiff EVA G. AGUILAR is and at all times relevant to this action was an
12 individual residing in the State of California.

13 5. Defendants JSS ALMONDS, LLC and JSS ALMONDS SPECIALTY
14 PRODUCTS, LLC (hereinafter referred to collectively as “JSS ALMONDS”) are and at all times
15 relevant to this action were California business entities with their principal place of business in
16 California.

17 6. Defendant INTEGRITY LABOR SERVICES, LLC is and at all times relevant to
18 this action was a California corporation with its principal place of business in California.

19 7. At the relevant times mentioned herein, Defendants were and are an employer(s) of
20 5 or more employees subject to the California Fair Employment and Housing Act.

21 8. Whenever in this complaint reference is made to any act, deed, or conduct of
22 Defendant, the allegation means that Defendant engaged in the act, deed, or conduct by or through
23 one or more of its officers, directors, agents, employees, or representatives, who was actively
24 engaged in the management, direction, control, or transaction of the ordinary business and affairs
25 of Defendant.

26 9. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
27 associate, or otherwise, of the defendants sued herein as Does 1 through 25, inclusive, and
28 therefore sues said defendants (the “Doe Defendants”) by such fictitious names. Plaintiff will

1 amend this complaint to insert the true names and capacities of the Doe Defendants at such time as
2 the identities of the Doe Defendants have been ascertained.

3 10. Plaintiff is informed and believes, and thereon alleges, that the Doe Defendants are
4 the partners, agents, or principals and co-conspirators of Defendant, and of each other; that
5 Defendant and the Doe Defendants performed the acts and conduct herein alleged directly, aided
6 and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the
7 benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent
8 of the liability of Defendants as alleged herein.

9 11. Plaintiff is further informed and believes, and thereon alleges, that at all times
10 herein material, each Defendant was completely dominated and controlled by its co-Defendants
11 and each was the alter ego of the other. Whenever and wherever reference is made in this
12 complaint to any conduct by Defendant or Defendants, such allegations and references shall also
13 be deemed to mean the conduct of each of the Defendants, acting individually, jointly, and
14 severally. Whenever and wherever reference is made to individuals who are not named as
15 Defendants in this complaint, but were employees and/or agents of Defendants, such individuals at
16 all relevant times acted on behalf of Defendants named in this complaint within the scope of their
17 respective employments.

18 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

19 12. For all causes of action subject to FEHA exhaustion requirements, prior to the
20 initiation of this lawsuit, Plaintiff filed a complaint against Defendant with the California
21 Department of Fair Employment and Housing ("DFEH") pursuant to section 12900 et seq. of the
22 California Government Code alleging the claims described in this Complaint. On January 3, 2023,
23 the DFEH issued a "right to sue" letter. All conditions precedent to the institution of this lawsuit
24 have been fulfilled. This action is filed within one year of the date that the DFEH issued its right
25 to sue letter.

26 13. For all causes of action subject to PAGA exhaustion requirements, Plaintiff has
27 filed an exhaustion letter with the California Labor and Workforce Development Agency
28 ("LWDA") and Cal/OSHA providing notice of his intent to bring a private attorneys general

1 action for recovery of penalties under the PAGA. Neither the LWDA nor Cal/OSHA has not
2 investigated within the time set forth by statute and Plaintiff is now authorized to bring the present
3 action. As required by Labor Code § 2699.3(b)(2)(A)(iii), a copy of the notice of claims is
4 attached hereto as **Exhibit 1**.

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

6 14. Plaintiff was a janitor who experienced discrimination due to, among other things,
7 an injury during her employment at INTEGRITY LABOR SERVICES, LLC and JSS ALMONDS
8 (collectively “JSS”) and was terminated on or about March 7, 2022. She was employed with JSS
9 from approximately August 20, 2020, to March 7, 2022. Her duties included but were not limited
10 to cleaning bathrooms, the kitchen, the lobby, stocking the bathroom supplies, mopping floors,
11 refilling backroom supplies, throwing out the trash, and taking materials to the almond sorting
12 department at the direction and under the control of JSS.

13 15. Angela Martinez, a representative of INTEGRITY LABOR SERVICES, LLC and
14 Plaintiff’s point of contact throughout her employment, informed Plaintiff that INTEGRITY
15 LABOR SERVICES, LLC’s primary role was to handle employment paperwork and payroll in
16 connection with Plaintiff’s employment at JSS. Furthermore, Plaintiff was informed that
17 INTEGRITY LABOR SERVICES, LLC employed individuals for the benefit of JSS ALMONDS,
18 thus, Plaintiff believed to be an employee of both companies.

19 16. At all times, JSS ALMONDS controlled and directed Plaintiff’s duties throughout
20 her employment including her daily schedule. When the company was short-staffed, JSS
21 ALMONDS would further expand her duties to different departments Plaintiff was not originally
22 assigned to.

23 17. Plaintiff’s janitorial duties required her to handle various harmful cleaning
24 chemicals.

25 18. On or about February 16, 2022, Plaintiff suffered irritation in her eyes and
26 experienced difficulty breathing. The onset of her symptoms occurred after JSS ALMONDS’
27 supervisor Aldo Ochoa, instructed Plaintiff to mop the cellar. For three hours, Plaintiff was
28 exposed to the harsh cleaning chemicals she was previously instructed to use. Immediately,

1 Plaintiff visited her doctor to remedy these issues.

2 19. On February 19, 2022, JSS ALMONDS' supervisor, Aldo Ochoa, transported
3 Plaintiff to the company's approved doctor. At this visit, the doctor told Plaintiff her eyes were
4 fine and she should return to work.

5 20. Plaintiff continued to feel distress and sought the help of her allergy doctor. At her
6 visit, her doctor indicated he believed she was having problems with her sinuses and eyes from the
7 cleaning chemicals she was being exposed to at work. The doctor provided her with a doctor's
8 note instructing two-week's off work and employer to provide a proper respirator mask to filter
9 the chemicals she was using at work.

10 21. As previously instructed, Plaintiff contacted Angela Martinez at INTEGRITY
11 LABOR SERVICES, LLC to coordinate delivery of the doctor's note. Soon after the receipt of the
12 doctor's note, Angela Martinez called Plaintiff to inform her that JSS could not accommodate her
13 doctor's instructions because JSS did not carry respirator masks and said that they were not
14 needed to handle the chemicals used in cleaning their facilities. Furthermore, Angela Martinez
15 concluded that JSS would be terminating her employment because Plaintiff could not perform her
16 job duties due to her medical condition. In fear of losing her job, Plaintiff offered to work in the
17 almond sorting department because she was aware that JSS was constantly looking for additional
18 help in that department. JSS refused. Angela Martinez instead responded to Plaintiff that she
19 could come back to work when her medical condition was alleviated.

20 22. INTEGRITY LABOR SERVICES, LLC instructed Plaintiff to pick up her
21 termination letter and final check from Aldo Ochoa at JSS ALMONDS' facility.

22 23. Rather than make a genuine effort to accommodate her disability, and although
23 such an accommodation was available, JSS immediately terminated Plaintiff, effective March 7,
24 2022.

25 24. Plaintiff now proceeds with this suit to recover all legal remedies available under
26 California law.

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FIRST CAUSE OF ACTION

**Disability and Medical Condition and Perceived Disability Discrimination in Violation of
FEHA
(Against All Defendants)**

25. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

26. At all times mentioned herein, the California Fair Employment and Housing Act, California Government Code §§ 12940, et seq. (“FEHA”), was in full force and effect and was binding on each Defendant. These statutes provide that it is unlawful for an employer to discriminate against an employee on the basis of actual and/or perceived disabilities and/or medical conditions. Cal. Govt. Code § 12940(a).

27. At all times mentioned herein, Plaintiff was a person entitled to the protection of the law afforded by California Government Code § 12940(a) which makes it unlawful to discriminate against such a person on account of that person’s actual and/or perceived disabilities and/or medical conditions

28. Defendants at all relevant times employed five or more employees.

29. As set forth above, Plaintiff suffered from a disability and medical condition and/or Defendants perceived that Plaintiff suffered from disabilities and/or medical conditions that limited her ability to work of which Defendants were aware.

30. Plaintiff was able to perform essential job duties with her physical and medical condition.

31. Plaintiff suffered adverse employment actions as described above when Defendants discriminated against Plaintiff on the basis of her actual and/or perceived disability and medical condition by, among other things, reprimanding her, denying her reasonable accommodations and a good faith interactive process, denying her employment opportunities and other benefits and resources, and terminating her employment.

32. Plaintiff is informed and believes and based thereon alleges that her actual and/or perceived disabilities and/or medical conditions were a substantial motivating reason for

1 Defendants' adverse employment actions against her.

2 33. This discrimination violates California Government Code § 12940, and was a
3 substantial factor in causing damage and injury to Plaintiff, as alleged herein.

4 34. As a direct, foreseeable, and proximate result of the wrongful conduct of
5 Defendants, Plaintiff has sustained and continues to sustain, economic damages in earnings and
6 other employment benefits in an amount according to proof.

7 35. As a direct, foreseeable, and proximate result of the wrongful conduct of
8 Defendants, Plaintiff has sustained, and continues to sustain, non-economic damages and
9 emotional distress.

10 36. Plaintiff has sustained general and special damages.

11 37. The acts and conduct of Defendants constituted "malice," "oppression," and/or
12 "fraud" (as those terms are defined in California Civil Code Section 3294(c)), in that these acts
13 were intended by Defendants to cause injury to Plaintiff and/or constituted despicable conduct
14 carried on by Defendants with willful and conscious disregard of the rights of Plaintiff.

15 38. The acts of Defendants were done fraudulently, maliciously and oppressively and
16 with the advance knowledge, conscious disregard, authorization, ratification or act of oppression,
17 within the meaning of Civil Code Section 3294 on the part of Defendants' officers, directors, or
18 managing agents of their corporations, including the acts Plaintiff's supervisors and Defendants'
19 officers and employees. The actions and conduct of the Defendants were intended to cause injury
20 to Plaintiff and constituted deceit and concealment of material facts known to Defendants with the
21 intention of the Defendants to deprive Plaintiff of property and legal rights, justifying an award of
22 exemplary and punitive damages in an amount according to proof

23 39. As a further direct, legal, and proximate result of the conduct of Defendants,
24 Plaintiff was caused to and did employ the services of counsel to prosecute this action, and is
25 accordingly entitled to an award of attorneys' fees according to proof.

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1 **SECOND CAUSE OF ACTION**

2 **Failure to Engage in a Good Faith Interactive Process in Violation of FEHA**

3 **(Against All Defendants)**

4 40. Plaintiff realleges the foregoing allegations and hereby incorporates them by
5 reference as though fully set forth.

6 41. At all times herein mentioned, FEHA was in full force and effect and were binding
7 on each Defendant. These sections required Defendants, and each of them, to engage Plaintiff in a
8 timely good faith interactive process. Cal. Govt. Code § 12940, et seq.

9 42. As set forth more fully above, Plaintiff suffered from a disability and/or medical
10 condition and/or Defendants perceived that Plaintiff suffered from a disability and/or medical
11 condition that limited her ability to work.

12 43. Plaintiff was able to perform the essential job duties for her physical and medical
13 condition with reasonable accommodation.

14 44. Defendants failed to engage Plaintiff in a timely good faith interactive process by,
15 among other things, reprimanding her, denying her employment opportunities and other benefits
16 and resources, and terminating her employment.

17 45. The actions of Defendants in failing to engage Plaintiff in a good faith interactive
18 process in violation of California Government Code § 12940, et seq. was a substantial factor in
19 causing damage and injury to Plaintiff, as alleged herein.

20 46. As a direct, foreseeable, and proximate result of the wrongful conduct of
21 Defendants, Plaintiff has sustained and continues to sustain, economic damages in earnings and
22 other employment benefits in an amount according to proof.

23 47. As a direct, foreseeable, and proximate result of the wrongful conduct of
24 Defendants, Plaintiff has sustained, and continues to sustain, non-economic damages and
25 emotional distress.

26 48. Plaintiff has sustained general and special damages.

27 49. The acts and conduct of Defendants constituted “malice,” “oppression,” and/or
28 “fraud” (as those terms are defined in California Civil Code Section 3294(c)), in that these acts

1 were intended by Defendants to cause injury to Plaintiff and/or constituted despicable conduct
2 carried on by Defendants with willful and conscious disregard of the rights of Plaintiff.

3 50. The acts of Defendants were done fraudulently, maliciously and oppressively and
4 with the advance knowledge, conscious disregard, authorization, ratification or act of oppression,
5 within the meaning of Civil Code Section 3294 on the part of Defendants' officers, directors, or
6 managing agents of their corporations, including the acts Plaintiff's supervisors and Defendants'
7 officers and employees. The actions and conduct of the Defendants were intended to cause injury
8 to Plaintiff and constituted deceit and concealment of material facts known to Defendants with the
9 intention of the Defendants to deprive Plaintiff of property and legal rights, justifying an award of
10 exemplary and punitive damages in an amount according to proof.

11 51. As a further direct, legal, and proximate result of the conduct of Defendants,
12 Plaintiff was caused to and did employ the services of counsel to prosecute this action, and is
13 accordingly entitled to an award of attorneys' fees according to proof.

14 **THIRD CAUSE OF ACTION**

15 **Failure to Provide Reasonable Accommodation in Violation of FEHA**

16 **(Against All Defendants)**

17 52. Plaintiff realleges the foregoing allegations and hereby incorporates them by
18 reference as though fully set forth.

19 53. At all times herein mentioned, FEHA was in full force and effect and were binding
20 on each Defendant. These sections required Defendants, and each of them, to provide Plaintiff
21 reasonable accommodations. Cal. Govt. Code § 12940, et seq.

22 54. As set forth more fully above, Plaintiff suffered from a disability and medical
23 condition and/or Defendants perceived that Plaintiff suffered from a disability and/or medical
24 condition that limited her ability to work.

25 55. Plaintiff was able to perform the essential job duties for her physical and medical
26 condition with reasonable accommodation.

27 56. Defendants failed to provide reasonable accommodations to Plaintiff by, among
28 other things, reprimanding her, denying her employment opportunities and other benefits and

resources, and terminating her employment.

57. The actions of Defendants in failing to provide Plaintiff a reasonable accommodation in violation of California Government Code § 12940, et seq. was a substantial factor in causing damage and injury to Plaintiff, as alleged herein.

58. As a direct, foreseeable, and proximate result of the wrongful conduct of Defendants, Plaintiff has sustained and continues to sustain, economic damages in earnings and other employment benefits in an amount according to proof.

59. As a direct, foreseeable, and proximate result of the wrongful conduct of Defendants, Plaintiff has sustained, and continues to sustain, non-economic damages and emotional distress.

60. Plaintiff has sustained general and special damages.

61. The acts and conduct of Defendants constituted “malice,” “oppression,” and/or “fraud” (as those terms are defined in California Civil Code Section 3294(c)), in that these acts were intended by Defendants to cause injury to Plaintiff and/or constituted despicable conduct carried on by Defendants with willful and conscious disregard of the rights of Plaintiff.

62. The acts of Defendants were done fraudulently, maliciously and oppressively and with the advance knowledge, conscious disregard, authorization, ratification or act of oppression, within the meaning of Civil Code Section 3294 on the part of Defendants’ officers, directors, or managing agents of their corporations, including the acts Plaintiff’s supervisors and Defendants’ officers employees.

63. The actions and conduct of the Defendants were intended to cause injury to Plaintiff and constituted deceit and concealment of material facts known to Defendants with the intention of the Defendants to deprive Plaintiff of property and legal rights, justifying an award of exemplary and punitive damages in an amount according to proof.

64. As a further direct, legal, and proximate result of the conduct of Defendants, Plaintiff was caused to and did employ the services of counsel to prosecute this action, and is accordingly entitled to an award of attorneys’ fees according to proof.

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1 **FOURTH CAUSE OF ACTION**

2 **Retaliation in Violation of FEHA**

3 **(Against All Defendants)**

4 65. Plaintiff realleges the foregoing allegations and hereby incorporates them by
5 reference as though fully set forth.

6 66. At all times herein mentioned, FEHA was in full force and effect and was binding
7 on each Defendant. These sections required Defendants, and each of them, to refrain from
8 retaliating against Plaintiff because she participated in a protected activity. Cal. Govt. Code §
9 12940, et seq.

10 67. Plaintiff participated in the protected activities of requesting accommodations.

11 68. Plaintiff suffered adverse employment actions as described above when Defendants
12 retaliated against Plaintiff because of her requests by, among other things, reprimanding her,
13 denying her reasonable accommodations and a good faith interactive process, denying her
14 employment opportunities and other benefits and resources, and terminating her employment.

15 69. Plaintiff is informed and believes and based thereon alleges that her protected
16 activities of requesting accommodations were substantial motivating reasons for Defendants
17 performing the aforementioned adverse employment actions.

18 70. This retaliation violates California Government Code § 12940, and was a
19 substantial factor in causing damage and injury to Plaintiff, as alleged herein.

20 71. As a direct, foreseeable, and proximate result of the wrongful conduct of
21 Defendants, Plaintiff has sustained and continues to sustain, economic damages in earnings and
22 other employment benefits in an amount according to proof.

23 72. As a direct, foreseeable, and proximate result of the wrongful conduct of
24 Defendants, Plaintiff has sustained, and continues to sustain, non-economic damages and
25 emotional distress.

26 73. Plaintiff has sustained general and special damages.

27 74. The acts and conduct of Defendants constituted “malice,” “oppression,” and/or
28 “fraud” (as those terms are defined in California Civil Code Section 3294(c)), in that these acts

1 were intended by Defendants to cause injury to Plaintiff and/or constituted despicable conduct
2 carried on by Defendants with willful and conscious disregard of the rights of Plaintiff.

3 75. The acts of Defendants were done fraudulently, maliciously and oppressively and
4 with the advance knowledge, conscious disregard, authorization, ratification or act of oppression,
5 within the meaning of Civil Code Section 3294 on the part of Defendants' officers, directors, or
6 managing agents of their corporations, including the acts Plaintiff's supervisors and Defendants'
7 officers and employees. The actions and conduct of the Defendants were intended to cause injury
8 to Plaintiff and constituted deceit and concealment of material facts known to Defendants with the
9 intention of the Defendants to deprive Plaintiff of property and legal rights, justifying an award of
10 exemplary and punitive damages in an amount according to proof.

11 76. As a further direct, legal, and proximate result of the conduct of Defendants,
12 Plaintiff was caused to and did employ the services of counsel to prosecute this action, and is
13 accordingly entitled to an award of attorneys' fees according to proof.

14 **FIFTH CAUSE OF ACTION**

15 **Retaliation in Violation of Division 5 of the Labor Code**

16 **(Against All Defendants)**

17 77. Plaintiff realleges the foregoing allegations and hereby incorporates them by
18 reference as though fully set forth.

19 78. At all times herein mentioned, Labor Code §§ 6310 and 6311 were in full force and
20 effect and were binding on each Defendant. These sections required Defendants, and each of them,
21 to refrain from retaliating against Plaintiff because she participated in a protected activity.

22 79. Plaintiff participated in the protected activities, including Plaintiff's request for
23 protection against respiratory hazards and a respirator, Plaintiff's report of work-related illness,
24 and Plaintiff's opposition to working without respiratory protection.

25 80. Plaintiff suffered adverse employment actions as described above when Defendants
26 retaliated against Plaintiff because of her requests by, among other things, reprimanding her,
27 denying her reasonable accommodations and a good faith interactive process, denying her
28 employment opportunities and other benefits and resources, and terminating her employment.

1 81. Plaintiff is informed and believes and based thereon alleges that her protected
2 activities were substantial motivating reasons for Defendants performing the aforementioned
3 adverse employment actions.

4 82. This retaliation violates Labor Code §§ 6310 and 6311, and was a substantial factor
5 in causing damage and injury to Plaintiff, as alleged herein.

6 83. As a direct, foreseeable, and proximate result of the wrongful conduct of
7 Defendants, Plaintiff has sustained and continues to sustain, economic damages in earnings and
8 other employment benefits in an amount according to proof.

9 84. As a direct, foreseeable, and proximate result of the wrongful conduct of
10 Defendants, Plaintiff has sustained, and continues to sustain, non-economic damages and
11 emotional distress.

12 85. Plaintiff has sustained general and special damages.

13 86. The acts and conduct of Defendants constituted “malice,” “oppression,” and/or
14 “fraud” (as those terms are defined in California Civil Code Section 3294(c)), in that these acts
15 were intended by Defendants to cause injury to Plaintiff and/or constituted despicable conduct
16 carried on by Defendants with willful and conscious disregard of the rights of Plaintiff.

17 87. The acts of Defendants were done fraudulently, maliciously and oppressively and
18 with the advance knowledge, conscious disregard, authorization, ratification or act of oppression,
19 within the meaning of Civil Code Section 3294 on the part of Defendants’ officers, directors, or
20 managing agents of their corporations, including the acts Plaintiff’s supervisors and Defendants’
21 officers and employees. The actions and conduct of the Defendants were intended to cause injury
22 to Plaintiff and constituted deceit and concealment of material facts known to Defendants with the
23 intention of the Defendants to deprive Plaintiff of property and legal rights, justifying an award of
24 exemplary and punitive damages in an amount according to proof.

25 88. As a further direct, legal, and proximate result of the conduct of Defendants,
26 Plaintiff was caused to and did employ the services of counsel to prosecute this action, and is
27 accordingly entitled to an award of attorneys’ fees according to proof.

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1 **SIXTH CAUSE OF ACTION**

2 **Civil Penalties under the PAGA**

3 **(Against All Defendants)**

4 89. Plaintiff realleges the foregoing allegations and hereby incorporates them by
5 reference as though fully set forth.

6 90. PAGA, specifically Section 2699, subdivision (a) of the California Labor Code,
7 permits an aggrieved employee to recover civil penalties set forth within the California Labor
8 Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil
9 penalties for violations of California Labor Code provisions that do not contain their own civil
10 penalties. Employees bring this civil action to recover civil penalties for the violations identified
11 below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil
12 penalties specifically set forth within the text of the California Labor Code. Those civil penalties
13 are sought for the following violations committed against Employees of Employers.

14 **A. Failure to Establish, Implement, and Maintain Effective Injury Prevention**
15 **Program**

16 91. “Every employer shall establish, implement, and maintain an effective injury
17 prevention program. The program shall be written, except as provided in subdivision (e), and shall
18 include, but not be limited to, the following elements: (1) Identification of the person or persons
19 responsible for implementing the program. (2) The employer’s system for identifying and
20 evaluating workplace hazards, including scheduled periodic inspections to identify unsafe
21 conditions and work practices. (3) The employer’s methods and procedures for correcting unsafe
22 or unhealthy conditions and work practices in a timely manner. (4) An occupational health and
23 safety training program designed to instruct employees in general safe and healthy work practices
24 and to provide specific instruction with respect to hazards specific to each employee’s job
25 assignment. (5) The employer’s system for communicating with employees on occupational health
26 and safety matters, including provisions designed to encourage employees to inform the employer
27 of hazards at the worksite without fear of reprisal. (6) The employer’s system for ensuring that
28 employees comply with safe and healthy work practices, which may include disciplinary action.”

1 Lab. Code, 6401.7, subd. (a). “The employer shall correct unsafe and unhealthy conditions and
2 work practices in a timely manner based on the severity of the hazard.” Lab. Code, 6401.7, subd.
3 (b).

4 92. “The employer shall train all employees when the training program is first
5 established, all new employees, and all employees given a new job assignment, and shall train
6 employees whenever new substances, processes, procedures, or equipment are introduced to the
7 workplace and represent a new hazard, and whenever the employer receives notification of a new
8 or previously unrecognized hazard.” Lab. Code, 6401.7, subd. (c). “The employer shall keep
9 appropriate records of steps taken to implement and maintain the program.” Lab. Code, 6401.7,
10 subd. (d). The standards board shall adopt a standard setting forth the employer’s duties under this
11 section....” Lab. Code, 6401.7, subd. (e)(1).

12 93. To substantially comply with Section 6401.7, the employer must provide adequate
13 “meetings, training programs, posting, written communications, a system of anonymous
14 notification by employees about hazards, labor/management safety and health committees, or any
15 other means that ensures communication with employees.” Cal. Code Regs., tit. 8, § 3203, subd.
16 (a)(3).

17 94. “Records of the steps taken to implement and maintain the Program shall include:
18 (1) Records of scheduled and periodic inspections required by subsection (a)(4) [of § 3203] to
19 identify unsafe conditions and work practices, including person(s) conducting the inspection, the
20 unsafe conditions and work practices that have been identified and action taken to correct the
21 identified unsafe conditions and work practices. These records shall be maintained for at least one
22 (1) year; and ... (2) Documentation of safety and health training required by subsection (a)(7) for
23 each employee, including employee name or other identifier, training dates, type(s) of training,
24 and training providers. This documentation shall be maintained for at least one (1) year.” Cal.
25 Code Regs., tit. 8, § 3203, subd. (b).

26 95. Throughout the Statutory Period, Employer failed to establish, implement, and
27 maintain an effective injury prevention program. Employer failed to perform periodic inspections
28 to identify unsafe conditions and work practices. For example, Employer never came to Ms.

1 Aguilar's worksite to inspect or discuss safe work practices, including the harmful fumes and
2 respiratory exposures. Ms. Aguilar was not told who was responsible for implementing
3 Employer's program, or if the Employer had one at all.

4 96. Employer failed to provide occupational health and safety training designed to
5 instruct Employees in general safe and healthy work practices and to provide specific instruction
6 with respect to hazards specific to each Employee's job assignment. There was ineffective
7 communication between Employees and Employer on occupational health and safety matters.
8 Employer failed to provide adequate meetings, training programs, posting, written
9 communications, a system of anonymous notification by employees about hazards,
10 labor/management safety and health committees, or any other means that ensures communication
11 with employees regarding health and safety conditions and workplace injury reporting. For
12 example, the only "training" and communication Employer provided to Ms. Aguilar was instruct
13 her on the selection of chemicals, and to leave it to Ms. Aguilar to figure out the health-and-safety
14 risks of her job himself, in violation of law and without the training required by an effective injury
15 prevention program.

16 97. Employer also failed to keep records of steps taken to implement and maintain its
17 program, including adequate records of scheduled and periodic inspections to identify unsafe
18 conditions and work practices, including person(s) conducting the inspection, the unsafe
19 conditions and work practices that have been identified and action taken to correct the identified
20 unsafe conditions and work practices, and documentation of required safety and health training for
21 each of the Employees, including each employee's name or other identifier, training dates, type(s)
22 of training, and training providers. No such documentation was provided when requested by Ms.
23 Aguilar's counsel.

24 **B. Failure to Effectively Train Employees Regarding Chemical Hazards**

25 98. "Every employer and every employee shall comply with occupational safety and
26 health standards, with Section 25910 of the Health and Safety Code, and with all rules,
27 regulations, and orders pursuant to this division which are applicable to his own actions and
28 conduct." Lab. Code 6407.

1 99. Among these rules, regulations, and orders is Title 8, Section 5194 of the California
2 Code of Regulations, which was applicable to Employer and the Employees. Throughout the
3 Statutory Period, Employer violated the following provisions of §§ 5194(b) and (h):

4 100. (b)(1): “This section requires manufacturers or importers to classify the hazards of
5 chemicals which they produce or import, and all employers to provide information to their
6 employees about the hazardous chemicals to which they may be exposed, by means of a hazard
7 communication program, labels and other forms of warning, safety data sheets, and information
8 and training.”

9 101. (h)(1): “Employers shall provide employees with effective information and training
10 on hazardous chemicals in their work area at the time of their initial assignment, and whenever a
11 new chemical hazard is introduced into their work area. ... (2) Information and training shall
12 consist of at least the following topics: (A) Employees shall be informed of the requirements of
13 this section. (B) Employees shall be informed of any operations in their work area where
14 hazardous chemicals are present. (C) Employees shall be informed of the location and availability
15 of the written hazard communication program, including the list(s) of hazardous chemicals and
16 safety data sheets required by this section. (D) Employees shall be trained in the methods and
17 observations that may be used to detect the presence or release of a hazardous chemical in the
18 work area (such as monitoring conducted by the employer, continuous monitoring devices, visual
19 appearance or odor of hazardous chemicals when being released, etc.). (E) Employees shall be
20 trained in the physical, health, simple asphyxiation, combustible dust and pyrophoric gas hazards,
21 as well as hazards not otherwise classified, of the chemicals in the work area, and the measures
22 they can take to protect themselves from these hazards, including specific procedures the employer
23 has implemented to protect employees from exposure to hazardous chemicals, such as appropriate
24 work practices, emergency procedures, and personal protective equipment to be used. (F)
25 Employees shall be trained in the details of the hazard communication program developed by the
26 employer, including an explanation of the labels received on shipped containers and the workplace
27 labeling system used by their employer and the safety data sheet, and how employees can obtain
28 and use the appropriate hazard information.”

102. Throughout the Statutory Period, Employer failed to provide effective training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new chemical hazard is introduced into their work area. For example, for Employer instructed Ms. Aguilar to use chemicals, but failed to train or inform Employees regarding the significance of the risks involved in working with hazardous chemicals. This resulted in increased chemical exposure to Employees, including Ms. Aguilar, who suffered adverse health consequences because of ineffective training regarding the safe use and handling of chemicals in the workplace.

103. Employer did not provide any information to Employees regarding the requirements of § 5194 or their rights under § 5194. Employer failed to train Employees in the methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.), including the hazards from the use of chemicals Employees were required to handle.

104. “Employees shall be trained in the physical, health, simple asphyxiation, combustible dust and pyrophoric gas hazards, as well as hazards not otherwise classified, of the chemicals in the work area, and the measures they can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used.”

105. Employer failed to provide any training regarding the measures they can take to protect themselves and appropriate work practices to avoid injury from chemical exposures. Employees were required to self-train themselves by trial and error, resulting in increased risks of injury to Employees in violation of the law, as demonstrated by Ms. Aguilar’s experience as set forth above.

C. Failure to Provide Respiratory Protection

106. “Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and

1 conduct.” Lab. Code 6407.

2 107. Among these rules, regulations, and orders is Title 8, Section 5144 of the California
3 Code of Regulations, which was applicable to Employer and the Employees. Throughout the
4 Statutory Period, Employer violated the following provisions of § 5144:

5 108. “In the control of those occupational diseases caused by breathing air contaminated
6 with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, the primary objective
7 shall be to prevent atmospheric contamination. This shall be accomplished as far as feasible by
8 accepted engineering control measures (for example, enclosure or confinement of the operation,
9 general and local ventilation, and substitution of less toxic materials). When effective engineering
10 controls are not feasible, or while they are being instituted, appropriate respirators shall be used
11 pursuant to this section.” Cal. Code Regs., tit. 8, § 5144(a)(1). “Respirators shall be provided by
12 the employer when such equipment is necessary to protect the health of the employee. The
13 employer shall provide the respirators which are applicable and suitable for the purpose intended.
14 The employer shall be responsible for the establishment and maintenance of a respiratory
15 protection program which shall include the requirements outlined in subsection (c).” Cal. Code
16 Regs., tit. 8, § 5144(a)(2).

17 109. Subsection (c) required Employer “to develop and implement a written respiratory
18 protection program with required worksite-specific procedures and elements for required
19 respirator use. The program must be administered by a suitably trained program administrator.”
20 And even “[w]here respirator use is not required,” “An employer may provide respirators at the
21 request of employees or permit employees to use their own respirators, if the employer determines
22 that such respirator use will not in itself create a hazard. If the employer determines that any
23 voluntary respirator use is permissible, the employer shall provide the respirator users with the
24 information contained in Appendix D to this section (“Information for Employees Using
25 Respirators When Not Required Under the Standard”)....” “In addition, the employer must
26 establish and implement those elements of a written respiratory protection program necessary to
27 ensure that any employee using a respirator voluntarily is medically able to use that respirator, and
28 that the respirator is cleaned, stored, and maintained so that its use does not present a health hazard

1 to the user.” “The employer shall provide respirators, training, and medical evaluations at no cost
2 to the employee.”

3 110. “The employer shall select and provide an appropriate respirator based on the
4 respiratory hazard(s) to which the worker is exposed and workplace and user factors that affect
5 respirator performance and reliability.” Cal. Code Regs., tit. 8, § 5144(d)(1)(A). “The employer
6 shall identify and evaluate the respiratory hazard(s) in the workplace; this evaluation shall include
7 a reasonable estimate of employee exposures to respiratory hazard(s) and an identification of the
8 contaminant's chemical state and physical form.” Cal. Code Regs., tit. 8, § 5144(d)(1)(C).

9 111. “The employer shall provide a medical evaluation to determine the employee's
10 ability to use a respirator, before the employee is fit tested or required to use the respirator in the
11 workplace.” Cal. Code Regs., tit. 8, § 5144(e)(1).

12 112. In violation of the foregoing, although effective engineering controls were either
13 not feasible or not implemented by Employer to prevent Employees from breathing air
14 contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, and vapors, Employer
15 failed to provide appropriate respirators in compliance with § 5144. Ms. Aguilar is informed and
16 believes that Employer failed to develop and implement a written respiratory protection program;
17 none was provided to Ms. Aguilar’s counsel when requested. To the contrary, when Ms. Aguilar
18 informed her Employer of her doctor’s prescription for her to use a respirator at work, nothing was
19 done to assess her health-and-safety complaint and she was terminated. Employer violated § 5144
20 as a result of its various failures to implement appropriate respiratory protection as required by the
21 foregoing statutes and regulations.

22 **D. Requiring or Permitting Unsafe Work and Failure to Provide Safe Workplace,**
23 **Practices, and Processes**

24 113. Employees incorporate the preceding sections herein. By committing the acts and
25 omissions described in the preceding sections throughout Employees’ employment, Employer also
26 violated Labor Code, §§ 6400, 6401, 6402, 6403, 6404 by requiring and permitting unsafe work,
27 and failing to provide safe workplaces, practices, and processes to its Employees, including Ms.
28 Aguilar. Employer is subject to additional civil penalties as provided by law.

E. Failure to Produce Personnel Records

114. “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. (b) (1) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer’s receipt of the written request.” Lab. Code, § 1198.5, subds. (a) and (b).

115. Throughout the Statutory Period, Employer violated these provisions by failing to allow Employees access to all personnel records which they are entitled to inspect and receive. Employer maintains a policy and practice of ignoring Employees’ requests for their employment records. For example, Ms. Aguilar requested these records by letter on April 14, 2022, and again on June 10, 2022. Employer failed to produce any records in response to Employees’ requests made under the foregoing provisions. Employer is subject to civil penalties as provided by law.

F. Failure to Produce Payroll Statements and/or Data

116. “An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by [Labor Code § 226] subdivision (a) shall afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee. (c) An employer who receives a written or oral request to inspect or receive a copy of records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this

1 subdivision. An employer may designate the person to whom a request under this subdivision will
2 be made.” Lab. Code, § 226, subds. (b) and (c).

3 117. Throughout the Statutory Period, Employer violated these provisions by failing to
4 allow Employees access to all wage statement records and/or data which they are entitled to
5 inspect and receive. Employer maintains a policy and practice of ignoring Employees’ requests
6 for their employment records. For example, Ms. Aguilar requested these records by letter on April
7 14, 2022, and again on June 10, 2022. Employer failed to produce any records in response to
8 Employees’ requests made under the foregoing provisions. Employer is subject to civil penalties
9 as provided by law.

10 **G. Failure to Provide Time and Wage Records**

11 118. Labor Code section 1198 provides that “the standard conditions of labor fixed by
12 the commission shall be ... standard conditions of labor for employees.”

13 119. Included in the Commission’s standard conditions of labor is the requirement that
14 “Every employer shall keep accurate information with respect to each employee including the
15 following: ... Time records showing when the employee begins and ends each work period. Meal
16 periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods
17 during which operations cease and authorized rest periods need not be recorded. ... Total wages
18 paid each payroll period, including value of board, lodging, or other compensation actually
19 furnished to the employee. ... Total hours worked in the payroll period and applicable rates of pay.
20 This information shall be made readily available to the employee upon reasonable request.”
21 “Every employer shall semimonthly or at the time of each payment of wages furnish each
22 employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages,
23 or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates
24 of the period for which the employee is paid; (3) the name of the employee or the employee’s
25 social security number; and (4) the name of the employer, provided all deductions made on written
26 orders of the employee may be aggregated and shown as one item.”

27 120. “All required records shall be in the English language and in ink or other indelible
28 form, properly dated, showing month, day and year, and shall be kept on file by the employer for

1 at least three years at the place of employment or at a central location within the State of
2 California. An employee's records shall be available for inspection by the employee upon
3 reasonable request."

4 121. Throughout the Statutory Period, Employer violated these provisions by failing to
5 allow Employees access to all time and wage records which they are entitled to inspect and
6 receive. Employer maintains a policy and practice of ignoring Employees' requests for their
7 employment records. For example, Ms. Aguilar requested these records by letter on April 14,
8 2022, and again on June 10, 2022. Employer failed to produce any records in response to
9 Employees' requests made under the foregoing provisions. Employer is subject to civil penalties
10 as provided by law.

11 **H. Failure to Provide All Signed Documents**

12 122. "If an employee or applicant signs any instrument relating to the obtaining or
13 holding of employment, he shall be given a copy of the instrument upon request." Lab. Code, §
14 432.

15 123. Throughout the Statutory Period, Employer violated these provisions by failing to
16 allow Employees access to all documents signed by Employees, which they are entitled to inspect
17 and receive. Employer maintains a policy and practice of ignoring Employees' requests for their
18 employment records. For example, Ms. Aguilar requested these records by letter on April 14,
19 2022, and again on June 10, 2022. Employer failed to produce any records in response to
20 Employees' requests made under the foregoing provisions. Employer is subject to civil penalties
21 as provided by law.

22 **I. Failure to Provide Access to Injury and Illness Prevention Program**

23 124. "Every employer and every employee shall comply with occupational safety and
24 health standards, with Section 25910 of the Health and Safety Code, and with all rules,
25 regulations, and orders pursuant to this division which are applicable to his own actions and
26 conduct." Lab. Code 6407.

27 125. Throughout the Statutory Period, Employer violated the following provisions of
28 applicable regulation, Cal. Code Regs., tit. 8, § 3203:

1 126. The employer shall provide access to the Program by doing one of the following: 1.
2 Provide access in a reasonable time, place, and manner, but in no event later than five (5) business
3 days after the request for access is received from an employee or designated representative. a.
4 Whenever an employee or designated representative requests a copy of the Program, the employer
5 shall provide the requester a printed copy of the Program, unless the employee or designated
6 representative agrees to receive an electronic copy of the Program. b. One printed copy of the
7 Program shall be provided free of charge. If the employee or designated representative requests
8 additional copies of the Program within one (1) year of the previous request and the Program has
9 not been updated with new information since the prior copy was provided, the employer may
10 charge reasonable, non-discriminatory reproduction costs (per Section 3204(e)(1)(E)) for the
11 additional copies. or, 2. Provide unobstructed access through a company server or website, which
12 allows an employee to review, print, and email the current version of the Program. Unobstructed
13 access means that the employee, as part of his or her regular work duties, predictably and routinely
14 uses the electronic means to communicate with management or coworkers.

15 127. Throughout the Statutory Period, Employer violated these provisions by failing to
16 allow Employees access to all injury and illness prevention program materials, which they are
17 entitled to inspect and receive. Employer maintains a policy and practice of ignoring Employees'
18 requests for these records. For example, Ms. Aguilar requested these records by letter on April 14,
19 2022, and again on June 10, 2022. Employer failed to produce any records in response to
20 Employees' requests made under the foregoing provisions. Employer is subject to civil penalties
21 as provided by law.

22 **J. Retaliation for Protected Activities**

23 128. No person shall discharge or in any manner discriminate against any employee
24 because the employee has done any of the following: ... (2) ... because of the exercise by the
25 employee on behalf of themselves, or others of any rights afforded to them. (4) Reported a work-
26 related fatality, injury, or illness ... or exercised any other rights protected by the federal
27 Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.)....” Lab. Code, § 6310, subd.
28 (a). “No employee shall be laid off or discharged for refusing to perform work in the performance

1 of which this code, including Section 6400, any occupational safety or health standard, or any
2 safety order of the division or standards board will be violated, where the violation would create a
3 real and apparent hazard to the employee or their fellow employees.” Lab. Code, § 6311.

4 129. In violation of the foregoing, in response to Ms. Aguilar’s requests for protection
5 against respiratory hazards and a respirator, in response to Ms. Aguilar’s report of work-related
6 illness, and in response to Ms. Aguilar’s opposition to working without respiratory protection,
7 Employer discriminated against Ms. Aguilar and terminated her employment. Employer violated
8 Ms. Aguilar’s rights and is subject to additional civil penalties.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

12 1. For general damages, including emotional distress damages, according to proof on
13 each cause of action for which such damages are available.

14 2. For special damages, according to proof on each cause of action for which such
15 damages are available.

16 3. For compensatory damages, including emotional distress damages, according to
17 proof on each cause of action for which such damages are available.

18 4. For punitive damages.

19 5. For declaratory and injunctive relief in accordance with terms to be determined at
20 the time of trial.

21 6. For prejudgment interest and post-judgment interest according to law.

22 7. For civil penalties.

23 8. For reasonable attorneys' fees incurred in this action pursuant to statute.

24 9. For costs of suit incurred in this action.

25 10. For such other and further relief that the Court deems proper and just.

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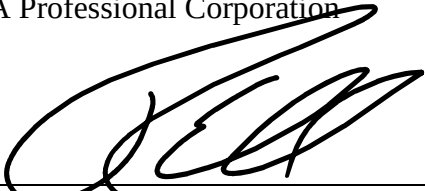
DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all causes of action in this matter.

DATED: January 3, 2023

WORKWORLD LAW CORP.
A Professional Corporation

By: _____



RUBEN ESCOBEDO
Attorney for Plaintiff, EVA G. AGUILAR

EXHIBIT 1



WORKWORLD LAW

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October 26, 2022

VIA ELECTRONIC FILING

CALIFORNIA LABOR AND
WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

CALIFORNIA DIVISION OF
OCCUPATIONAL SAFETY AND HEALTH
455 Golden Gate Ave., Rm. 9516
San Francisco, CA 94102

VIA U.S. CERTIFIED MAIL

Integrity Labor Services, LLC
P.O. Box 80582
Bakersfield, CA 93380

Integrity Labor Services, LLC
6217 Hermes Dr.
Bakersfield, CA 93306

JSS Almonds, LLC
5600 Norris Rd
Bakersfield, CA 93308

Re: Eva Aguilar's Notice of Claims/Labor Code Private Attorneys General Act of 2004, California Labor Code §§ 2698, *et seq.*

To the California Labor and Workforce Development Agency; California Division of Occupational Safety and Health; Integrity Labor Services, LLC and JSS Almonds, LLC (collectively "Employer"):

WorkWorld Law represents Eva Aguilar, who intends to bring an action under the Private Attorneys General Act of 2004 ("PAGA"), Labor Code sections 2698, *et seq.*, on behalf of himself, approximately more than 250 similarly situated current and former aggrieved employees employed by Employer in California, and the People of the State of California (hereinafter

collectively "Employees"), employed between October 26, 2021, and the conclusion of the forthcoming action ("Statutory Period").

In addition to asserting claims against Employer as a traditional employer, please take notice that, not earlier than 30 days after serving this notice, Ms. Aguilar also intends to initiate an action against Employer as a "client employer" for violations of the Labor Code covered by Labor Code § 2810.3, including the violations set forth below.

Ms. Eva Aguilar started working in the sanitation department as an individual jointly employed by JSS Almonds, LLC and Integrity Labor Services, LLC (collectively "JSS") on or about August 20, 2020. Her duties consisted of cleaning bathrooms, the kitchen, the lobby, stocking the bathroom supplies, mopping floors, refilling backroom supplies, throwing out the trash, and taking materials to the almond sorting department at the direction and under the control of JSS. JSS directly instructed Ms. Aguilar regarding her duties and directed her work throughout her scheduled time. JSS's supervisors would even direct her to other departments if they were short-staffed. Ms. Aguilar considered herself an employee of JSS Almonds, and not merely an employee of Integrity Labor Services. Ms. Aguilar was informed by Angela Martinez of Integrity Labor Services that its primary role was to handle paperwork and payroll in connection with her employment at JSS Almonds.

Ms. Aguilar's duties required her to work with various harmful cleaning chemicals. During her employment, however, Ms. Aguilar was never given proper training by anyone certified on handling safe amounts of cleaning liquids or what liquids should not be mixed. JSS merely trained Ms. Aguilar regarding the *selection* of chemicals for cleaning, and not on the hazards of the chemicals.

On approximately February 16, 2022, Ms. Aguilar was told by JSS Almonds' supervisor Aldo Ochoa to mop the cellar. For about three hours, she mopped the floors with cleaning chemicals. The chemicals irritated Ms. Aguilar's eyes, and she experienced difficulty breathing. She visited her doctor to remedy these issues. On February 19, 2022, JSS Almonds' supervisor, Mr. Ochoa, to see JSS Almonds' approved doctor. The doctor told Ms. Aguilar her eyes were fine, and she should go back to work. Despite receiving notice about these harmful impacts the chemicals were having on Ms. Aguilar, JSS did nothing to further train Ms. Aguilar or remedy the situation.

Ms. Aguilar continued to feel discomfort, so she saw her allergy doctor. Her doctor indicated he believed she was having problems with her sinuses and eyes from the cleaning chemicals she was using at work. The doctor provided Ms. Aguilar with a note so she could be accommodated with two weeks off work and to be provided a proper respirator mask that would filter chemicals she was using to clean while at work.

Ms. Aguilar contacted Ms. Martinez of Integrity Labor Services to drop off the doctor's note, as she had been instructed to notify Integrity for any paperwork-related matters. Once Ms.

Martinez reviewed the note, she called Ms. Aguilar and told her JSS could not accommodate what the doctor was requesting because they did not have a respirator mask and they were not needed to handle the chemicals the company was using for cleaning. Ms. Martinez also told Ms. Aguilar that due to the state of her allergies and the fact that her job duties included cleaning, JSS would have to let her go. Ms. Aguilar offered to work in the almond sorting department because she knew how to do that and JSS was constantly looking for additional help in that department. JSS refused and Ms. Martinez informed Ms. Aguilar that she could come back to work when she no longer was experiencing these medical issues. Rather than make a genuine effort to accommodate her disability, and although such an accommodation was available, JSS immediately terminated Ms. Aguilar, effective March 7, 2022.

Ms. Martinez instructed Ms. Aguilar to pick up her termination letter and final check from Mr. Ochoa at JSS Almonds' facility. Ms. Aguilar now files this case to recover all legal remedies available under California law.

PAGA, specifically Section 2699, of the California Labor Code, permits an aggrieved employee to recover civil penalties set forth within the California Labor Code for violations of the California Labor Code. In addition, Section 2699(f) establishes civil penalties for violations of California Labor Code provisions that do not contain their own civil penalties. Employees intend to bring a civil action to recover civil penalties for the violations identified below, including civil penalties pursuant to Section 2699, subdivision (f) as well as those civil penalties specifically set forth within the text of the California Labor Code. Those penalties are sought for violations committed against Employees of Employer

* * *

Pursuant to Section 2699.3, the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violation, are as follows:

A. Failure to Establish, Implement, and Maintain Effective Injury Prevention Program

"Every employer shall establish, implement, and maintain an effective injury prevention program. The program shall be written, except as provided in subdivision (e), and shall include, but not be limited to, the following elements: (1) Identification of the person or persons responsible for implementing the program. (2) The employer's system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. (3) The employer's methods and procedures for correcting unsafe or unhealthy conditions and work practices in a timely manner. (4) An occupational health and safety training program designed to instruct employees in general safe and healthy work practices and to provide specific instruction with respect to hazards specific to each employee's job assignment. (5) The employer's system for communicating with employees on occupational

health and safety matters, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. (6) The employer's system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary action." Lab. Code, 6401.7, subd. (a). "The employer shall correct unsafe and unhealthy conditions and work practices in a timely manner based on the severity of the hazard." Lab. Code, 6401.7, subd. (b).

"The employer shall train all employees when the training program is first established, all new employees, and all employees given a new job assignment, and shall train employees whenever new substances, processes, procedures, or equipment are introduced to the workplace and represent a new hazard, and whenever the employer receives notification of a new or previously unrecognized hazard." Lab. Code, 6401.7, subd. (c). "The employer shall keep appropriate records of steps taken to implement and maintain the program." Lab. Code, 6401.7, subd. (d). The standards board shall adopt a standard setting forth the employer's duties under this section...." Lab. Code, 6401.7, subd. (e)(1).

To substantially comply with Section 6401.7, the employer must provide adequate "meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication with employees." Cal. Code Regs., tit. 8, § 3203, subd. (a)(3).

"Records of the steps taken to implement and maintain the Program shall include: (1) Records of scheduled and periodic inspections required by subsection (a)(4) [of § 3203] to identify unsafe conditions and work practices, including person(s) conducting the inspection, the unsafe conditions and work practices that have been identified and action taken to correct the identified unsafe conditions and work practices. These records shall be maintained for at least one (1) year; and ... (2) Documentation of safety and health training required by subsection (a)(7) for each employee, including employee name or other identifier, training dates, type(s) of training, and training providers. This documentation shall be maintained for at least one (1) year." Cal. Code Regs., tit. 8, § 3203, subd. (b).

Throughout the Statutory Period, Employer failed to establish, implement, and maintain an effective injury prevention program. Employer failed to perform periodic inspections to identify unsafe conditions and work practices. For example, Employer never came to Ms. Aguilar's worksite to inspect or discuss safe work practices, including the harmful fumes and respiratory exposures. Ms. Aguilar was not told who was responsible for implementing Employer's program, or if the Employer had one at all.

Employer failed to provide occupational health and safety training designed to instruct Employees in general safe and healthy work practices and to provide specific instruction with respect to hazards specific to each Employee's job assignment. There was ineffective communication between Employees and Employer on occupational health and safety matters. Employer failed to provide adequate meetings, training programs, posting, written communications, a system of anonymous notification by employees about hazards, labor/management safety and health committees, or any other means that ensures communication

with employees regarding health and safety conditions and workplace injury reporting. For example, the only "training" and communication Employer provided to Ms. Aguilar was instruct her on the selection of chemicals, and to leave it to Ms. Aguilar to figure out the health-and-safety risks of her job himself, in violation of law and without the training required by an effective injury prevention program.

Employer also failed to keep records of steps taken to implement and maintain its program, including adequate records of scheduled and periodic inspections to identify unsafe conditions and work practices, including person(s) conducting the inspection, the unsafe conditions and work practices that have been identified and action taken to correct the identified unsafe conditions and work practices, and documentation of required safety and health training for each of the Employees, including each employee's name or other identifier, training dates, type(s) of training, and training providers. No such documentation was provided when requested by Ms. Aguilar's counsel.

B. Failure to Effectively Train Employees Regarding Chemical Hazards

"Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct." Lab. Code 6407.

Among these rules, regulations, and orders is Title 8, Section 5194 of the California Code of Regulations, which was applicable to Employer and the Employees. Throughout the Statutory Period, Employer violated the following provisions of §§ 5194(b) and (h):

(b)(1): "This section requires manufacturers or importers to classify the hazards of chemicals which they produce or import, and all employers to provide information to their employees about the hazardous chemicals to which they may be exposed, by means of a hazard communication program, labels and other forms of warning, safety data sheets, and information and training."

(h)(1): "Employers shall provide employees with effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new chemical hazard is introduced into their work area. ... (2) Information and training shall consist of at least the following topics: (A) Employees shall be informed of the requirements of this section. (B) Employees shall be informed of any operations in their work area where hazardous chemicals are present. (C) Employees shall be informed of the location and availability of the written hazard communication program, including the list(s) of hazardous chemicals and safety data sheets required by this section. (D) Employees shall be trained in the methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.). (E) Employees shall be trained in the physical, health, simple asphyxiation, combustible dust and pyrophoric gas hazards, as well as hazards not otherwise classified, of the chemicals in the work area, and the measures they can take to protect themselves from these hazards,

including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used. (F) Employees shall be trained in the details of the hazard communication program developed by the employer, including an explanation of the labels received on shipped containers and the workplace labeling system used by their employer and the safety data sheet, and how employees can obtain and use the appropriate hazard information."

Throughout the Statutory Period, Employer failed to provide effective training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new chemical hazard is introduced into their work area. For example, for Employer instructed Ms. Aguilar to use chemicals, but failed to train or inform Employees regarding the significance of the risks involved in working with hazardous chemicals. This resulted in increased chemical exposure to Employees, including Ms. Aguilar, who suffered adverse health consequences because of ineffective training regarding the safe use and handling of chemicals in the workplace.

Employer did not provide any information to Employees regarding the requirements of § 5194 or their rights under § 5194. Employer failed to train Employees in the methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released, etc.), including the hazards from the use of chemicals Employees were required to handle.

"Employees shall be trained in the physical, health, simple asphyxiation, combustible dust and pyrophoric gas hazards, as well as hazards not otherwise classified, of the chemicals in the work area, and the measures they can take to protect themselves from these hazards, including specific procedures the employer has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used."

Employer failed to provide any training regarding the measures they can take to protect themselves and appropriate work practices to avoid injury from chemical exposures. Employees were required to self-train themselves by trial and error, resulting in increased risks of injury to Employees in violation of the law, as demonstrated by Ms. Aguilar's experience as set forth above.

C. Failure to Provide Respiratory Protection

"Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct." Lab. Code 6407.

Among these rules, regulations, and orders is Title 8, Section 5144 of the California Code of Regulations, which was applicable to Employer and the Employees. Throughout the Statutory Period, Employer violated the following provisions of § 5144:

“In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, the primary objective shall be to prevent atmospheric contamination. This shall be accomplished as far as feasible by accepted engineering control measures (for example, enclosure or confinement of the operation, general and local ventilation, and substitution of less toxic materials). When effective engineering controls are not feasible, or while they are being instituted, appropriate respirators shall be used pursuant to this section.” Cal. Code Regs., tit. 8, § 5144(a)(1). “Respirators shall be provided by the employer when such equipment is necessary to protect the health of the employee. The employer shall provide the respirators which are applicable and suitable for the purpose intended. The employer shall be responsible for the establishment and maintenance of a respiratory protection program which shall include the requirements outlined in subsection (c).” Cal. Code Regs., tit. 8, § 5144(a)(2).

Subsection (c) required Employer “to develop and implement a written respiratory protection program with required worksite-specific procedures and elements for required respirator use. The program must be administered by a suitably trained program administrator.” And even “[w]here respirator use is not required,” “An employer may provide respirators at the request of employees or permit employees to use their own respirators, if the employer determines that such respirator use will not in itself create a hazard. If the employer determines that any voluntary respirator use is permissible, the employer shall provide the respirator users with the information contained in Appendix D to this section (“Information for Employees Using Respirators When Not Required Under the Standard”)....” “In addition, the employer must establish and implement those elements of a written respiratory protection program necessary to ensure that any employee using a respirator voluntarily is medically able to use that respirator, and that the respirator is cleaned, stored, and maintained so that its use does not present a health hazard to the user.” “The employer shall provide respirators, training, and medical evaluations at no cost to the employee.”

“The employer shall select and provide an appropriate respirator based on the respiratory hazard(s) to which the worker is exposed and workplace and user factors that affect respirator performance and reliability.” Cal. Code Regs., tit. 8, § 5144(d)(1)(A). “The employer shall identify and evaluate the respiratory hazard(s) in the workplace; this evaluation shall include a reasonable estimate of employee exposures to respiratory hazard(s) and an identification of the contaminant's chemical state and physical form.” Cal. Code Regs., tit. 8, § 5144(d)(1)(C).

“The employer shall provide a medical evaluation to determine the employee's ability to use a respirator, before the employee is fit tested or required to use the respirator in the workplace.” Cal. Code Regs., tit. 8, § 5144(e)(1).

In violation of the foregoing, although effective engineering controls were either not feasible or not implemented by Employer to prevent Employees from breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, and vapors, Employer failed to

provide appropriate respirators in compliance with § 5144. Ms. Aguilar is informed and believes that Employer failed to develop and implement a written respiratory protection program; none was provided to Ms. Aguilar's counsel when requested. To the contrary, when Ms. Aguilar informed her Employer of her doctor's prescription for her to use a respirator at work, nothing was done to assess her health-and-safety complaint and she was terminated. Employer violated § 5144 as a result of its various failures to implement appropriate respiratory protection as required by the foregoing statutes and regulations.

D. Requiring or Permitting Unsafe Work and Failure to Provide Safe Workplace, Practices, and Processes

Employees incorporate the preceding sections herein. By committing the acts and omissions described in the preceding sections throughout Employees' employment, Employer also violated Labor Code, §§ 6400, 6401, 6402, 6403, 6404 by requiring and permitting unsafe work, and failing to provide safe workplaces, practices, and processes to its Employees, including Ms. Aguilar. Employer is subject to additional civil penalties as provided by law.

E. Failure to Produce Personnel Records

"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. (b) (1) The employer shall make the contents of those personnel records available for inspection to the current or former employee, or his or her representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the employer receives a written request, unless the current or former employee, or his or her representative, and the employer agree in writing to a date beyond 30 calendar days to inspect the records, and the agreed-upon date does not exceed 35 calendar days from the employer's receipt of the written request." Lab. Code, § 1198.5, subds. (a) and (b).

Throughout the Statutory Period, Employer violated these provisions by failing to allow Employees access to all personnel records which they are entitled to inspect and receive. Employer maintains a policy and practice of ignoring Employees' requests for their employment records. For example, Ms. Aguilar requested these records by letter on April 14, 2022, and again on June 10, 2022. Employer failed to produce any records in response to Employees' requests made under the foregoing provisions. Employer is subject to civil penalties as provided by law.

F. Failure to Produce Payroll Statements and/or Data

"An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by [Labor Code § 226] subdivision (a) shall afford current and former employees the right to inspect or receive a copy of records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee. (c) An employer who receives a written or oral request to inspect or receive a copy of records

pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may designate the person to whom a request under this subdivision will be made.” Lab. Code, § 226, subds. (b) and (c).

Throughout the Statutory Period, Employer violated these provisions by failing to allow Employees access to all wage statement records and/or data which they are entitled to inspect and receive. Employer maintains a policy and practice of ignoring Employees’ requests for their employment records. For example, Ms. Aguilar requested these records by letter on April 14, 2022, and again on June 10, 2022. Employer failed to produce any records in response to Employees’ requests made under the foregoing provisions. Employer is subject to civil penalties as provided by law.

G. Failure to Provide Time and Wage Records

Labor Code section 1198 provides that “the standard conditions of labor fixed by the commission shall be ... standard conditions of labor for employees.”

Included in the Commission’s standard conditions of labor is the requirement that “Every employer shall keep accurate information with respect to each employee including the following: ... Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded. ... Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee. ... Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.” “Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately, an itemized statement in writing showing: (1) all deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee’s social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.”

“All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee’s records shall be available for inspection by the employee upon reasonable request.”

Throughout the Statutory Period, Employer violated these provisions by failing to allow Employees access to all time and wage records which they are entitled to inspect and receive. Employer maintains a policy and practice of ignoring Employees’ requests for their employment records. For example, Ms. Aguilar requested these records by letter on April 14, 2022, and again

on June 10, 2022. Employer failed to produce any records in response to Employees' requests made under the foregoing provisions. Employer is subject to civil penalties as provided by law.

H. Failure to Provide All Signed Documents

"If an employee or applicant signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request." Lab. Code, § 432.

Throughout the Statutory Period, Employer violated these provisions by failing to allow Employees access to all documents signed by Employees, which they are entitled to inspect and receive. Employer maintains a policy and practice of ignoring Employees' requests for their employment records. For example, Ms. Aguilar requested these records by letter on April 14, 2022, and again on June 10, 2022. Employer failed to produce any records in response to Employees' requests made under the foregoing provisions. Employer is subject to civil penalties as provided by law.

I. Failure to Provide Access to Injury and Illness Prevention Program

"Every employer and every employee shall comply with occupational safety and health standards, with Section 25910 of the Health and Safety Code, and with all rules, regulations, and orders pursuant to this division which are applicable to his own actions and conduct." Lab. Code 6407.

Throughout the Statutory Period, Employer violated the following provisions of applicable regulation, Cal. Code Regs., tit. 8, § 3203:

The employer shall provide access to the Program by doing one of the following:

1. Provide access in a reasonable time, place, and manner, but in no event later than five (5) business days after the request for access is received from an employee or designated representative.
 - a. Whenever an employee or designated representative requests a copy of the Program, the employer shall provide the requester a printed copy of the Program, unless the employee or designated representative agrees to receive an electronic copy of the Program.
 - b. One printed copy of the Program shall be provided free of charge. If the employee or designated representative requests additional copies of the Program within one (1) year of the previous request and the Program has not been updated with new information since the prior copy was provided, the employer may charge reasonable, non-discriminatory reproduction costs (per Section 3204(e)(1)(E)) for the additional copies. or,
2. Provide unobstructed access through a company server or website, which allows an employee to review, print, and email the current version of the Program.

Unobstructed access means that the employee, as part of his or her regular work duties, predictably and routinely uses the electronic means to communicate with management or coworkers.

Throughout the Statutory Period, Employer violated these provisions by failing to allow Employees access to all injury and illness prevention program materials, which they are entitled to inspect and receive. Employer maintains a policy and practice of ignoring Employees' requests for these records. For example, Ms. Aguilar requested these records by letter on April 14, 2022, and again on June 10, 2022. Employer failed to produce any records in response to Employees' requests made under the foregoing provisions. Employer is subject to civil penalties as provided by law.

J. Retaliation for Protected Activities

No person shall discharge or in any manner discriminate against any employee because the employee has done any of the following: ... (2) ... because of the exercise by the employee on behalf of themselves, or others of any rights afforded to them. (4) Reported a work-related fatality, injury, or illness ... or exercised any other rights protected by the federal Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.)....” Lab. Code, § 6310, subd. (a). “No employee shall be laid off or discharged for refusing to perform work in the performance of which this code, including Section 6400, any occupational safety or health standard, or any safety order of the division or standards board will be violated, where the violation would create a real and apparent hazard to the employee or their fellow employees.” Lab. Code, § 6311.

In violation of the foregoing, in response to Ms. Aguilar's requests for protection against respiratory hazards and a respirator, in response to Ms. Aguilar's report of work-related illness, and in response to Ms. Aguilar's opposition to working without respiratory protection, Employer discriminated against Ms. Aguilar and terminated her employment. Employer violated Ms. Aguilar's rights and is subject to additional civil penalties.

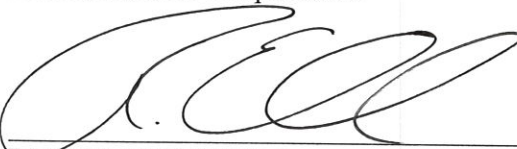
Please do not hesitate to contact the undersigned if you would like to discuss this matter further. Thank you for your attention to this matter.

DATED: October 26, 2022

WORKWORLD LAW CORP.

A Professional Corporation

By:



RUBEN ESCOBEDO

Attorney for Plaintiff