

SEZGIN KHOUSADIAN LLP
ARTHUR SEZGIN, ESQ., (State Bar No. 296666)
arthur@sklaw.legal
ALISA KHOUSADIAN, ESQ., (State Bar No. 285497)
alisa@sklaw.legal
500 North Central Ave, Suite 830
Glendale, California 91203
Phone: (818) 696-1330 | Fax: (818) 696-1331

Attorneys for PLAINTIFF SANDRA LUZ TAPIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE Assigned for All Purposes

Judge Thomas S McConville

SANDRA LUZ TAPIA,

Plaintiff,

vs.

LILY T, LLC, a California limited liability
company;
FARIDEH ZAHEDI, an individual;
and DOES 1 THROUGH 100, inclusive,

Defendants.

) Case No.: 30-2023-01325963-CU-WT-CJC

) **COMPLAINT FOR DAMAGES:**

) **(1) ACTUAL/PERCEIVED DISABILITY**
) **DISCRIMINATION, VIOLATION OF**
) **CAL. *GOV'T CODE* § 12940 ("FEHA");**

) **(2) ACTUAL/PERCEIVED DISABILITY**
) **RETALIATION, VIOLATION OF THE**
) **FEHA;**

) **(3) FAILURE TO ENGAGE IN THE**
) **INTERACTIVE PROCESS, CAL. *GOV'T***
) ***CODE* § 12940(n);**

) **(4) FAILURE TO ACCOMMODATE, CAL.**
) ***GOV'T CODE* § 12940(m);**

) **(5) RETALIATION & WRONGFUL**
) **TERMINATION IN VIOLATION OF**
) **PUBLIC POLICY.**

) **(6) FAILURE TO PAY MINIMUM WAGE,**
) **VIOLATION OF CALIFORNIA *LABOR***
) ***CODE* § 1197;**

) **(7) FAILURE TO PAY OVERTIME**
) **WAGES, VIOLATION OF**
) **CALIFORNIA *LABOR CODE* § 510 &**
) **WAGE ORDER NO. 5;**

- 1) (8) FAILURE TO PROVIDE MEAL & REST
2) PERIODS, VIOLATION OF
3) CALIFORNIA *LABOR CODE* §§ 226.7,
4) 512, & WAGE ORDER NO. 5;
5)
6) (9) VIOLATION OF CALIFORNIA *BUS. &*
7) *PROF. CODE* §§ 17200 ET SEQ. FOR
8) UNFAIR BUSINESS PRACTICES;
9)
10) (10)FAILURE TO PROVIDE ACCURATE
11) ITEMIZED WAGE STATEMENTS,
12) VIOLATION OF CALIFORNIA *LABOR*
13) *CODE* § 226;
14) (11)FAILURE TO PROVIDE EMPLOYEE
15) PERSONNEL FILE, VIOLATION OF
16) CAL. *LABOR CODE* §§ 432, 1198.5;
17)
18) (12)PRIVATE ATTORNEYS GENERAL
19) ACT (“PAGA”).
20)
21) **JURY TRIAL DEMANDED**

22 COMES NOW PLAINTIFF SANDRA LUZ TAPIA (hereinafter referred to as “TAPIA” or
23 “Plaintiff”) and complains against the above-named Defendants and for causes of actions against
24 the Defendant(s), and each of them, as follows:

25 **THE PARTIES**

26 1. At all times mentioned herein, Plaintiff was, and now is, an individual residing and/or
27 domiciled in the County of Orange, State of California.

1 2. Plaintiff is informed and believes, and thereon alleges, that at all times relevant herein,
2 Defendant LILY T, LLC dba MUSTARD CAFE (hereinafter referred to as “Mustard Cafe” and
3 collectively with all other Defendants as “Defendants”) was, and now is, a valid business of form
4 unknown duly organized and existing under the laws of the State of California, having its principal
5 place of business in the County of Orange, State of California.

6 3. Plaintiff was employed by Defendant Mustard Cafe as a Kitchen Assistant for
7 approximately seven (7) months until the time of her wrongful termination on or about March 18,
8 2022.

1 4. Plaintiff is informed and believes, and thereon alleges, that at all times relevant herein,
2 Defendant FARIDEH ZAHEDI (hereinafter referred to as “Zahedi” and collectively with all other
3 Defendants as “Defendants”), was, and now is, an individual domiciled in the County of Orange,
4 State of California, and is/was a Manager, Officer, Shareholder, Director, Supervisor, Manager,
5 Managing Agent, Owner, Principal, and/or Employee of Defendant Mustard Cafe.

6 5. California Labor Code Section 558.1 in relevant part declares:

7 (a) Any employer or other person acting on behalf of an employer, who
8 violates, or causes to be violated, any provision regulating minimum wages
9 or hours and days of work in any order of the Industrial Welfare
10 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7,
11 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

12 (b) For purposes of this section, the term “other person acting on behalf of
13 an employer” is limited to a natural person who is an owner, director, officer,
14 or managing agent of the employer, and the term “managing agent” has the
15 same meaning as in subdivision (b) of Section 3294 of the Civil Code.

16 6. Plaintiff is informed and believes, and thereon alleges that Defendant Zahedi is a natural
17 person and an owner, director, officer, and/or managing agent of Defendant Mustard Cafe, who
18 directly or indirectly, or through an agent or any other person, employed or exercised control over
19 the wages, hours, or working conditions of Plaintiff and the Aggrieved Employees (as defined
20 below). Therefore, she is liable to Plaintiff and the Aggrieved Employees for her violations of, or
21 causing Defendants to violate, California Labor Code Sections 203, 226, 226.7, 1194, 2802, and/or
22 the applicable Wage Order pursuant to California Labor Code Section 558.1.

23 7. Plaintiff is ignorant of the true names and capacities, whether corporate, associate,
24 individual, or otherwise, of Defendants sued herein as DOES 1 through 100, inclusive, and therefore
25 sues said Defendants by such fictitious names. Plaintiff will seek leave of Court to amend this
26 Complaint to assert the true names and capacities of the fictitiously named Defendants when the
27 same have been ascertained. Plaintiff is informed and believes, and thereon alleges, that each
Defendant designated as “DOES” herein is legally responsible for the events, happenings, acts,
occurrences, indebtedness, damages, and liabilities hereinafter alleged and caused injuries and
damages proximately thereby to the Plaintiff, as hereinafter alleged.

8. Plaintiff is informed and believes and thereon alleges that each of the Defendants named herein has, at all times relevant to this action, been the officer, agent, employee and/or representative of the remaining Defendants and has acted within the course and scope of such agency and employment, and with the permission and consent of the co-defendants.

JURISDICTION AND VENUE

9. This Court has jurisdiction over the claims alleged herein. The relief requested is within the jurisdiction of this Court.

10. Venue is proper in the County of Orange. Defendant Mustard Cafe conducts business in the County of Orange and all of Plaintiff's employment was carried out in the County of Orange. All of the claims alleged herein arose in the County of Orange.

11. The amount in controversy in this matter exceeds the sum of \$25,000.00, exclusive of attorney's fees, interest, and costs.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. Prior to the initiation of this lawsuit, Plaintiff filed a timely complaint against and/or gave sufficient notice to each named required Defendant with the California Department of Fair Employment & Housing ("DFEH") pursuant to California *Gov't Code* §§ 12900 et seq. and has received a Right-to-Sue notice in a California Superior Court pursuant to California *Gov't Code* § 12965(b). Attached hereto and incorporated herein as Exhibit "A" is the DFEH complaint. Attached hereto and incorporated herein as Exhibit "B" is the Right-to-Sue notice. Plaintiff has therefore exhausted all administrative remedies under the California Government Code.

13. At all times relevant herein, Defendant and DOES 1 through 100 have been sufficiently placed on notice of Plaintiff's claims.

14. This action is filed within one year of the date the DFEH issued its Right-to-Sue notice.

PAGA REPRESENTATIVE ACTION ALLEGATIONS

15. Plaintiff started working as a Kitchen Assistant for Defendant Mustard Cafe beginning in or around September 2021. Her employment ended in or around March 2022. Plaintiff was considered

an hourly, non-exempt employee and her last rate of pay was \$17.00 per hour.

16. The “Aggrieved Employees” are all current and former California employees who worked for Defendant Mustard Cafe during the relevant time period pursuant to California *Labor Code* §§ 2698 et seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

17. It is Plaintiff’s position that Defendant Mustard Cafe has committed the following Labor Code violations against Plaintiff and other similarly situated aggrieved employees.

18. Defendant Mustard Cafe did not provide Plaintiff and other similarly situated aggrieved employees with the minimum wages to which they were entitled for work performed and, as such, did not compensate Plaintiff and other similarly situated aggrieved employees for all hours worked at the minimum wage rate pursuant to California *Labor Code* §§ 1194, 1197 and 1197.1. This is so because Plaintiff and other similarly situated aggrieved employees were routinely interrupted during their daily, legally mandated thirty-minute meal periods, or not permitted to even clock out for their daily, legally mandated thirty-minute meal periods. As ownership and/or management are aware, Plaintiff and other similarly situated aggrieved employees were ordered by Defendant Mustard Cafe’s chefs and/or other supervisory employees that they were too busy with orders for Plaintiff and other similarly situated aggrieved employees to take their meal periods (whether or not they were clocked out). Since Plaintiff was not duly compensated for the time she spent working during her meal periods, Defendant Mustard Cafe violated California’s minimum wage laws.

19. As a further result of its failure to provide Plaintiff and other similarly situated aggrieved employees uninterrupted meal periods, Defendant Mustard Cafe violated California *Labor Code* § 510, because it failed to compensate Plaintiff and other similarly situated aggrieved employees overtime, even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week throughout their employment. Plaintiff and other similarly situated aggrieved employees’ actual work hours entitled them to overtime compensation (both daily and weekly). However, they were not paid accurately and fully for their overtime hours worked.

20. Defendant Mustard Cafe also violated California *Labor Code* § 226.7 and Industrial Welfare Commission Wage Order No. 5 because it failed to provide Plaintiff and other similarly situated

1 aggrieved employees with ten-minute rest periods for every four hours of work, or majority portion
2 thereof, throughout their employment. Defendant Mustard Cafe did not relieve Plaintiff and other
3 similarly situated aggrieved employees of all duty during said rest periods, instead directing them
4 to continue working. Defendant Mustard Cafe did not compensate Plaintiff and other similarly
5 situated aggrieved employees one additional hour of pay at their regular rate of compensation for
6 each workday that one or more statutory rest periods was not provided. It was not company policy
7 and not part of the company culture for employees such as Plaintiff and other similarly situated
8 aggrieved employees to take their daily rest breaks. Given the heavy workload and expectation for
9 Plaintiff and others to timely complete their tasks, the culture at Defendant Mustard Cafe did not
10 lend itself to the employees receiving statutory rest periods at which time they were relieved of all
11 work duties. It was the normal practice and custom of Defendant Mustard Cafe not to authorize,
12 permit, and/or enforce statutory rest periods. As such, the work environment and culture at
13 Defendant Mustard Cafe was not conducive to receiving statutory rest breaks under California law.

14 21. Defendant Mustard Cafe violated California *Labor Code* §§ 512 and 226.7 and Wage Order
15 No. 5 because it failed to provide Plaintiff and other similarly situated aggrieved employees their
16 requisite thirty-minute, uninterrupted meal periods for every five (5) hours of work throughout their
17 employment. As described above, Defendant Mustard Cafe did not completely relieve Plaintiff and
18 other similarly situated aggrieved employees of all duty during said meal periods. Defendant
19 Mustard Cafe did not duly compensate Plaintiff and other similarly situated aggrieved employees
20 one additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or
21 more statutory meal periods was not provided or was interrupted. In addition, meal periods were not
22 consistently taken before the 5th hour worked in contravention of California law.

23 22. Furthermore, during the relevant time period, as a result of the above violations, Defendant
24 Mustard Cafe failed to pay Plaintiff and other similarly situated aggrieved employees all wages due
25 to them within any time period specified by California *Labor Code* § 204.

26 23. Defendant Mustard Cafe was also in violation of California *Labor Code* § 226(a) by failing
27

1 to timely provide and include pertinent information on the wage statements including, but not
2 limited to all hours worked, gross wages earned, net wages earned, the correct legal name and
3 address of the employing entity, the correct start and end of the pay period, all applicable hourly
4 rates, all deductions, the correct name and address of the employing entity, all employee identifying
5 information, and/or premium pay for the missed meal and rest periods, among others. As such,
6 Defendant Mustard Cafe did not provide Plaintiff and other similarly situated aggrieved employees
7 complete, accurate itemized wage statements.

8 24. During the relevant time period, Defendant Mustard Cafe also failed to keep accurate and
9 complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff
10 and other similarly situated aggrieved employees pursuant to California *Labor Code* § 1174(d).

11 25. Defendant Mustard Cafe also violated California *Labor Code* §§ 201 et seq. because it
12 willfully failed to pay Plaintiff and other similarly situated aggrieved employees earned and due
13 wages upon separation of employment, either immediately upon involuntary termination or within
14 72 hours of resignation. After Plaintiff's employment with Defendant Mustard Cafe ended,
15 Defendant Mustard Cafe failed and refused to pay all wages earned and due upon separation. These
16 earned but unpaid wages include, but are not limited to minimum wages, overtime compensation,
17 and premium pay for missed meal and rest periods.

18 **I.**

19 **FIRST CAUSE OF ACTION**

20 **For Actual/Perceived Disability Discrimination in Employment**

21 **[California *Government Code* §§ 12940 et seq.]**

22 **Against Defendant MUSTARD CAFE & DOES 1 through 100, Only**

23 26. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
24 Complaint as though duly set forth in full herein.

25 27. At all times relevant herein, Plaintiff was an actual, perceived, and/or potentially disabled
26 person within the meaning of Cal. *Gov't Code* §§ 12926.1(b) et seq., because she suffered from
27

Menorrhagia (irregular, heavy menstrual cycles), as well as severe depression and anxiety, among other related symptoms of the same.

28. At all times relevant herein, Plaintiff's impairments affected her ability to perform major life activities, including working. However, Plaintiff was able to perform the essential functions of her job with or without accommodations.

29. At all times relevant herein, Plaintiff was qualified for and competently performed the position(s) she held throughout her employment with Defendant Mustard Cafe and DOES 1 through 100.

30. As such, at all times relevant herein, Plaintiff was a member of a protected class as a result of her actual/perceived disability(s), need for accommodations, and/or need for legally protected medical leave.

31. At all times relevant herein, Defendant Mustard Cafe and DOES 1 through 100 were on notice of Plaintiff's actual and/or perceived disability(s) through the following and/or on the following occasions, among others:

a) Throughout her employment, Plaintiff notified Chef Bernardo DOE that she suffered from Menorrhagia and as a result, required additional restroom breaks throughout her shift.

b) Additionally, in or around January 2022, Plaintiff notified Chef Bernardo DOE and Manager Cassandra DOE that her condition was exacerbating and as a result, she had a surgery scheduled for approximately February 24, 2022, for which she required about two weeks of finite medical leave to recover.

c) Plaintiff also timely submitted a medical note placing Defendant Mustard Cafe on notice of her need for surgery and need for a finite leave of absence to recover.

d) Plaintiff's medical note also indicated that she would be cleared to return to work on or about March 14, 2022.

32. As such, through the aforesaid, Defendant Mustard Cafe and DOES 1 through 100 had sufficient notice of Plaintiff's actual/perceived disability(s), need for accommodations, and/or need for legally protected medical leave.

33. Plaintiff was subjected to disparate working terms and conditions in comparison to her non-disabled counterparts.

34. Indeed, as a result of and substantially motivated by Plaintiff's actual/perceived disability(s), need for accommodations, and/or need for legally protected medical leave, Defendant Mustard Cafe and DOES 1 through 100 subjected Plaintiff to discriminatory treatment and/or adverse employment actions including the following, among others:

a) On or about March 14, 2022, when Plaintiff returned to work as she was cleared to do, Chef Bernardo notified Plaintiff that she was not scheduled to return to work and could not do so until speaking to Manager Cassandra DOE.

b) Plaintiff reached out to Manager Cassandra DOE on multiple occasions thereafter, only to be told that Defendant Mustard Cafe had demoted her and changed her status to "on-call."

c) Despite Plaintiff's diligent efforts to return to work, Defendant Mustard Cafe refused to allow her back, thereby wrongfully terminating Plaintiff's employment on or about March 18, 2022 as a *direct* result of her disabilities and resultant need for reasonable accommodations, including finite medical leave.

d) Defendant Mustard Cafe failed and/or refused to rehire and/or reinstate Plaintiff at least through May 17, 2023.

e) Despite having clear notice of Plaintiff's disability(s), at all times relevant herein, Defendant Mustard Cafe and DOES 1 through 100 failed to engage in the mandatory good-faith interactive process to determine the nature and extent of Plaintiff's disability(s) and how she could be accommodated. Indeed, at no time did Defendant Mustard Cafe meet with

1 Plaintiff, request information about her condition and/or limitation(s) or inquire about
2 Plaintiff's needs.

3 f) At all times relevant herein, Defendant Mustard Cafe and DOES 1 through 100
4 failed to provide Plaintiff with reasonable accommodations.

5 35. In doing the acts alleged herein, Defendant Mustard Cafe and DOES 1 through 100 were
6 substantially motivated by Plaintiff's actual and/or perceived disability(s), need for
7 accommodations, and/or need for legally protected medical leave.

8 36. The acts and conduct of Defendant Mustard Cafe and DOES 1 through 100, as aforesaid,
9 were in violation of Cal. *Gov't Code* §§ 12940 et seq. Said statutes impose certain duties upon
10 Defendants concerning discrimination against persons, such as Plaintiff, on the basis of actual
11 and/or perceived disability(s) and the prohibition of disability discrimination. Said statutes were
12 intended to prevent the type of injury and damage herein set forth.

13 37. As a direct and legal result of the acts and omissions of Defendant Mustard Cafe and DOES
14 1 through 100, and each of them, Plaintiff was damaged.

15 38. Plaintiff has been caused, did suffer, and/or continues to suffer emotional, physical, and/or
16 mental distress. The exact nature and extent of said injuries is presently unknown to Plaintiff, who
17 will pray leave of court to assert the same when they are ascertained.

18 39. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1
19 through 100, and each of them, Plaintiff has been forced and/or may be forced to incur expenses
20 for medical care and/or treatment, all in an amount which is at present unknown. Plaintiff will pray
21 leave of court to show the exact amount of said expenses at the time of trial.

22 40. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1
23 through 100, and each of them, Plaintiff has suffered and/or will suffer monetary damages,
24 including but not limited to a loss of earnings. Plaintiff will pray leave of court to show the total
25 amount of monetary damages when ascertained and/or at the time of trial.

41. The acts of Defendant Mustard Cafe and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive, and/or despicable and were done in willful and conscious disregard of the rights, welfare, and/or safety of Plaintiff, and were done by managerial agents and employees of Defendant Mustard Cafe and DOES 1 through 100, and/or with their express knowledge, consent, and ratification, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. *Civil Code* § 3294.

42. By the acts and conduct of Defendant Mustard Cafe and DOES 1 through 100, and each of them, Plaintiff was directly and legally caused to suffer actual damages pursuant to Cal. *Civil Code* § 3333.

43. As a result of the discriminatory conduct of Defendant Mustard Cafe and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorney's fees and costs of said suit as specifically provided for by Cal. *Gov't Code* § 12965(b).

44. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief, which Plaintiff is entitled to as a result of Defendant's unlawful conduct.

45. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

II.

SECOND CAUSE OF ACTION

For Actual/Perceived Disability Retaliation in Employment

[California *Government Code* §§ 12940 et seq.]

Against Defendant MUSTARD CAFE & DOES 1 through 100, Only

46. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

47. At all times relevant herein, as alleged, Plaintiff was a disabled employee who engaged in legally protected conduct and/or activities and therefore within a protected class covered by the FEHA, which prohibits retaliation in employment predicated on actual/perceived disabilities,

including an employee's request/need for accommodations, request/need for protected medical leave, and/or an employee's legally protected conduct and/or activities.

48. Plaintiff engaged in legally protected conduct and/or asserted her legal rights through the following, among others:

a) Throughout her employment, Plaintiff notified Chef Bernardo DOE that she suffered from Menorrhagia and as a result, required additional restroom breaks throughout her shift.

b) Additionally, in or around January 2022, Plaintiff notified Chef Bernardo DOE and Manager Cassandra DOE that her condition was exacerbating and as a result, she had a surgery scheduled for approximately February 24, 2022, for which she required about two weeks of finite medical leave to recover.

c) Plaintiff also timely submitted a medical note placing Defendant Mustard Cafe on notice of her need for surgery and need for a finite leave of absence to recover.

d) Plaintiff's medical note also indicated that she would be cleared to return to work on or about March 14, 2022.

e) Plaintiff further engaged in legally protected activity by complaining about Defendant Mustard Cafe's failure to reinstate her after taking legally protected finite medical leave.

49. However, as a result of Plaintiff engaging in the aforesaid protected activities and due to her actual and/or perceived disability(s), including her resultant need for reasonable accommodations and/or legally protected medical leave, Defendant Mustard Cafe and DOES 1 through 100, subjected Plaintiff to the following retaliatory, adverse employment actions, among others:

a) On or about March 14, 2022, when Plaintiff returned to work as she was cleared to do, Chef Bernardo notified Plaintiff that she was not scheduled to return to work and could not do so until speaking to Manager Cassandra DOE.

1 b) Plaintiff reached out to Manager Cassandra DOE on multiple occasions thereafter,
2 only to be told that Defendant Mustard Cafe had demoted her and changed her status to “on-
3 call.”

4 c) Despite Plaintiff’s diligent efforts to return to work, Defendant Mustard Cafe refused
5 to allow her back, thereby wrongfully terminating Plaintiff’s employment on or about
6 March 18, 2022 as a *direct* result of her disabilities and resultant need for reasonable
7 accommodations, including finite medical leave.

8 d) Defendant Mustard Cafe failed and/or refused to rehire and/or reinstate Plaintiff at
9 least through May 17, 2023.

10 e) Despite having clear notice of Plaintiff’s disability(s), at all times relevant herein,
11 Defendant Mustard Cafe and DOES 1 through 100 failed to engage in the mandatory good-
12 faith interactive process to determine the nature and extent of Plaintiff’s disability(s) and
13 how she could be accommodated. Indeed, at no time did Defendant Mustard Cafe meet with
14 Plaintiff, request information about her condition and/or limitation(s) or inquire about
15 Plaintiff’s needs.

16 f) At all times relevant herein, Defendant Mustard Cafe and DOES 1 through 100
17 failed to provide Plaintiff with reasonable accommodations.

18 50. Through the aforesaid, Plaintiff was retaliated against by Defendant Mustard Cafe and
19 DOES 1 through 100 as they engaged in a course or pattern of conduct that, taken as a whole,
20 materially and adversely affected the terms, conditions, or privileges of Plaintiff’s employment.
21 This conduct was reasonably likely to impair a reasonable employee’s job performance or prospects
22 for advancement or promotion.

23 51. In doing the acts alleged herein, Defendant Mustard Cafe and DOES 1 through 100 were
24 substantially motivated by Plaintiff’s actual and/or perceived disability(s), need for
25 accommodations, need for legally protected medical leave, and/or aforesaid legally protected
26 activities.

52. The acts and conduct of Defendant Mustard Cafe and DOES 1 through 100, as aforesaid, were in violation of Cal. *Gov't Code* §§ 12940 et seq. Said statutes impose certain duties upon Defendants concerning retaliation against persons, such as Plaintiff, on the basis of actual and/or perceived disability(s) and the prohibition of disability retaliation. Said statutes were intended to prevent the type of injury and damage herein set forth.

53. As a direct and legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1 through 100, and each of them, Plaintiff was damaged.

54. Plaintiff has been caused, did suffer, and/or continues to suffer emotional, physical, and/or mental distress. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

55. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1 through 100, and each of them, Plaintiff has been forced and/or may be forced to incur expenses for medical care and/or treatment, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

56. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1 through 100, and each of them, Plaintiff has suffered and/or will suffer monetary damages, including but not limited to a loss of earnings. Plaintiff will pray leave of court to show the total amount of monetary damages when ascertained and/or at the time of trial.

57. The acts of Defendant Mustard Cafe and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive, and/or despicable and were done in willful and conscious disregard of the rights, welfare, and/or safety of Plaintiff, and were done by managerial agents and employees of Defendant Mustard Cafe and DOES 1 through 100, and/or with their express knowledge, consent, and ratification, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. *Civil Code* § 3294.

58. By the acts and conduct of Defendant Mustard Cafe and DOES 1 through 100, and each of them, Plaintiff was directly and legally caused to suffer actual damages pursuant to Cal. *Civil Code* § 3333.

59. As a result of the retaliatory conduct of Defendant Mustard Cafe and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorney's fees and costs of said suit as specifically provided for by Cal. *Gov't Code* § 12965(b).

60. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief, which Plaintiff is entitled to as a result of Defendant's unlawful conduct.

61. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

III.

THIRD CAUSE OF ACTION

For Failure to Engage in the Good-Faith Interactive Process

[California *Government Code* § 12940(n)]

Against Defendant MUSTARD CAFE & DOES 1 through 100, Only

62. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

63. At all times relevant herein, despite having notice of Plaintiff's actual and/or perceived disability(s), Defendant Mustard Cafe and DOES 1 through 100 failed and/or refused to engage in a good-faith interactive process with Plaintiff to determine whether it would be possible to implement effective reasonable accommodations as required by Cal. *Gov't Code* § 12940(n).

64. Cal. *Gov't Code* § 12940(n) generally provides that it is an unlawful employment practice for an employer or other entity covered by the FEHA to fail to engage in a timely, good-faith, interactive process with the employee to determine effective reasonable accommodations, if any, for an employee with a known physical or mental disability or known medical condition.

65. Plaintiff is informed, believes, and herein alleges Defendant Mustard Cafe and DOES 1 through 100 were "employer(s)" pursuant to the FEHA and therefore covered entities.

66. At all times relevant herein, Plaintiff was an employee of Defendant Mustard Cafe and DOES 1 through 100.

67. At all times relevant herein, Plaintiff was an actual, perceived, and/or potentially disabled person within the meaning of Cal. *Gov't Code* §§ 12926.1(b) et seq. because she suffered from Menorrhagia (irregular, heavy menstrual cycles), as well as severe depression and anxiety, among other related symptoms of the same.

68. At all times relevant herein, Plaintiff was willing to participate in an interactive process to determine whether reasonable accommodations could be made.

69. At all times relevant herein, Plaintiff had actual and/or perceived disability(s), which were known to Defendant Mustard Cafe and DOES 1 through 100.

70. Pursuant to California Code of Regulations (“CCR”) § 11069(b)(1), an employer or other covered entity shall initiate an interactive process when an applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodations.

71. Pursuant to CCR § 11069(b)(2), an employer or other covered entity shall initiate an interactive process when the employer or other covered entity otherwise becomes aware of the need for an accommodation through a third party or by observation.

72. At all times relevant herein, Defendant Mustard Cafe and DOES 1 through 100 were on notice of Plaintiff’s actual and/or perceived disability(s) through the following and/or on the following occasions, among others:

a) Throughout her employment, Plaintiff notified Chef Bernardo DOE that she suffered from Menorrhagia and as a result, required additional restroom breaks throughout her shift.

b) Additionally, in or around January 2022, Plaintiff notified Chef Bernardo DOE and Manager Cassandra DOE that her condition was exacerbating and as a result, she had a surgery scheduled for approximately February 24, 2022, for which she required about two weeks of finite medical leave to recover.

c) Plaintiff also timely submitted a medical note placing Defendant Mustard Cafe on notice of her need for surgery and need for a finite leave of absence to recover.

1 d) Plaintiff's medical note also indicated that she would be cleared to return to work
2 on or about March 14, 2022.

3 73. Despite its duty to do so, Defendant Mustard Cafe and DOES 1 through 100 failed to timely
4 initiate and participate in a good-faith interactive process with Plaintiff to determine whether
5 reasonable accommodations could be made.

6 74. Indeed, at no time did Defendant Mustard Cafe meet with Plaintiff, request information
7 about her condition and/or limitation(s), or inquire about Plaintiff's needs.

8 75. In doing the acts alleged herein, Defendant Mustard Cafe and DOES 1 through 100, were
9 substantially motivated by Plaintiff's actual and/or perceived disability(s), need for
10 accommodations, and/or need for legally protected medical leave.

11 76. As a direct and legal result of the acts and omissions of Defendant Mustard Cafe and DOES
12 1 through 100, Plaintiff was damaged.

13 77. The failure to engage in the mandatory good-faith interactive process with Plaintiff by
14 Defendant Mustard Cafe and DOES 1 through 100 was a substantial factor in causing Plaintiff's
15 harm.

16 78. Plaintiff has been caused, did suffer, and/or continues to suffer emotional, physical, and/or
17 mental distress. The exact nature and extent of said injuries is presently unknown to Plaintiff, who
18 will pray leave of court to assert the same when they are ascertained.

19 79. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1
20 through 100, Plaintiff has been forced and/or may be forced to incur expenses for medical care
21 and/or treatment, all in an amount which is at present unknown. Plaintiff will pray leave of court to
22 show the exact amount of said expenses at the time of trial.

23 80. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1
24 through 100, Plaintiff has suffered and/or will suffer monetary damages, including but not limited
25 to a loss of earnings. Plaintiff will pray leave of court to show the total amount of monetary damages
26 when ascertained and/or at the time of trial.

81. The acts of Defendant Mustard Cafe and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive, and/or despicable and were done in willful and conscious disregard of the rights, welfare, and/or safety of Plaintiff, and were done by managerial agents and employees of Defendant Mustard Cafe and DOES 1 through 100, and/or with their express knowledge, consent, and ratification, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. *Civil Code* § 3294.

82. By the acts and conduct of Defendant Mustard Cafe and DOES 1 through 100, Plaintiff was directly and legally caused to suffer actual damages pursuant to Cal. *Civil Code* § 3333.

83. As a result of aforesaid Defendant Mustard Cafe's failure to initiate and participate in the good-faith interactive process, as alleged herein, Plaintiff is entitled to reasonable attorney's fees and costs of said suit as specifically provided for by Cal. *Gov't Code* § 12965(b).

84. Pursuant to the FEHA, Plaintiff is also entitled to declaratory and injunctive relief as a result of the unlawful conduct herein alleged.

85. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

IV.

FOURTH CAUSE OF ACTION

For Failure to Provide Reasonable Accommodations

[California *Government Code* § 12940(m)]

Against Defendant MUSTARD CAFE & DOES 1 Through 100, Only

86. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

87. At all times relevant herein, despite having notice of Plaintiff's disabilities, as herein alleged, Defendant Mustard Cafe and DOES 1 through 100 failed to provide reasonable accommodations for Plaintiff's actual and/or perceived disability(s) as required by Cal. *Gov't Code* § 12940(m).

1 88. Cal. *Gov't Code* § 12940(m) provides that it is an unlawful employment practice for an
2 employer or other entity covered by this part to fail to make reasonable accommodations for the
3 known physical or mental disability of an applicant or employee.

4 89. At all times relevant herein, Plaintiff was an actual, perceived, and/or potentially disabled
5 person within the meaning of Cal. *Gov't Code* §§ 12926.1(b) et seq. because she suffered from
6 Menorrhagia (irregular, heavy menstrual cycles), as well as severe depression and anxiety, among
7 other related symptoms of the same.

8 90. Plaintiff is informed, believes, and herein alleges that Defendant Mustard Cafe and DOES
9 1 through 100 were “employers” pursuant the FEHA and therefore covered entities.

10 91. At all times relevant herein, Plaintiff was an employee of Defendant Mustard Cafe and
11 DOES 1 through 100.

12 92. At all times relevant herein, Plaintiff was able to perform the essential job duties with or
13 without reasonable accommodations for her actual and/or perceived disability(s).

14 93. At all times relevant herein, Defendant Mustard Cafe and DOES 1 through 100 were on
15 notice that Plaintiff suffered from the aforementioned actual and/or perceived disability(s).

16 94. At all times relevant herein, Defendant Mustard Cafe and DOES 1 through 100 were on
17 notice of Plaintiff’s actual and/or perceived disability(s) through the following and/or on the
18 following occasions, among others:

19 a) Throughout her employment, Plaintiff notified Chef Bernardo DOE that she suffered
20 from Menorrhagia and as a result, required additional restroom breaks throughout her shift.

21 b) Additionally, in or around January 2022, Plaintiff notified Chef Bernardo DOE and
22 Manager Cassandra DOE that her condition was exacerbating and as a result, she had a
23 surgery scheduled for approximately February 24, 2022, for which she required about two
24 weeks of finite medical leave to recover.

25 c) Plaintiff also timely submitted a medical note placing Defendant Mustard Cafe on
26 notice of her need for surgery and need for a finite leave of absence to recover.
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1 d) Plaintiff's medical note also indicated that she would be cleared to return to work
2 on or about March 14, 2022.

3 95. As alleged herein, at all times relevant herein, Defendant Mustard Cafe and DOES 1 through
4 100 had abundant notice Plaintiff suffered from actual and/or perceived disability(s) and/or needed
5 accommodations.

6 96. However, as herein alleged, Defendant Mustard Cafe and DOES 1 through 100 failed to
7 afford Plaintiff reasonable accommodations.

8 97. In doing the acts alleged herein, Defendant Mustard Cafe and DOES 1 through 100 were
9 substantially motivated by Plaintiff's actual/perceived disabilities, request/need for
10 accommodations, and/or request/need for legally protected medical leave.

11 98. As a direct and legal result of the acts and omissions of Defendant Mustard Cafe and DOES
12 1 through 100, Plaintiff was damaged.

13 99. The failure to provide Plaintiff reasonable accommodations by Defendant Mustard Cafe and
14 DOES 1 through 100 was a substantial factor in causing Plaintiff's harm.

15 100. Plaintiff has been caused, did suffer, and/or continues to suffer emotional, physical, and/or
16 mental distress. The exact nature and extent of said injuries is presently unknown to Plaintiff, who
17 will pray leave of court to assert the same when they are ascertained.

18 101. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1
19 through 100, Plaintiff has been forced and/or may be forced to incur expenses for medical care
20 and/or treatment, all in an amount which is at present unknown. Plaintiff will pray leave of court to
21 show the exact amount of said expenses at the time of trial.

22 102. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1
23 through 100, Plaintiff has suffered and/or will suffer monetary damages, including but not limited
24 to a loss of earnings. Plaintiff will pray leave of court to show the total amount of monetary damages
25 when ascertained and/or at the time of trial.

103. The acts of Defendant Mustard Cafe and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive, and/or despicable and were done in willful and conscious disregard of the rights, welfare, and/or safety of Plaintiff, and were done by managerial agents and employees of Defendant Mustard Cafe and DOES 1 through 100, and/or with their express knowledge, consent, and ratification, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. *Civil Code* § 3294.

104. By the acts and conduct of Defendant Mustard Cafe and DOES 1 through 100, Plaintiff was directly and legally caused to suffer actual damages pursuant to Cal. *Civil Code* § 3333.

105. As a result of aforesaid Defendant Mustard Cafe's failure to provide Plaintiff with reasonable accommodations, Plaintiff is entitled to reasonable attorney's fees and costs of said suit as specifically provided for by Cal. *Gov't Code* § 12965(b).

106. Pursuant to the FEHA, Plaintiff is also entitled to declaratory and injunctive relief as a result of the unlawful conduct herein alleged.

107. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

V.

FIFTH CAUSE OF ACTION

For Retaliation & Wrongful Termination in Violation of Public Policy

Against Defendant Mustard Café & DOES 1 Through 100, Only

108. Plaintiff incorporates herein by reference each and every paragraph in this Complaint as though duly set forth in full herein.

109. Plaintiff was retaliated against and wrongfully terminated from her employment by Defendant Mustard Cafe and DOES 1 through 100 on or about March 18, 2022, due to her actual/perceived disability(s), including her need for accommodation and/or legally protected medical leave.

1 110. At all times herein mentioned, the public policy of the State of California, as codified,
2 expressed, and mandated by Cal. *Gov't Code* §§ 12920 and 12940 et seq., was to prohibit employers
3 from harassing, discriminating, and retaliating against and/or wrongfully terminating any individual
4 on the grounds of their actual/perceived disability(s), need for accommodations, and/or need for
5 legally protected medical leave. This public policy of the State of California is designed to protect
6 all employees and to promote the welfare and well-being of the community at large.

7 111. At all times herein mentioned, the public policy of the State of California, as codified,
8 expressed, and mandated by Cal. *Gov't Code* § 12940(n), prohibits employers from failing to
9 engage in the good-faith interactive process with disabled employees to determine the extent of
10 their disability(s) and determine how they could be reasonably accommodated. This public policy
11 is designed to protect all employees and to promote the welfare and well-being of the community
12 at large. The policy inures to the benefit of the public and is fundamental and substantial.

13 112. At all times herein, the public policy of the State of California, as codified, expressed, and
14 mandated by Cal. *Gov't Code* § 12940(m), prohibits employers from failing to provide its disabled
15 employees with reasonable accommodations. This public policy of the State of California is
16 designed to protect all employees and to promote the welfare and well-being of the community at
17 large. The policy inures to the benefit of the public and is fundamental and substantial.

18 113. These public policies of the State of California are designed to protect all employees and
19 promote the welfare and well-being of the community at large.

20 114. Accordingly, the actions of Defendant Mustard Cafe and DOES 1 through 100, in retaliating
21 and wrongfully terminating Plaintiff on the grounds alleged and described herein were wrongful
22 and failed to promote the welfare and well-being of the community at large.

23 115. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
24 100, and each of them, Plaintiff was damaged.

25 116. Plaintiff has been caused, did suffer, and/or continues to suffer emotional, physical, and/or
26 mental distress. The exact nature and extent of said injuries is presently unknown to Plaintiff, who
27 will pray leave of court to assert the same when they are ascertained.

1 117. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1
2 through 100, and each of them, Plaintiff has been forced and/or may be forced to incur expenses
3 for medical care and/or treatment, all in an amount which is at present unknown. Plaintiff will pray
4 leave of court to show the exact amount of said expenses at the time of trial.

5 118. As a further legal result of the acts and omissions of Defendant Mustard Cafe and DOES 1
6 through 100, and each of them, Plaintiff has suffered and/or will suffer monetary damages,
7 including but not limited to a loss of earnings. Plaintiff will pray leave of court to show the total
8 amount of monetary damages when ascertained and/or at the time of trial.

9 119. The acts of Defendant Mustard Cafe and DOES 1 through 100, and each of them, were
10 willful, wanton, malicious, intentional, oppressive, and/or despicable and were done in willful and
11 conscious disregard of the rights, welfare, and/or safety of Plaintiff, and were done by managerial
12 agents and employees of Defendant Mustard Cafe and DOES 1 through 100, and/or with their
13 express knowledge, consent, and ratification, thereby justifying the awarding of punitive and
14 exemplary damages in an amount to be determined at the time of trial pursuant to Cal. *Civil Code*
15 § 3294.

16 120. By the acts and conduct of Defendant Mustard Cafe and DOES 1 through 100, and each of
17 them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. *Civil*
18 *Code* § 3333, including loss of earnings and future earning capacity, medical and related expenses
19 for care and procedures both now and in the future, attorney's fees, and other pecuniary loss not yet
20 ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

21 121. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

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1 VI.

2 **SIXTH CAUSE OF ACTION**

3 **Failure to Pay Minimum Wage**

4 **[Violation of California *Labor Code* § 1197 and IWC Wage Order No. 5]**

5 **Against All Defendants & DOES 1 Through 100, Inclusive**

6 122. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
7 Complaint as though duly set forth in full herein.

8 123. At all times relevant herein, Plaintiff was a non-exempt, hourly employee entitled to the
9 legally mandated minimum wage for each regular hour she worked.

10 124. However, as herein alleged, Defendant Mustard Cafe failed to compensate her with the true,
11 full, and/or correct minimum wage set forth and required by California *Labor Code* § 1197 and the
12 Industrial Welfare Commission (“IWC”) Wage Order (No. 5) for each regular hour she worked.

13 125. As herein alleged, Plaintiff was routinely interrupted during her daily, legally mandated
14 thirty-minute meal periods, or not permitted to even clock out for her daily, legally mandated thirty-
15 minute meal periods. Indeed, Plaintiff was ordered by Defendant Mustard Cafe’s chefs and/or other
16 supervisory employees that they were too busy with orders for Plaintiff to take her meal periods.

17 126. As such, Plaintiff was not duly compensated for the time she spent working during her meal
18 periods and would need to be paid at least the minimum wage.

19 127. At all times herein relevant, the public policy of the State of California, as codified,
20 expressed, and mandated by IWC Wage Order No. 5, Section 11(A), declares unless the employee
21 is relieved of all duty during his or her thirty minute meal period, the meal period shall be considered
22 an “on duty” meal period and counted as hours worked, which must be compensated at the
23 employee's regular rate of pay.

24 128. Since Plaintiff was not compensated for the time she spent working during her meal periods,
25 Defendant Mustard Cafe was in violation of California *Labor Code* § 1197, which declares, “The
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1 minimum wage for employees fixed by the commission is the minimum wage to be paid to
2 employees, and the payment of a less wage than the minimum so fixed is unlawful.”

3 129. As a result of Defendant Mustard Cafe’s failure to compensate Plaintiff with the legally
4 required minimum wage, Plaintiff is entitled to recover in a civil action the unpaid balance of the
5 full amount of minimum wage, including interest, reasonable attorney’s fees, and costs of suit
6 pursuant to California *Labor Code* § 1194, which declares:

7 Notwithstanding any agreement to work for a lesser wage, any employee receiving
8 less than the legal minimum wage or the legal overtime compensation applicable to
9 the employee is entitled to recover in a civil action the unpaid balance of the full
10 amount of this minimum wage or overtime compensation, including interest,
11 reasonable attorney’s fees, and costs of suit.

12 130. Plaintiff is also entitled to the remedies provides by California *Labor Code* § 218.5, which
13 in relevant part declares, “In any action brought for the nonpayment of wages, fringe benefits, or
14 health and welfare or pension fund contributions, the court shall award reasonable attorney's fees
15 and costs to the prevailing party if any party to the action requests attorney's fees and costs upon
16 the initiation of the action.”

17 131. As alleged above, as a “person acting on behalf of an employer” as contemplated by
18 California *Labor Code* § 558.1, Defendant Zahedi is also liable for the conduct alleged herein.

19 132. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

20 **VII.**

21 **SEVENTH CAUSE OF ACTION**

22 **Failure to Pay Overtime Wages**

23 **[California *Labor Code* § 510 and IWC Wage Order No. 5]**

24 **Against All Defendants & DOES 1 Through 100, Inclusive**

25 133. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
26 Complaint as though duly set forth in full herein.
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134. Defendant Mustard Cafe failed to compensate Plaintiff with the true, full, and/or correct overtime compensation she was entitled to pursuant to California *Labor Code* § 510 and IWC Wage Order No. 5.

135. Due to its failure to provide Plaintiff legally compliant meal periods, as herein alleged, Defendant Mustard Cafe violated California *Labor Code* § 510 because it failed to compensate Plaintiff her earned overtime wages even though she worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week.

136. At all times herein relevant, the public policy of the State of California, as codified, expressed, and mandated by California *Labor Code* § 510 and IWC Wage Order No. 5, Section 3(A), declares, “Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

137. As a result of Defendant Mustard Cafe’s failure to compensate Plaintiff with the true, full, and/or correct amount of her earned overtime wages, Plaintiff is entitled to recover in a civil action the unpaid balance of the overtime compensation, including interest, reasonable attorney’s fees, and costs of suit pursuant to Cal. *Labor Code* § 1194, which declares:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest, reasonable attorney’s fees, and costs of suit.

138. Plaintiff is also entitled to the remedies provides by California *Labor Code* § 218.5, which in relevant part declares, “In any action brought for the nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, the court shall award reasonable attorney's fees and costs to the prevailing party if any party to the action requests attorney's fees and costs upon the initiation of the action.”

1 139. As alleged above, as a “person acting on behalf of an employer” as contemplated by
2 California *Labor Code* § 558.1, Defendant Zahedi is also liable for the conduct alleged herein.

3 140. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

4 **VIII.**

5 **EIGHTH CAUSE OF ACTION**

6 **Failure to Provide Meal and Rest Periods**

7 **[California *Labor Code* § 226.7, 512, and IWC Wage Order No. 5]**

8 **Against All Defendants & DOES 1 Through 100, Inclusive**

9 141. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
10 Complaint as though duly set forth in full herein.

11 142. Defendant Mustard Cafe failed to provide Plaintiff with her legally mandated rest periods
12 throughout her employment. As herein alleged, Defendant Mustard Cafe did not relieve Plaintiff
13 during said rest periods, instead directing and/or requiring her to continue working.

14 143. Defendant Mustard Cafe further failed to provide Plaintiff daily, timely, and/or
15 uninterrupted meal periods. As herein alleged, Plaintiff was routinely interrupted during her daily,
16 legally mandated thirty-minute meal periods, or not permitted to even clock out for her daily, legally
17 mandated thirty-minute meal periods.

18 144. At all times herein relevant, the public policy of the State of California, as codified,
19 expressed, and mandated by California *Labor Code* § 226.7(a), declares that no employer shall
20 require any employee to work during any meal or rest period mandated by an applicable order of
21 the IWC.

22 145. At all times herein, the public policy of the State of California, as codified, expressed, and
23 mandated by IWC Wage Order No. 5, Section 12(a), requires that every employer shall authorize
24 and permit all employees to take rest periods, which insofar as practicable shall be in the middle of
25 each work period. The authorized rest period time shall be based on the total hours worked daily at
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1 the rate of ten minutes net rest time per four hours or major fraction thereof. Authorized rest period
2 time shall be counted as hours worked for which there shall be no deduction from wages.

3 146. At all times herein relevant, the public policy of the State of California, as codified,
4 expressed, and mandated by Cal. *Labor Code* § 512(a) and IWC Wage Order No. 5, Section 11(A),
5 declares that an employer may not employ an employee for a work period of more than five hours
6 per day without providing the employee with a meal period of not less than 30 minutes, except that
7 if the total work period per day of the employee is no more than six hours, the period may be waived
8 by mutual consent of both the employer and employee.

9 147. At all times herein relevant, the public policy of the State of California, as codified,
10 expressed, and mandated by IWC Wage Order No. 5, Section 11(A), also declares unless the
11 employee is relieved of all duty during his or her thirty minute meal period, the meal period shall
12 be considered an “on duty” meal period and counted as hours worked, which must be compensated
13 at the employee's regular rate of pay. An “on duty” meal period shall be permitted only when the
14 nature of the work prevents an employee from being relieved of all duty and when by written
15 agreement between the employer and employee an on-the-job paid meal period is agreed to.

16 148. Moreover, at all times herein relevant, the public policy of the State of California declares
17 that when an employee works for a work period of more than five hours, a meal period must be
18 provided no later than the end of the employee’s fifth hour of work, i.e., no later than the start of
19 the employee’s sixth hour of work.

20 149. California *Labor Code* § 226.7(b) and IWC Wage Order No. 5, Sections 11(B) and 12(B)
21 declare that if an employer fails to provide an employee a meal period or rest period in accordance
22 with an applicable order of the IWC, the employer shall pay the employee one additional hour of
23 pay at the employee's regular rate of compensation for each work day that the meal or rest period
24 is not provided.

1 150. As such, Plaintiff is entitled to one additional hour of pay at her regular rate of compensation
2 for each work day when a meal or rest period was not provided or was either interrupted and/or
3 untimely.

4 151. As a result of the acts of Defendant Mustard Cafe and DOES 1 through 100, and each of
5 them, Plaintiff is also entitled to compensation for each meal period where she was “on duty.”

6 152. Plaintiff is also entitled to the remedies provides by California *Labor Code* § 218.5.

7 153. As alleged above, as a “person acting on behalf of an employer” as contemplated by
8 California *Labor Code* § 558.1, Defendant Zahedi is also liable for the conduct alleged herein.

9 154. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

10 **IX.**

11 **NINTH CAUSE OF ACTION**

12 **Violation of California *Business & Professions Code* §§ 17200 et seq.**

13 **Against Defendant Mustard Cafe & DOES 1 Through 100, Only**

14 155. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
15 Complaint as though duly set forth in full herein.

16 156. Defendant Mustard Cafe engaged in unfair, unlawful, fraudulent, deceptive, untrue, and/or
17 misleading business practices through the following, among others:

18 a) Defendant Mustard Cafe failed to compensate Plaintiff with the true, full, and/or
19 correct minimum wage for the regular hours she worked, in violation of Cal. *Labor Code* §
20 1197;

21 b) Defendant Mustard Cafe failed to compensate Plaintiff with the true, full, and/or
22 correct amount of her earned overtime wages, in violation of Cal. *Labor Code* § 510;

23 c) Defendant Mustard Cafe failed to provide Plaintiff with the full allotment of her
24 daily meal and rest periods, failed to provide said meal and rest periods in accordance with
25 applicable timing requirements, and/or failed to provide uninterrupted meal and rest periods,
26 in violation of Cal. *Labor Code* §§ 226.7 and 512 and IWC Wage Order No. 5;

1 d) Defendant Mustard Cafe failed to provide Plaintiff with accurate itemized wage
2 statements, in violation of Cal. *Labor Code* § 226.

3 157. Through its alleged acts and/or omissions, Defendant Mustard Cafe engaged in unfair,
4 unlawful, fraudulent, deceptive, untrue, and/or misleading business practices in direct violation of
5 Cal. *Bus. & Prof. Code* §§ 17200 et seq., which prohibits conducting such business.

6 158. Defendant Mustard Cafe's willful and/or reckless conduct constituted unfair business
7 practices and acts as the harm to the general public outweighs any utility that its conduct may have
8 produced.

9 159. As a direct result of the conduct, acts, and omissions of Defendant Mustard Cafe and DOES
10 1 through 100, and each of them, Plaintiff has been harmed and damaged in an amount to be shown
11 at the time of trial, together with prejudgment interest thereon from the time owed until paid, all
12 within an amount within the jurisdictional limits of this Court.

13 160. California *Bus. & Prof. Code* § 17205 provides, unless otherwise expressly provided, the
14 remedies or penalties provided by this chapter are cumulative to each other and to the remedies or
15 penalties available under all other laws of this state.

16 161. The acts of Defendant Mustard Cafe and DOES 1 through 100, and each of them, were
17 willful, wanton, malicious, intentional, oppressive, and/or despicable and were done in willful and
18 conscious disregard of the rights, welfare, and/or safety of Plaintiff, and were done by managerial
19 agents and employees of Defendant Mustard Cafe and DOES 1 through 100, and/or with their
20 express knowledge, consent, and ratification, thereby justifying the awarding of punitive and
21 exemplary damages in an amount to be determined at the time of trial pursuant to Cal. *Civil Code*
22 § 3294(a) and (b).

23 162. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

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1 X.

2 **TENTH CAUSE OF ACTION**

3 **Failure to Provide Accurate Itemized Wage Statements**

4 **[Violation of California *Labor Code* § 226]**

5 **Against All Defendants & DOES 1 Through 100, Inclusive**

6 163. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
7 Complaint as though duly set forth in full herein.

8 164. Defendant Mustard Cafe failed to provide Plaintiff with accurate itemized wage statements,
9 in direct violation of California *Labor Code* § 226(a).

10 165. As herein alleged, Defendant Mustard Cafe failed to compensate Plaintiff with the true, full,
11 and/or correct amount of her earned regular and overtime compensation.

12 166. As herein alleged, Defendant Mustard Cafe failed to compensate Plaintiff the meal and rest
13 period premiums she was entitled to as a result of either missing her meal and/or rest periods or not
14 being given timely and/or uninterrupted meal and/or rest periods.

15 167. However, Defendant Mustard Cafe nevertheless issued Plaintiff itemized wage statements
16 purporting to be accurate.

17 168. At all times relevant herein, California *Labor Code* § 226(a) in relevant part declares:

18 An employer, semimonthly or at the time of each payment of wages, shall furnish to
19 his or her employee, either as a detachable part of the check, draft, or voucher paying
20 the employee's wages, or separately if wages are paid by personal check or cash, an
21 accurate itemized statement in writing showing (1) gross wages earned, (2) total
22 hours worked by the employee, except as provided in subdivision (j), (3) the number
23 of piece-rate units earned and any applicable piece rate if the employee is paid on a
24 piece-rate basis, (4) all deductions, provided that all deductions made on written
25 orders of the employee may be aggregated and shown as one item, (5) net wages
26 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the
27 name of the employee and only the last four digits of his or her social security
number or an employee identification number other than a social security number,
(8) the name and address of the legal entity that is the employer and, if the employer
is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name
and address of the legal entity that secured the services of the employer, and (9) all
applicable hourly rates in effect during the pay period and the corresponding number
of hours worked at each hourly rate by the employee...

1 169. As a result of Defendant Mustard Cafe’s failure to maintain proper and/or accurate records
2 as required by subdivision (a), Plaintiff is entitled to all the remedies, including costs and reasonable
3 attorney’s fees, as provided for by California *Labor Code* § 226(e)(1), which declares, “An
4 employee suffering injury as a result of a knowing and intentional failure by an employer to comply
5 with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for
6 the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for
7 each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand
8 dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.”

9 170. Defendant Mustard Cafe was in further violation of California *Labor Code* § 226 as it failed
10 to provide Plaintiff with the opportunity to inspect her wage statements after she made a written
11 request.

12 171. Indeed, on or about October 27, 2022, through her counsel of record, Plaintiff sent
13 Defendant Mustard Cafe a written request to inspect her wage statements.

14 172. At all times herein mentioned, the public policy of the State of California, as codified,
15 expressed, and mandated in California *Labor Code* § 226(b) declares that an employer that is
16 required by this code to keep the information required by subdivision (a) – including the hours
17 worked and wages earned – shall afford current and former employees the right to inspect or copy
18 records pertaining to their employment, upon reasonable request to the employer.

19 173. At all times herein mentioned, the public policy of the State of California, as codified,
20 expressed, and mandated in California *Labor Code* § 226(c) declares that an employer who receives
21 a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current
22 or former employee shall comply with the request as soon as practicable, but no later than 21
23 calendar days from the date of the request.

24 174. Defendant Mustard Cafe failed to abide by Section 226 as it failed to timely provide Plaintiff
25 with the opportunity to inspect said files after she made a written request.
26
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1 175. As such, Plaintiff is also entitled to the remedies and penalties provided by Cal. *Labor Code*
2 § 226(f), which declares:

3 A failure by an employer to permit a current or former employee to inspect or copy
4 records within the time set forth in subdivision (c) entitles the current or former
5 employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750)
penalty from the employer.

6 176. As alleged above, as a “person acting on behalf of an employer” as contemplated by
7 California *Labor Code* § 558.1, Defendant Zahedi is also liable for the conduct alleged herein.

8 177. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

9 **XI.**

10 **ELEVENTH CAUSE OF ACTION**

11 **For Failure to Provide Employee Personnel Files**

12 **[California *Labor Code* §§ 432 and 1198.5]**

13 **Against Defendant Mustard Cafe & DOES 1 Through 100, Only**

14 178. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
15 Complaint as though duly set forth in full herein.

16 179. On or about October 27, 2022, through her counsel of record, Plaintiff sent Defendant
17 Mustard Cafe a written request to receive a copy of her employee personnel file and any instruments
18 she signed during her employment with Defendant Mustard Cafe.

19 180. California *Labor Code* § 432 declares that if an employee or applicant signs any instrument
20 relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon
21 request.

22 181. Further, California *Labor Code* § 1198.5(a) declares that every employee has the right to
23 inspect the personnel records that the employer maintains relating to the employee’s performance
24 or to any grievance concerning the employee.

25 182. Defendant Mustard Cafe failed to abide by Section 1198.5(a) as it failed to timely provide
26 Plaintiff with the opportunity to inspect her personnel file after she made a request.
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183. Defendant Mustard Cafe also failed to abide by Section 432 as it failed to timely provide Plaintiff with a copy of any instruments she signed relating to the obtaining or holding of employment with Defendant Mustard Cafe.

184. As such, Plaintiff is entitled to the remedies and penalties provided by Cal. *Labor Code* § 1198.5(k), which declares:

If an employer fails to permit a current or former employee, or his or her representative, to inspect or copy personnel records within the times specified in this section, or times agreed to by mutual agreement as provided in this section, the current or former employee or the Labor Commissioner may recover a penalty of seven hundred fifty dollars (\$750) from the employer.

185. Plaintiff is also entitled to costs and attorney's fees for instituting this action pursuant to Cal. *Labor Code* § 1198.5(l).

186. Plaintiff also prays for damages and remedies as this Court deems appropriate.

XII.

TWELFTH CAUSE OF ACTION

Violation of the Private Attorneys General Act

[California *Labor Code* §§ 2698 et seq.]

Against All Defendants & DOES 1 through 100, Inclusive

187. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

188. Plaintiff provided the required written notice to the Labor & Workforce Development Agency ("LWDA") and Defendants of the specific violations of the California Labor Code that Defendants and DOES 1-100 are alleged to have violated and continue to violate.

189. Pursuant to California *Labor Code* § 2699.3, no response was received from the LWDA within 65 days of the postmark date of the notice to the LWDA.

190. Plaintiff has therefore exhausted all administrative remedies required of her under California *Labor Code* §§ 2698, 2699, and 2699.3, and, as a result, may prosecute this cause of action and pursue penalties in a representative action for Defendants' violations of the Labor Code.

1 191. Pursuant to California *Labor Code* § 2699, any provisions of the Labor Code that provides
2 for a civil penalty to be assessed and collected by the LWDA or any of its departments, divisions,
3 commissions, boards, agencies, or employees for violation of the code may, as an alternative, be
4 recovered through a civil action brought by an aggrieved employee on behalf of himself or herself
5 and other current or former employees pursuant to the procedures specified in California *Labor*
6 *Code* § 2699.3.

7 192. Plaintiff is an “aggrieved employee” because she was employed by the alleged violators and
8 had the alleged violations committed against her and is therefore properly suited to represent the
9 interests of other current and former employees who worked for Defendants in the State of
10 California during the PAGA period.

11 193. Based on the acts alleged above, Plaintiff, on behalf of herself and other similarly situated
12 aggrieved employees, seeks penalties under California *Labor Code* §§ 2698 and 2699 because of
13 Defendants’ violations of the California Labor Code, as alleged herein.

14 194. Plaintiff seeks penalties for Defendants’ misconduct as alleged herein as permitted by law,
15 but only those penalties that are required to be shared with the LWDA as Plaintiff is not seeking
16 individual/victim-specific relief under this cause of action.

17 195. Specifically, Plaintiff seeks penalties under California *Labor Code* § 2699 for the following:
18 violations of California Labor Code Sections 201, 202, 203, 204 and/or 204b, 210, 221, 226, 226.3,
19 226.7, 226.8, 510, 512, 558, 1174, 1174.5, 1194, 1197, and 1198, via 2698 and 2699, any other
20 Labor Codes and Wage Orders violated on the facts alleged in this Complaint.

21 196. Pursuant to California *Labor Code* §§ 2698 et seq., Plaintiff seeks to recover attorney’s fees,
22 costs, and civil penalties on behalf of Plaintiff and other current and former similarly situated
23 aggrieved employees as alleged herein in an amount to be shown according to proof at trial and
24 within the jurisdictional limits of this Court.

1 WHEREFORE, PLAINTIFF SANDRA LUZ TAPIA prays for judgment against Defendants, and
2 each of them, as follows:

- 3 1. For general damages in an amount within the jurisdictional limits of this Court;
- 4 2. For special damages in an amount within the jurisdictional limits of this Court;
- 5 3. For medical expenses and related items of expense, according to proof;
- 6 4. For loss of earnings, according to proof;
- 7 5. For consequential and incidental damages according to proof;
- 8 6. For prejudgment interest according to proof;
- 9 7. For declaratory relief against Defendant Mustard Cafe and DOES 1 through 100;
- 10 8. For injunctive relief against Defendant Mustard Cafe and DOES 1 through 100;
- 11 9. For damages, penalties, and reasonable attorney's fees and costs of suit against Defendant
12 Mustard Cafe as provided for by California *Government Code* § 12965(b);
- 13 10. For punitive and exemplary damages against Defendant Mustard Cafe, according to proof,
14 as provided for by California *Civil Code* § 3294(a) and (b).
- 15 11. For damages, penalties, reasonable attorney's fees, and costs of suit against Defendant
16 Mustard Cafe as provided for by California *Civil Code* § 3333;
- 17 12. For damages, penalties, reasonable attorney's fees, and/or costs of suit against Defendant
18 Mustard Cafe and Zahedi as provided for by California *Labor Code* § 1194;
- 19 13. For all remedies, including attorney's fees and costs, against Defendants Mustard Cafe and
20 Zahedi as provided for by California *Labor Code* § 218.5;
- 21 14. For all penalties against Defendant Mustard Cafe and Zahedi as provided for by California
22 *Labor Code* §§ 226 et seq.;
- 23 15. For all remedies against Defendant Mustard Cafe and Zahedi as provided for by California
24 *Labor Code* § 203;
- 25 16. For such relief against Defendant Mustard Cafe and Zahedi as the Court deems appropriate
26 pursuant to Cal. *Bus. & Prof. Code* §§ 17200 et seq.;

1 17. For damages, penalties, and/or reasonable attorney's fees, and costs of suit against Defendant
2 Mustard Cafe as provided for by Cal. *Labor Code* §§ 1198.5(k), (l);

3 18. For damages, penalties, reasonable attorney's fees, and costs of suit against Defendants
4 Mustard Cafe and Zahedi as provided for by Cal. *Labor Code* §§ 226(e);

5 19. For the imposition of civil penalties against Defendants;

6 20. For maximum civil penalties against Defendants available under California *Labor Code* §
7 2699 in a manner and amount authorized by that statute, as described more particularly herein and
8 representative PAGA claims;

9 21. For all costs and disbursements incurred in this suit;

10 22. For reasonable attorney's fees against Defendants where available by law, including but not
11 limited to those pursuant to California *Labor Code* §§ 2698 et seq., California *Code of Civil*
12 *Procedure* § 1021.5, and/or other applicable laws; and

13 23. For such other and further relief as this Court may deem proper.
14

15 Dated: May 17, 2023

SEZGIN KHOUSADIAN LLP

16 By: Alisa Khousadian
17 ALISA KHOUSADIAN, ESQ.
18 Attorneys for PLAINTIFF
19 SANDRA LUZ TAPIA
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EXHIBIT A



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

April 12, 2023

Arthur Sezgin
Sezgin Khousadian LLP, 500 N. Central Avenue, Suite 830
Glendale, CA 91203

RE: **Notice to Complainant's Attorney**
CRD Matter Number: 202304-20263212
Right to Sue: Tapia / Lily T, LLC et al.

Dear Arthur Sezgin:

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

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

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

Sincerely,

Civil Rights Department



Civil Rights Department

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April 12, 2023

RE: Notice of Filing of Discrimination Complaint

CRD Matter Number: 202304-20263212

Right to Sue: Tapia / Lily T, LLC et al.

To All Respondent(s):

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

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

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

No response to CRD is requested or required.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Sandra Luz Tapia

CRD No. 202304-20263212

Complainant,

vs.

Lily T, LLC
67 Mandria
Newport Coast, CA 92657

Bernardo Unknown

,

Respondents

1. Respondent **Lily T, LLC** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Bernardo Unknown** individual as Co-Respondent(s).

3. Complainant **Sandra Luz Tapia**, resides in the City of **Glendale**, State of **CA**.

4. Complainant alleges that on or about **April 12, 2023**, respondent took the following adverse actions:

Complainant was harassed because of complainant's medical condition (cancer or genetic characteristic), disability (physical, intellectual/developmental, mental health/psychiatric), family care and medical leave (cfra) related to serious health condition of employee or family member, child bonding, or military exigencies.

Complainant was discriminated against because of complainant's medical condition (cancer or genetic characteristic), disability (physical, intellectual/developmental, mental health/psychiatric), family care and medical leave (cfra) related to serious health condition of employee or family member, child bonding, or military exigencies and as a result of the discrimination was terminated, demoted, denied any employment benefit or privilege, other, denied work opportunities or assignments, denied accommodation for a disability.

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, requested or used a disability-related accommodation, requested or used family care and medical leave (cfra) related to serious health condition of employee or family member, child bonding, or military exigencies and as a result was terminated, demoted, denied any employment benefit or privilege, other, denied work opportunities or assignments, denied accommodation for a disability.

Additional Complaint Details: Ms. Tapia was employed by Lily T, LLC dba Mustard Cafe (hereinafter referred to as "Mustard Cafe") as a Kitchen Assistant for approximately seven months until the time of her wrongful termination on approximately March 12, 2022, in direct retaliation to her disabilities and resultant need for accommodations.

Specifically, in or around January 2022, Ms. Tapia notified Chef Bernardo DOE and Manager Kassandra DOE that she had a surgery scheduled for February 24, 2022, for which she required two weeks of finite medical leave to recover. Ms. Tapia also submitted a medical note stating the aforementioned and clearing her to return to work on approximately March 14, 2022. Chef Bernardo and Manager Kassandra assured Ms. Tapia that she could take the time off she needed to recover from her surgery.

Accordingly, on approximately March 14, 2022, Ms. Tapia returned to work. However, Chef Bernardo inquired as to why Ms. Tapia was at the workplace and told her to speak to Manager Kassandra before returning. Ms. Tapia reached out to Manager Kassandra on multiple occasions thereafter, only to be told that Mustard Cafe had changed her status to "on-call," i.e., Mustard Cafe demoted Ms. Tapia. Notably, despite Ms. Tapia's diligent efforts to return to work, Mustard Cafe refused to allow her back, thereby wrongfully terminating Ms. Tapia from her employment as a direct result of her disabilities and resultant need for reasonable accommodations, including finite medical leave.

As such, by virtue of the conduct described above, Mustard Cafe was in clear violation of the FEHA.

In further violation of the FEHA, despite its abundant knowledge of Ms. Tapia's disabilities and potential need for accommodations, Mustard Cafe failed to engage in the mandatory good-faith interactive process to determine the nature and extent of Ms. Tapia's disabilities and whether she required accommodations. Instead, Mustard Cafe summarily terminated her employment.

Mustard Cafe failed to rehire and/or reinstate Ms. Tapia at least through April 12, 2023.

1 VERIFICATION

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

5 On April 12, 2023, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Glendale, California**
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EXHIBIT B



Civil Rights Department

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calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

April 12, 2023

Sandra Luz Tapia
c/o Sezgin Khousadian LLP, 500 N. Central Avenue, Suite 830
Glendale, CA 91203

RE: **Notice of Case Closure and Right to Sue**
CRD Matter Number: 202304-20263212
Right to Sue: Tapia / Lily T, LLC et al.

Dear Sandra Luz Tapia:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective April 12, 2023 because an immediate Right to Sue notice was requested.

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

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



Civil Rights Department

KEVIN KISH, DIRECTOR

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

Sincerely,

Civil Rights Department