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MARCO A. BUELNA AGUILAR

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

MARCO A. BUELNA AGUILAR, an
individual,

Plaintiff,

v.

CROFT HOUSE DESIGN, INC., a California
corporation; CROFT HOUSE, INC., and DOES
1 through 20, inclusive,

Defendants.

Case No. 23STCV24353

COMPLAINT FOR DAMAGES FOR:

- 1. DISCRIMINATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 2. RETALIATION IN VIOLATION OF
GOV'T CODE §§12940 ET SEQ.;**
- 3. FAILURE TO PREVENT
DISCRIMINATION, HARASSMENT
AND RETALIATION IN VIOLATION OF
GOV'T CODE §12940(k);**
- 4. RETALIATION IN VIOLATION OF
GOV'T CODE §§12945.2 ET. SEQ.;**
- 5. FAILURE TO PROVIDE REASONABLE
ACCOMMODATIONS IN VIOLATION
OF GOV'T CODE §§12940 ET SEQ.;**
- 6. FAILURE TO ENGAGE IN A GOOD
FAITH INTERACTIVE PROCESS IN
VIOLATION OF GOV'T CODE §§12940
ET SEQ.;**
- 7. RETALIATION (LAB. CODE §§98.6,
1102.5, 1102.6);**
- 8. WRONGFUL TERMINATION IN
VIOLATION OF PUBLIC POLICY;**
- 9. FOR DECLARATORY JUDGMENT;**

10. FAILURE TO PAY WAGES (CAL. LABOR CODE §§201, 204, 221, 1194);
11. FAILURE TO PAY MINIMUM WAGES (CAL. LABOR CODE §§1182.12, 1194, 1194.2, 1197);
12. FAILURE TO PAY OVERTIME COMPENSATION (CAL. LABOR CODE §§510, 1194);
13. FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES (CAL. LABOR CODE §2802)
14. FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);
15. FAILURE TO PROVIDE ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §226, ET SEQ.);
16. WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);
17. PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE §2699, ET SEQ);
18. FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS (CAL. LABOR CODE §§1198.5 AND 226, ET SEQ.); AND
19. UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.).

DEMAND OVER \$25,000

[DEMAND FOR JURY TRIAL]

COMES NOW PLAINTIFF, MARCO A. BUELNA AGUILAR, and for causes of action against the Defendants and each of them, alleges as follows:

JURISDICTION

1. This Court is the proper court, and this action is properly filed in Los Angeles County, because Defendants' obligations and liability arise therein, because Defendants maintain offices and

1 transact business within Los Angeles County, and because the work that is the subject of this action was
2 performed by Plaintiff in Los Angeles County.

3
4 **THE PARTIES**

5 2. Plaintiff, MARCO A. BUELNA AGUILAR, is and at all times relevant hereto was, a
6 resident of the County of Los Angeles, State of California.

7 3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
8 hereto, Defendant CROFT HOUSE DESIGN, INC., a California corporation, is a manufacturer and
9 retailer of handmade home furniture and commercial fixtures with an official address of 326 North La
10 Brea Avenue, Los Angeles, CA, 90036, and also doing business at 680 S. Rio Street, Los Angeles, CA
11 90023 in the County of Los Angeles, State of California.

12 4. At all times relevant herein, Defendants and DOES 1-20 were Plaintiff's employers, joint
13 employers and/or special employers within the meaning of Government Code §§12926, subdivision (d),
14 12940, subdivisions (a),(h),(1), (h)(3)(A), and (i), and 12950, and regularly employ five (5) or more
15 persons and are therefore subject to the jurisdiction of this Court.

16 5. At all times relevant herein, Defendants and DOES 1-20 were Plaintiff's employers, joint
17 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
18 Commission Order No. 16-2001, and are each any "employer or other person acting on behalf of an
19 employer" as such term is used in Labor Code section 558 and/or 558.1, and liable to Plaintiff on that
20 basis.

21 6. Defendants and DOES 1-20, inclusive, are hereinafter collectively referred to as
22 "Defendants."

23 7. The true names and capacities, whether individual, corporate, associate, or otherwise, of
24 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
25 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
26 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
27 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
28

1 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
2 alleged hereinafter.

3 8. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
4 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors,
5 coconspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the
6 other Defendants, and each of them, and in doing the things alleged herein, were acting at least in part
7 within the course and scope of said agency, employment, conspiracy, joint employer, alter ego status,
8 successor status and/or joint venture and with the permission and consent of each of the other Defendants.

9 9. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
10 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit
11 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
12 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code
13 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and
14 each of them, including those defendants named as DOES 1-20, and each of them, formed and executed
15 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,
16 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and
17 actually causing Plaintiff harm.

18 10. Whenever and wherever reference is made in this complaint to any act or failure to act by
19 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
20 and/or failures to act by each Defendant acting individually, jointly and severally.

21 11. Plaintiff has filed complaints of discrimination, retaliation, failure to pay required wages,
22 rest and meal breaks, failure to prevent discrimination and wrongful termination under Government Code
23 §§12940, et seq., the California Fair Employment and Housing Act (“FEHA”) with the California
24 Department of Fair Employment and Housing (“DFEH”), and has satisfied Plaintiff’s administrative
25 prerequisites with respect to these and all related filings.

ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER

12. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity of interest and ownership between Defendants and DOES 1-20 that the individuality and separateness of defendants have ceased to exist.

13. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of purported corporate existence, Defendants and DOES 1-20 are, in reality, one and the same, including, but not limited to because:

a. Defendants and DOES 1-20 are completely dominated and controlled by one another, and DOES 1-20 personally committed the frauds and violated the laws as set forth in this complaint, and have hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or accomplish some other wrongful or inequitable purpose.

b. Defendants and DOES 1-20 derive actual and significant monetary benefits by and through one another's unlawful conduct, and by using one another as the funding source for their own personal expenditures.

c. Defendants and DOES 1-20, while really one and the same, were segregated to appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or accomplishing some other wrongful or inequitable purpose.

d. Defendants do not comply with all requisite corporate formalities to maintain a legal and separate corporate existence.

e. The business affairs of Defendants and DOES 1-20 are, and at all times relevant were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in inextricable confusion. Defendants are, and at all times relevant hereto was, used by DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of Defendants would not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate existence of Employers and DOES 1-20 should be disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

14. Accordingly, Defendants and DOES 1-20 constitute the alter ego of one another, and the fiction of their separate corporate existence must be disregarded.

15. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Defendants and DOES 1-20 are Plaintiff's joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of Defendants and DOES 1-20. Plaintiff performed services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which Defendants' business was and is conducted.

16. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and between DOES 1-20, Defendants or any of them, (1) there is an express or implied agreement of assumption pursuant to which Defendants and/or DOES 1-20 agreed to be liable for the debts of the other Defendants, (2) the transaction between Defendants and/or DOES 1-20 and the other Defendants amounts to a consolidation or merger of the two corporations, (3) Defendants and/or DOES 1-20 are a mere continuation of the other Defendants, or (4) the transfer of assets to Defendants and/or DOES 1-20 is for the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Defendants and/or DOES 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

FACTUAL ALLEGATIONS

17. On or about October 2014, Defendants hired Plaintiff to work as a welder. Plaintiff was a full-time, non-exempt employee, who performed all of Plaintiff's job duties satisfactorily before Plaintiff was wrongfully terminated on or around March 13, 2023.

WAGE & HOUR ALLEGATIONS

18. Throughout Plaintiff's employment with Defendants, October 2014 through March 13, 2023 (the "Claim Period"), Plaintiff's hourly wage rate ranged from \$15.00 to \$22.50. During this time period, Plaintiff's fixed schedule was five or six days per week, Monday through Friday/Saturday, for approximately 7 to 14 hours per day.

19. Throughout the Claim Period, Plaintiff worked more than 8 hours per day and/or 40 hours per week.

1 20. Despite receiving flat sum bonuses, Plaintiff was not paid the appropriate overtime rate.
2 *Alvarado v. Dart Container Corp. of California*, 4 Cal. 5th 542 (2018).

3 21. In violation of Labor Code § 226.7, Plaintiff was not permitted to, nor was he advised of,
4 his right to take his statutory 10-minute rest break for every four hours worked, or majority portion
5 thereof, during the Claim Period—particularly when Plaintiff worked in excess of 8 hours in a day.

6 22. Similarly, in violation of Labor Code § 512, Plaintiff did not receive an additional
7 uninterrupted 30-minute meal periods for days on which Plaintiff worked at least 10 hours, a violation of
8 Labor Code § 512.

9 23. Furthermore, despite the fact that Plaintiff was required to use his own personal cellphone
10 to carry out mandatory tasks during working hours, Defendants failed to sufficiently reimburse Plaintiff
11 for this expense in violation of Labor Code section 2802.

12 24. Defendants also violated Labor Code §§ 204 and 223 when they failed to pay Plaintiff
13 wages for all hours worked paid at least twice during each calendar month to employees as required “by
14 contract” under Labor Code section 223, as well as an improper collection of wages paid to an employee
15 under Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist.
16 Mar. 6, 2013). In addition, throughout Plaintiff’s employment, Defendants violated Labor Code §221 by
17 collecting and/or receiving from Plaintiff, part of his wages paid by Defendants.

18 25. Defendants did not provide Plaintiff with timely nor accurate paystubs in compliance with
19 Labor Code § 226, failed to pay all of the Plaintiff’s accrued wages and other compensation due
20 immediately upon termination or within 72 hours of resignation, as required, by Labor Code §§201-203,
21 and also failed to provide Plaintiff with timely and accurate wage and hour statements showing gross
22 wages earned, total hours worked, all deductions made, net wages earned, the name and address of the
23 legal entity employing Plaintiff, and all applicable hours and rates in effect during each pay period and
24 the corresponding number of hours worked at each hourly rate by Plaintiff, in violation of Labor Code
25 §§ 1198.5 and 226.

26 26. Plaintiff is informed and believes, and thereupon alleges, that herself and other employees
27 were subject to the same violations, and, therefore, are aggrieved employees within the meaning of
28

1 California Labor Code § 2699. Thus, Plaintiff, as an aggrieved employee, reserves his right to bring an
2 action against Defendants, on behalf of himself and other current and former employees.

3 27. Additionally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 23
4 Cal.App.5th 745, as an aggrieved employee, Plaintiff may investigate and pursue claims and penalties on
5 behalf of other aggrieved employees for other violations that she was not personally “aggrieved” by.

6 **FEHA AND RETALIATION UNDER THE LABOR CODE FACTUAL ALLEGATIONS**

7 28. During Plaintiff’s employment, Plaintiff developed work-related injuries. This limited
8 Plaintiff’s ability to perform the major life activity of working and therefore constituted a disability.

9 29. Shortly after Plaintiff’s pain increased, Plaintiff filed a workers’ compensation claim his
10 injuries.

11 30. Upon filing a workers’ compensation claim, Plaintiff faced hostility from Defendants,
12 which included tormenting remarks for hiring an attorney to manage Plaintiff’s workers’ compensation
13 claim.

14 31. After only two months of Defendants’ pressure, and in hopes of maintaining his
15 employment, Plaintiff withdrew his workers’ compensation claim on or about March 9, 2022.

16 32. Defendants issued Plaintiff several pretextual warnings in an effort to document Plaintiff’s
17 personal file while pursuing a strategy to terminate Plaintiff at least in part due to his age, disability (real
18 or perceived), and/or medical condition (real or perceived), or some combination thereof.

19 33. On or about February 2023, Plaintiff complained to Defendants’ Human Resources that
20 he felt he was being unfairly singled out, which Plaintiff believed amount to a violation of California
21 laws protecting against discrimination, harassment, and/or retaliation.

22 34. Defendants terminated Plaintiff’s employment on or around March 13, 2023, due to a
23 pretextual company-wide layoff.

24 35. At the time of Plaintiff’s termination, Plaintiff was 55 years of age.

25 **GENERAL ALLEGATIONS**

26 36. Defendants’ conduct described herein was undertaken, authorized, and/or ratified
27 Defendants’ officers, directors and/or managing agents, including, but not limited to DOES 1-20, who
28 were authorized and empowered to make decisions that reflect and/or create policy for Defendants. The

1 aforementioned conduct of said managing agents and individuals was therefore undertaken on behalf of
2 Defendants who further had advanced knowledge of the actions and conduct of said individuals whose
3 actions and conduct were ratified, authorized, and approved by managing agents.

4 37. As a result of Defendants' actions, Plaintiff has suffered and will continue to suffer general
5 and special damages, including severe and profound pain and emotional distress, anxiety, depression,
6 headaches, tension, and other physical ailments, as well as medical expenses, expenses for psychological
7 counseling and treatment, and past and future lost wages and benefits.

8 38. As a result of the above, Plaintiff is entitled to past and future lost wages, commissions,
9 benefits and loss or diminution of earning capacity.

10 39. Plaintiff claims general damages for emotional and mental distress and aggravation in a
11 sum in excess of the jurisdictional minimum of this Court.

12 40. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
13 managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard
14 of Plaintiff's rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages
15 be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this
16 Court.

17
18 **FIRST CAUSE OF ACTION**
19 **FOR DISCRIMINATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.**
20 **AGAINST ALL DEFENDANTS**

21 41. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 36, inclusive, as
22 though set forth in full herein.

23 42. At all times hereto, the FEHA was in full force and effect and was binding upon
24 Defendants and each of them.

25 43. As such term is used under FEHA, "on the bases enumerated in this part" means or
26 refers to discrimination on the bases of one or more of the protected characteristics under FEHA.

27 44. FEHA requires Defendants to refrain from discriminating against an employee on the
28 basis of age, disability and/or medical condition, real or perceived, use of or anticipated use of medical

1 leave, engagement in protected activities, and to prevent discrimination and harassment on the basis of
2 age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave,
3 and engagement in protected activities from occurring.

4 45. Plaintiff was a member of multiple protected classes as a result of Plaintiff's age,
5 disability and/or medical condition, use of or anticipated use of medical leave, and/or the perception
6 that Plaintiff was suffering from a disability and/or medical condition.

7 46. At all times relevant hereto, Plaintiff was performing competently in the position
8 Plaintiff held with Defendants.

9 47. Plaintiff suffered the adverse employment actions of unlawful harassment,
10 discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination,
11 failure to reinstate and/or return to work, and termination, and was harmed thereby.

12 48. Plaintiff is informed and believes that Plaintiff's age, disability and/or medical
13 condition, real or perceived, use of or anticipated use of medical leave, and/or some combination of
14 these protected characteristics under Government Code §12926(j) were motivating reasons and/or
15 factors in the decisions to subject Plaintiff to the aforementioned adverse employment actions.

16 49. Said conduct violates the FEHA, and such violations were a proximate cause in
17 Plaintiff's damage as stated below.

18 50. The damage allegations of Paragraphs 37 through 40, inclusive, are herein incorporated
19 by reference.

20 51. The foregoing conduct of Defendants individually, or by and through their officers,
21 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
22 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
23 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
24 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
25 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

26 52. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
27 attorneys' fees and costs, including expert fees pursuant to the FEHA.
28

SECOND CAUSE OF ACTION
FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE

53. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 36, inclusive, as though set forth in full herein.

54. At all times hereto, the FEHA was in full force and effect and was binding upon Defendants and each of them.

55. These laws set forth in the preceding paragraph require Defendants to refrain from retaliating against an employee for engaging in protected activity.

56. Plaintiff engaged in the protected activities of requesting accommodation, requesting medical leave and/or exercising Plaintiff's right to medical leave, and complaining about and protesting Defendants' discriminatory and harassing conduct towards Plaintiff based upon Plaintiff's age, disability and/or medical condition, real or perceived, use of or anticipated use of medical leave, or a combination thereof.

57. Plaintiff suffered the adverse employment actions of unlawful harassment, discrimination, failure to accommodate, failure to investigate, remedy, and/or prevent discrimination, failure to reinstate and/or return to work, and termination, and was harmed thereby.

58. Plaintiff is informed and believes that Plaintiff's conduct of requesting accommodation, requesting medical leave and/or exercising Plaintiff's right to medical leave, complaining about and protesting about Defendants' discriminatory and harassing conduct, and/or some combination of these factors, were motivating reasons and/or factors in the decisions to subject Plaintiff to the aforementioned adverse employment actions.

59. Defendants violated the FEHA by retaliating against Plaintiff and terminating Plaintiff for attempting to exercise Plaintiff's protected rights, as set forth hereinabove.

60. Plaintiff is informed and believes, and based thereon alleges, that the above acts of retaliation committed by Defendants were done with the knowledge, consent, and/or ratification of, or at the direction of, each other Defendant and the other Managers.

1 61. The above said acts of Defendants constitute violations of the FEHA, and were a
2 proximate cause in Plaintiff's damage as stated below.

3 62. The damage allegations of Paragraphs 37 through 40, inclusive, are herein incorporated
4 by reference.

5 63. The foregoing conduct of Defendants individually, or by and through their officers,
6 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
7 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
8 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
9 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
10 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

11 64. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
12 attorneys' fees and costs, including expert fees pursuant to the FEHA.

13
14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO PREVENT DISCRIMINATION AND RETALIATION**

16 **IN VIOLATION OF GOV'T CODE §12940(k)**

17 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

18 65. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 36, inclusive, as
19 though set forth in full herein.

20 66. At all times hereto, the FEHA, including in particular Government Code §12940(k),
21 was in full force and effect and was binding upon Defendants. This subsection imposes a duty on
22 Defendants to take all reasonable steps necessary to prevent discrimination, harassment, and retaliation
23 from occurring. As alleged above, Defendants violated this subsection and breached their duty by
24 failing to take all reasonable steps necessary to prevent discrimination, harassment and retaliation from
25 occurring.

26 67. The above said acts of Defendants constitute violations of the FEHA, and were a
27 proximate cause in Plaintiff's damage as stated below.

1 68. The damage allegations of Paragraphs 37 through 40, inclusive, are herein incorporated
2 by reference.

3 69. The foregoing conduct of Defendants individually, or by and through their officers,
4 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
5 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
6 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
7 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
8 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

9 70. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
10 attorneys' fees and costs, including expert fees pursuant to the FEHA.

11
12 **FOURTH CAUSE OF ACTION**
13 **FOR RETALIATION IN VIOLATION OF GOV'T CODE §§12945.2 ET SEQ.**
14 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

15 71. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 36, inclusive, as
16 though set forth in full herein.

17 72. At all times hereto, the California Family Rights Act, codified by Government Code
18 §§12945.2, et al. ("CFRA") was in full force and effect and was binding upon Defendants and each of
19 them. Under the CFRA, it shall be an unlawful employment practice for any covered employer to
20 refuse to grant a request by any qualified employee to take up to a total of 12 workweeks in any 12-
21 month period for family care and medical leave for the employee's own serious medical condition.
22 Under the CFRA, it is also an unlawful employment practice for a covered employer to refuse to hire,
23 or to discharge, fine, suspend, expel, or discriminate against, any individual because the individual has
24 exercised or attempted to exercise his or her right to take protected family care and medical leave under
25 the CFRA. Under the CFRA, it is also an unlawful employment practice for an employer to interfere
26 with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under the CFRA.

1 73. At all times hereto, Plaintiff was an employee eligible for CFRA leave. At all times
2 hereto, Plaintiff had been employed by Defendants for more than 12 months, and had worked at least
3 1250 hours during the previous 12 months.

4 74. Defendants violated the CFRA by failing and/or refusing to provide Plaintiff with the
5 family care and medical leave that Plaintiff requested.

6 75. Defendants violated the CFRA by retaliating against Plaintiff for exercising or
7 attempting to exercise Plaintiff's right to protected medical leave under the CFRA.

8 76. Defendants violated the CFRA by interfering with or restraining Plaintiff from
9 exercising or attempting to exercise Plaintiff's right to protected medical leave under the CFRA, by
10 failing to give Plaintiff notice of Plaintiff's rights under the CFRA, including the right to take protected
11 leave.

12 77. Plaintiff suffered the adverse employment actions of unlawful harassment,
13 discrimination and termination.

14 78. Plaintiff is informed and believes that exercising or attempting to exercise Plaintiff's
15 right to medical leave was a motivating reason and/or factor in the decisions to subject Plaintiff to the
16 aforementioned adverse employment actions.

17 79. The above said acts of Defendants constitute violations of the CFRA, and were a
18 proximate cause in Plaintiff's damage as stated below.

19 80. The damage allegations of Paragraphs 37 through 40, inclusive, are herein incorporated
20 by reference.

21 81. The foregoing conduct of Defendants individually, or by and through their officers,
22 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
23 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
24 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
25 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
26 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

27 82. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
28 attorneys' fees and costs, including expert fees pursuant to the FEHA.

FIFTH CAUSE OF ACTION
FOR FAILURE TO PROVIDE REASONABLE ACCOMMODATIONS
IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.
AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE

83. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 36, inclusive, as though set forth in full herein.

84. At all times hereto, the FEHA, including in particular Government Code §12940(m), was in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on Defendants to make reasonable accommodation for the known physical disability and/or medical condition of an employee.

85. At all relevant times, Plaintiff was a member of a protected class within the meaning of, in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a disability, a physical condition that affected Plaintiff's major life activities, and medical condition of which Defendants had both actual and constructive knowledge.

86. At all times herein, Plaintiff was willing and able to perform the duties and functions of the position in which Plaintiff was employed, or could have performed the duties and functions of that position with reasonable accommodations. At no time would the performance of the functions of the employment position, with a reasonable accommodation for Plaintiff's disability or medical condition, actual or as it was perceived by Defendants, have been a danger to Plaintiff's or any other person's health or safety. Accommodation of Plaintiff's disability or disability or medical condition, real or perceived by Defendants, would not have imposed an undue hardship on Defendants. Defendants failed and refused to accommodate Plaintiff's disability, failed to engage in the interactive process with Plaintiff and continue to violate this obligation, up to and including the date of Plaintiff's termination or, if Defendant contends Plaintiff was never terminated, through the present and ongoing.

87. The above said acts of Defendants constitute violations of the FEHA, and were a proximate cause in Plaintiff's damage as stated below.

88. The damage allegations of Paragraphs 37 through 40, inclusive, are herein incorporated by reference.

89. The foregoing conduct of Defendants individually, and/or by and through their officers, directors, and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or was despicable conduct carried on by the Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

90. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of attorneys' fees and costs, including expert fees pursuant to the FEHA.

SIXTH CAUSE OF ACTION

FOR FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS

IN VIOLATION OF GOV'T CODE §§12940 ET SEQ.

AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE

91. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 36, inclusive, as though set forth in full herein.

92. At all times hereto, the FEHA, including in particular Government Code §12940(n), was in full force and effect and was binding upon Defendants. This subsection imposes an ongoing duty on Defendants to engage in a timely, good faith, interactive process with the employee to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee with a known physical disability or known medical condition and/or becoming aware of the employee's need for accommodation.

93. At all relevant times, Plaintiff was a member of a protected class within the meaning of, in particular, Government Code §§12940(a) & 12986(1) et seq. because Plaintiff had a physical disability that affected Plaintiff's major life activities, and medical condition of which Defendants had both actual and constructive knowledge.

94. Plaintiff reported the disability to Defendants and requested accommodation, triggering Defendants' obligation to engage in the interactive process with Plaintiff, but at all times herein, Defendants failed and refused to do so. Thereafter, despite Defendants continuing obligation to engage

1 in the interactive process with Plaintiff, despite Plaintiff's submission of a doctors' notes identifying
2 Plaintiff's condition and Plaintiff's desire to continue working in some capacity, Defendants failed and
3 refused to have any dialogue with Plaintiff whatsoever, on any of these occasions, and Defendants
4 violated, and continued to violate this obligation up to and including the date of Plaintiff's termination
5 or, if Defendant contends Plaintiff was never terminated, through the present and ongoing.

6 95. The above said acts of Defendants constitute violations of the FEHA, and were a
7 proximate cause in Plaintiff's damage as stated below.

8 96. The damage allegations of Paragraphs 37 through 40, inclusive, are herein incorporated
9 by reference.

10 97. The foregoing conduct of Defendants individually, and/or by and through their officers,
11 directors, and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
12 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
13 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
14 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
15 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

16 98. Pursuant to Government Code §12965(b), Plaintiff requests a reasonable award of
17 attorneys' fees and costs, including expert fees pursuant to the FEHA.

18
19 **SEVENTH CAUSE OF ACTION**

20 **RETALIATION**

21 **LABOR CODE §§98.6, 1102.5, 1102.6**

22 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

23 99. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 36, inclusive, as
24 though set forth in full herein.

25 100. Labor Code §98.6(a) prohibits an employer from discharging or discriminating against
26 an employee for political activities; for complaining that he or she is owed unpaid wages, for
27 whistleblowing; for assigning wage claims to the Labor Commissioner resulting from demotion,
28 suspension, or discharge for lawful conduct occurring during nonworking hours away from employer's

1 premises; for filing a complaint with the Labor Commissioner or testifying in such proceedings; for
2 initiating proceedings against the employer to collect civil penalties under the “Labor Code Private
3 Attorneys General Act;” and for exercising “any rights afforded him or her” under the Labor Code.
4 Thus, Section 98.6 prohibits an employer from discharging or in any manner discriminating or retaliating
5 against an employee who, among other things, has exercised his or her rights under that Chapter (Chapter
6 5 of the Labor Code, which encompasses § 1102.5), including the right to take meal breaks, and/or made
7 a written or oral complaint that he or she is owed unpaid wages. An employee who has been discharged
8 or retaliated against in violation of Labor Code § 98.6 is entitled to recovery of a civil penalty against the
9 employer in an amount not exceeding ten thousand dollars (\$10,000.00) for each violation of that section.

10 101. At all relevant times, Labor Code § 1102.5(a) was in full force and effect, and was binding
11 on Defendants. This law prohibits an employer, or any person acting on behalf of the employer, from
12 discharging an employee or in any manner discriminating or retaliating against, or taking any adverse
13 action against, an employee because, among other things, the employee disclosed information to a
14 government or law enforcement agency, or to a person with authority over the employee or another
15 employee who has the authority to investigate, discover, or correct the violation or noncompliance, if
16 the employee has reasonable cause to believe that the information discloses a violation of state or federal
17 statute, or violation of or noncompliance with a local, state, or federal rule or regulation, regardless of
18 whether disclosing the information is part of the employee’s job duties. Pursuant to Labor Code
19 § 1102.5(f), in addition to other penalties, an employer that is a corporation or limited liability company
20 is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of this section.

21 102. Plaintiff is informed and believe, and based thereupon alleges, that Plaintiff was
22 terminated from Plaintiff’s employment with Defendants as a result of Plaintiff’s complaints about his
23 belief that Defendants were violating the law by discriminating, harassing, and/or retaliating against him.
24 Defendants’ retaliatory animus is evidenced by, among other things, the following facts: (1) written
25 complaints were issued to Plaintiff after his notice; (2) Plaintiff was reprimanded about his complaints;
26 (3) Plaintiff’s termination occurred following Plaintiff’s complaints regarding the aforementioned
27 complaints; (4) There were no performance issues or any other legitimate reason for Plaintiff’s
28 termination; and (5) Plaintiff was wrongfully terminated

1 103. Plaintiff's reports of these violations were a motivating and contributing factor for the
2 adverse employment actions by Defendants against Plaintiff.

3 104. Defendants' conduct described herein was undertaken, authorized, and/or ratified by
4 Defendants, and Defendants' officers and/or managing agents, and those identified herein as DOES 1-
5 20, who were authorized and empowered to make decisions that reflect and/or create policy for
6 Defendants. The aforementioned conduct of said managing agents and individuals was therefore
7 undertaken on behalf of Defendants. Defendants further had advanced knowledge of the actions and
8 conduct of said individuals whose actions and conduct were ratified, authorized, and approved by
9 managing agents whose precise identities are unknown to Plaintiff at this time and are therefore
10 identified and designated herein as DOES 1-20, inclusive.

11 105. As a result of Defendants' actions, Plaintiff is entitled to a civil penalty not to exceed
12 \$10,000.00 for Defendants' violations of Labor Code §§ 98.6 and 1102.5, totaling \$20,000.00.

13 106. The damage allegations of Paragraphs 37 through 40, inclusive, are herein incorporated
14 by reference.

15 107. Because the acts taken toward Plaintiff were carried out by managerial employees acting
16 in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard of Plaintiff's rights
17 and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages be levied against
18 Defendants and each of them, in sums in excess of the jurisdictional minimum of this court.

19 108. The foregoing conduct of Defendants individually, or by and through their managing
20 agents, was intended by Defendants to cause injury to Plaintiff, or was despicable conduct carried on by
21 Defendants with a willful and conscious disregard of the rights of Plaintiff or subjected Plaintiff to cruel
22 and unjust hardship in conscious disregard of Plaintiff's rights such as to constitute malice, oppression,
23 or fraud under Civil Code §3294, thereby entitling Plaintiff to punitive damages in an amount appropriate
24 to punish or make an example of Defendants.

EIGHTH CAUSE OF ACTION
FOR WRONGFUL TERMINATION
IN VIOLATION THE PUBLIC POLICY OF THE STATE OF CALIFORNIA
AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE

109. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 36, inclusive, as though set forth in full herein.

110. At all relevant times mentioned in this complaint, Labor Code §98.6 was in full force and effect and was binding upon Defendants and each of them. This law prohibits retaliation against employees who complain about unpaid wages and/or attempt to exercise the rights under the Labor Code. Labor Code §98.6 reflects the State's broad public policy interest in protecting the rights of individual employees and job applicants who could not otherwise afford to protect themselves from violations of the Labor Code.

111. At all relevant times mentioned in this complaint, Labor Code §1102.5 was in full force and effect and was binding upon Defendants and each of them. This law prohibits retaliation against employees who disclose reasonable suspicions of illegal activity or conduct by their employer to a government or law enforcement agency, or to employer itself. Labor Code §1102.5 reflects the State's broad public policy interest in encouraging workplace "whistleblowers," who may without fear of retaliation report concerns regarding an employer's suspected illegal conduct, irrespective of whether the reporting is made to governmental agencies or to the employer itself, and irrespective of whether the employee's suspicions are correct that the challenged conduct actually violates some law. Indeed, the law in California is that an employee's good faith but mistaken belief in the illegality of his co-workers', supervisor's, and employer's conduct is protected from employer retaliation in the whistleblowing context.

112. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's engagement in protected activities under Labor Code §§ 98.6 and/or 1102.5 was a proximate cause in Plaintiff's damages as stated below.

1 113. Such discrimination and retaliation against Plaintiff who, in good faith, reported working
2 conditions she believed to be a violation of California law were a proximate cause in Plaintiff's damages
3 as stated below.

4 114. At all times mentioned in this complaint, it was a fundamental policy of the State of
5 California that Defendants cannot retaliate against any employee on the basis of engagement in
6 protected activities.

7 115. Plaintiff believes and thereon alleges that Plaintiff's engagement in protected activities,
8 was a factor in Defendants' conduct as alleged hereinabove.

9 116. Such retaliation, resulting in the wrongful termination of Plaintiff's employment on the
10 basis of Plaintiff's engagement in protected activity, was a proximate cause in Plaintiff's damages as
11 stated below.

12 117. At all relevant times mentioned in this complaint, the FEHA was in full force and effect
13 and was binding on Defendants. This law requires Defendants to refrain, among other things, from
14 discriminating against any employee on the basis of disability and/or medical condition, real or
15 perceived, age, use of or anticipated use of medical leave, engagement in protected activities, or a
16 combination thereof.

17 118. At all times mentioned in this complaint, it was a fundamental policy of the State of
18 California that Defendants cannot discriminate and/or retaliate against any employee on the basis of
19 disability and/or medical condition, real or perceived, age, use of or anticipated use of medical leave,
20 and engagement in protected activities.

21 119. Plaintiff believes and thereon alleges that Plaintiff's disability and/or medical condition,
22 real or perceived, age, use of or anticipated use of medical leave, and engagement in protected activities,
23 and/or some combination thereof, were factors in Defendants' conduct as alleged hereinabove.

24 120. Such discrimination and retaliation, resulting in the wrongful termination of Plaintiff's
25 employment on the basis of disability and/or medical condition, real or perceived, age, use of or
26 anticipated use of medical leave, and engagement in protected activities, including complaints about
27 safety, and/or some combination of these factors, were a proximate cause in Plaintiff's damages as stated
28 below.

1 121. The above said acts of Defendants constitute violations of the Government Code, Labor
2 Code, FEHA, and the public policy of the State of California embodied therein as set forth above.
3 Defendants violated these laws by retaliating against Plaintiff and terminating Plaintiff's employment
4 in retaliation for exercise of protected rights.

5 122. At all times mentioned in this complaint, it was a fundamental policy of the State of
6 California that Defendants cannot retaliate against any employee who engages in protected activity,
7 and that Defendants cannot discriminate and/or retaliate against any employee in violation of the FEHA
8 and Labor Code.

9 123. Plaintiff is informed and believes, and based thereupon alleges, that Plaintiff's status as a
10 protected member of a protected class or classes under FEHA, Plaintiff's engagement in protected
11 activities under Labor Code §§ 98.6, and/or 1102.5, were a proximate cause in Plaintiff's damages as
12 stated below.

13 124. The damage allegations of Paragraphs 37 through 40, inclusive, are herein incorporated
14 by reference.

15 125. The foregoing conduct of Defendants individually, or by and through their officers,
16 directors and/or managing agents, was intended by the Defendants to cause injury to the Plaintiff or
17 was despicable conduct carried on by the Defendants with a willful and conscious disregard of the
18 rights of Plaintiff or subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's
19 rights such as to constitute malice, oppression, or fraud under Civil Code §3294, thereby entitling
20 Plaintiff to punitive damages in an amount appropriate to punish or make an example of Defendants.

21
22 **NINTH CAUSE OF ACTION**
23 **FOR DECLARATORY JUDGMENT**
24 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

25 126. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 125, inclusive,
26 as though set forth in full herein.

27 127. Government Code §12920 sets forth the public policy of the State of California as
28 follows:

1 It is hereby declared as the public policy of this state that it is necessary to
2 protect and safeguard the right and opportunity of all persons to seek,
3 obtain, and hold employment without discrimination or abridgment on
4 account of race, religious creed, color, national origin, ancestry, physical
5 disability, mental disability, medical condition, genetic information,
6 marital status, sex, gender, gender identity, gender expression, age, or
7 sexual orientation.

8 It is recognized that the practice of denying employment opportunity and
9 discriminating in the terms of employment for these reasons foments
10 domestic strife and unrest, deprives the state of the fullest utilization of its
11 capacities for development and advancement, and substantially and
12 adversely affects the interests of employees, employers, and the public in
13 general.

14 Further, the practice of discrimination because of race, color, religion, sex,
15 gender, gender identity, gender expression, sexual orientation, marital
16 status, national origin, ancestry, familial status, source of income,
17 disability, or genetic information in housing accommodations is declared
18 to be against public policy.

19 It is the purpose of this part to provide effective remedies that will eliminate
20 these discriminatory practices.

21 This part shall be deemed an exercise of the police power of the state for
22 the protection of the welfare, health, and peace of the people of this state.

23 128. Government Code §12920.5 embodies the intent of the California legislature and states:

24 In order to eliminate discrimination, it is necessary to provide effective
25 remedies that will both prevent and deter unlawful employment practices
26 and redress the adverse effects of those practices on aggrieved persons. To
27 that end, this part shall be deemed an exercise of the Legislature's authority
28 pursuant to Section 1 of Article XIV of the California Constitution.

129. Moreover, Government Code §12921, subdivision (a) says in pertinent part:

The opportunity to seek, obtain, and hold employment without
discrimination because of race, religious creed, color, national origin,
ancestry, physical disability, mental disability, medical condition, genetic
information, marital status, sex, gender, gender identity, gender expression,
age, or sexual orientation is hereby recognized as and declared to be a civil
right.

130. An actual controversy has arisen and now exists between Plaintiff and Defendants
concerning their respective rights and duties as it is believed that Defendants may allege that they did
not discriminate and retaliate against Plaintiff; that Plaintiff was not terminated as a result of Plaintiff's
disability and/or medical condition, real or perceived, age, use of or anticipated use of medical leave,
and engagement in protected activities, and/or some combination of these protected characteristics.
Plaintiff contends that Defendants did discriminate, harass, and retaliate against Plaintiff on the basis of
Plaintiff's disability and/or medical condition, real or perceived, age, use of or anticipated use of medical

1 leave, and engagement in protected activities, and/or some combination of these protected
2 characteristics; and that Plaintiff was retaliated against and, ultimately wrongfully terminated as a result
3 of Plaintiff's disability and/or medical condition, real or perceived, age, use of or anticipated use of
4 medical leave, and engagement in protected activities, and/or some combination of these protected
5 characteristics. Plaintiff is informed and believes, and on that basis alleges, that Defendants shall dispute
6 Plaintiff's contentions.

7 131. Pursuant to Code of Civil Procedure §1060, Plaintiff desires a judicial determination of
8 Plaintiff's rights and duties, and a declaration that Defendants harassed Plaintiff on the basis of Plaintiff's
9 disability and/or medical condition, real or perceived, age, use of or anticipated use of medical leave,
10 and engagement in protected activities, and/or some combination of these protected characteristics.

11 132. Pursuant to Code of Civil Procedure §1060, Plaintiff seeks a judicial determination of
12 Plaintiff's rights and duties, and a declaration that Plaintiff's disability and/or medical condition, real or
13 perceived, age, use of or anticipated use of medical leave, and/or some combination of these protected
14 characteristics was a substantial motivating factor in the decision to subject Plaintiff to the
15 aforementioned adverse employment actions.

16 133. A judicial declaration is necessary and appropriate at this time under the circumstances
17 in order that Plaintiff, for Plaintiff and on behalf of employees in the State of California and in conformity
18 with the public policy of the State, obtain a judicial declaration of the wrongdoing of Defendants and to
19 condemn such discriminatory employment policies or practices prospectively. *Harris v. City of Santa*
20 *Monica* (2013) 56 Cal.4th 203.

21 134. A judicial declaration is necessary and appropriate at this time such that Defendants may
22 also be aware of their obligations under the law to not engage in discriminatory practices and to not
23 violate the law in the future.

24 135. Government Code §12965(b) provides that an aggrieved party, such as the Plaintiff
25 herein, may be awarded reasonable attorney's fees and costs: "In civil actions brought under this section,
26 the court, in its discretion, may award to the prevailing party, including the department, reasonable
27 attorney's fees and costs, including expert witness fees." Such fees and costs expended by an aggrieved
28 party may be awarded for the purpose of redressing, preventing, or deterring discrimination and

1 harassment.

2
3
4 **TENTH CAUSE OF ACTION**
5 **FOR FAILURE TO PAY WAGES DUE IN VIOLATION OF**
6 **LABOR CODE §§201, 226.7, 512, 1030, 221, 251, 2802**
7 **AGAINST EVENHAIM AND DOES 1-20, INCLUSIVE**

8 136. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
9 though set forth in full herein..

10 137. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8
11 Code of Regulations §11160, and Industrial Welfare Commission Order No. 16-2001.

12 138. Throughout Plaintiff's employment, Defendants violated Labor Code §221 by collecting
13 and/or receiving part of the wages from Plaintiff and the aggrieved employees paid by Defendants. *Espejo*
14 *v. The Copley Press, Inc.*, 13 Cal. App. 5th 329, 372 (2017).

15 139. For the four (4) years preceding the filing of this action, Defendants failed to compensate
16 Plaintiff all wages earned, including but not limited to off-the-clock hours, overtime wages, double-time
17 wages, and time designated as meal and rest breaks but for which he was not relieved of all duties.

18 140. Under the aforementioned wage orders and regulations, Plaintiff is entitled to recover
19 compensation for all hours worked, but not paid, for the four (4) years preceding the filing of this
20 Complaint, plus reasonable attorneys' fees and costs of suit pursuant to Labor Code §§ 218.5, 1194, and
21 penalties pursuant to Labor Code §§ 203 and 226, and 558.

22 141. Plaintiff has been deprived of Plaintiff's rightfully earned compensation as a direct and
23 proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is entitled to
24 recover such amounts, plus interest thereon, attorneys' fees and costs.

25 142. Labor Code §558(a) provides that any person acting on behalf of an employer who
26 violates, or causes to be violated, any statute or provision regulating hours and days of work in any order
27 of the Industrial Welfare Commission pay a civil penalty in the amount of \$50 for each underpaid
28 employee for each pay period in which the employee was underpaid in addition to an amount sufficient

1 to recover underpaid wages. Also, Labor Code §558(a) for each subsequent violation, the person acting
2 on behalf of an employer is liable in the amount of \$100 for each underpaid employee for each pay period
3 for which the employee was underpaid in addition to an amount sufficient to recover the underpaid wages.

4 143. Defendants violated Labor Code §§ 204 and 223 because Defendants failed to pay wages
5 for all hours worked paid at least twice during each calendar month to employees as required “by contract
6 ” under Labor Code section 223, as well as an improper collection of wages paid to an employee under
7 Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist. Mar. 6,
8 2013).

9 144. In violation of state law, Defendants have knowingly and willfully refused to perform its
10 obligations to compensate Plaintiff for all wages earned and all hours worked. As a direct result, Plaintiff
11 has suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages,
12 lost interest on such wages, and expenses and attorneys’ fees in seeking to compel Defendants to fully
13 perform their obligation under state law, all to their respective damage in amounts according to proof at
14 time of trial.

15 145. Plaintiff is thus entitled to recover nominal, actual and compensatory damages in amount
16 according to proof at time of trial, but in amounts in excess of the jurisdiction of this Court.

17 146. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an
18 amount according to proof at time of trial.

19 147. Defendants’ conduct described herein violates Labor Code §§ 200, 203, 218.5, 226, 558,
20 1194, and 1198. Therefore, pursuant to 12 CCR § 11040 and Labor Code §§ 203, 218.5, 226, 558, 1194
21 and 1198, Plaintiff is entitled to recover damages for the nonpayment of wages of all hours worked that
22 were improperly deducted and/or not counted as a result of Defendants’ policies, liquidated damages for
23 underpayment of minimum wages, penalties, reasonable attorneys’ fees, expenses, and costs of suit.

24 148. Plaintiff requests relief as hereinafter provided.
25
26
27
28

ELEVENTH CAUSE OF ACTION
FOR FAILURE TO PAY MINIMUM WAGES
LABOR CODE §§ 204.11, 226.2, 1182.12, 1194, 1194.2, 1197,
AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE

149. Plaintiffs re-allege and incorporate by reference each of the foregoing paragraphs as though set forth in full herein.

150. Pursuant to Labor Code §1197, payment of less than the minimum wage fixed by law is unlawful. An employer violates the minimum wage statute even if the average rate for paid and unpaid hours exceeded the minimum wage.

151. Under California law, Plaintiff is entitled to at least the minimum wage for every hour worked.

152. Since Defendants are located in Unincorporated Los Angeles, the hourly rate of the minimum wage is as follows:

Effective	26+ employees	1-25 employees
7/1/23	\$16.90	\$16.90
7/1/22	\$15.96	\$15.96
7/1/21	\$15.00	\$15.00
7/1/20	\$15.00	\$14.25
1/1/19	\$14.25	\$13.25

153. Despite this, Defendant failed to pay Plaintiff the requisite minimum wage.

154. Thus, for the entirety of the time periods set forth above, Plaintiff is owed unpaid minimum wages in the amount according to proof.

155. Defendant's failure to pay the legal minimum wage to Plaintiff as alleged herein is unlawful and creates entitlement, pursuant to Labor Code §1197, to recovery by Plaintiffs in a civil action for the unpaid balance of the full amount of the unpaid wages owed, calculated as the difference between the straight time compensation paid and applicable minimum wage, including interest thereon.

156. Pursuant to Labor Code §1194, Plaintiff requests that the court award reasonable attorneys' fees and costs incurred by Plaintiff in this action.

1 157. In addition, pursuant to Labor Code §1194.2, Plaintiff is entitled to recover liquidated
2 damages in an amount equal to the minimum wages unlawfully unpaid as previously alleged, plus interest
3 thereon.

4
5 **TWELFTH CAUSE OF ACTION**
6 **FOR FAILURE TO PAY OVERTIME COMPENSATION**
7 **LABOR CODE §§510, 1194**
8 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

9 158. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
10 though set forth in full herein.

11 159. Labor Code §510 requires employers to pay their non-exempt employees one and one-half
12 times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40
13 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12
14 hours in a single day. It also requires employers to pay their non-exempt employees overtime
15 compensation for the first eight hours of work done on the seventh consecutive day of work done in any
16 work week, and double-time compensation for any work done beyond the first eight hours on the seventh
17 consecutive day of work.

18 160. At all relevant times, Defendants required Plaintiff to work more than eight hours per
19 day and/or more than 40 hours per workweek.

20 161. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime
21 compensation required by Labor Code §510, 8 Code of Regulations §11160, and Industrial Welfare
22 Commission Order No. 16-2001.

23 162. In the four years last past, Plaintiff worked multiple hours of overtime each week, all of
24 which should have been paid at 1.5 times Plaintiff's regular hourly wage rate at that time. Defendants
25 failed to pay Plaintiff the requisite overtime wages in the four years immediately preceding the filing of
26 this complaint in an amount according to proof.

27 163. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor
28 Code §510, 8 Code Regulations §11160, and Industrial Welfare Commission Order No. 16-2001.

1 164. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages
2 in the amount according to proof, above and beyond the minimum wages sought in the preceding cause
3 of action for these same hours.

4 165. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation as a
5 direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is
6 entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

7
8 **THIRTEENTH CAUSE OF ACTION**
9 **FOR FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENSES**

10 **LABOR CODE §2802**
11 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

12 166. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
13 though set forth in full herein.

14 167. Pursuant to Labor Code §450(a), "no employer...may compel or coerce any employee...to
15 patronize his or her employer, or any other person, in the purchase of any thing of value."

16 168. Pursuant to Labor Code §2802(a), "an employer shall indemnify his or her employee for
17 all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
18 his or her duties, or of his or her obedience to the directions of the employer."

19 169. Plaintiff was required by Defendants to expend Plaintiff's personal funds because of the
20 duties required by Defendants, including for using her personal cell phone for work-related purposes, as
21 alleged hereinabove.

22 170. Pursuant to Labor Code §2802(a), Defendants are legally required to reimburse Plaintiff
23 for all necessary expenditures incurred in the performance of Plaintiff's duties.

24 171. Defendants have failed and refused to reimburse Plaintiff for all necessary business
25 expenditures in an amount according to proof.

26 172. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
27 2502(a), Plaintiff is entitled to recover from Defendants the unpaid balance of all of the necessary
28 aforementioned expenditures.

1 173. As a proximate result of the aforementioned violations of Labor Code §§450(a) and
2 2502(a), Plaintiff has been damaged in an amount according to proof at the time of trial.

3 174. Pursuant to Labor Code §2802(b), Plaintiff requests that the Court award interest at the
4 same rate as judgments in civil actions, accruing from the date on which Plaintiff incurred the necessary
5 expenditure or loss.

6 175. Pursuant to Labor Code §2802(c), Plaintiff requests that the Court award Plaintiff
7 reasonable attorneys' fees and costs incurred in this action.

8
9 **FOURTEENTH CAUSE OF ACTION**
10 **FOR FAILURE TO PROVIDE MEAL AND REST BREAKS IN VIOLATION OF LABOR**
11 **CODE §§226.7, 512**
12 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

13 176. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
14 though set forth in full herein.

15 177. Labor Code §512 requires employers to provide every employee with an uninterrupted
16 meal period of not less than 30 consecutive minutes, for every period of work exceeding five hours.

17 178. Labor Code §226.7 requires an employer to provide every employee with an
18 uninterrupted rest period of not less than 10 minutes, for every period worked of four hours, or
19 substantial portion thereof.

20 179. In the four years last past, Plaintiff regularly worked in excess of 7 hours per day, and
21 was thereby entitled to take an uninterrupted 30-minute meal periods and two 10-minute rest periods
22 on each day of work.

23 180. Defendants failed and refused to provide Plaintiff with uninterrupted rest and meal
24 periods, and failed to compensate Plaintiff for missed or uninterrupted meal and rest periods, as
25 required by Labor Code §§226.7 and the applicable sections of 8 Code of Regulations §11160 and
26 Industrial Welfare Commission Order No. 16-2001.

1 181. During the Claim Period, Plaintiff was not permitted and not advised of her right to take
2 one or more of her statutory 10-minute rest periods nor her 30-minute meal breaks for days on which
3 Plaintiff worked for at least five hours, which was each day she worked.

4 182. As alleged herein, Plaintiff is not exempt from the rest break requirements of 8 Code of
5 Regulations §11160 and Industrial Welfare Commission Order No. 16-2001. Consequently, Plaintiff
6 is owed one hour of pay at her then regular hourly rate, or the requisite minimum wage, whichever is
7 greater, for each day that he was denied such rest and meal periods.

8 183. Plaintiff has been deprived of her rightfully earned compensation for meal and rest
9 breaks as a direct and proximate result of Defendants' failure and refusal to pay said compensation.

10 184. Thus, for the entirety of the time periods set forth above, Plaintiff is entitled to recover
11 such amounts in the amount according to proof, pursuant to Labor Code §226.7(b), plus interest thereon
12 and costs of suit.

13
14 **FIFTEENTH CAUSE OF ACTION**
15 **FOR FAILURE TO PROVIDE AN ACCURATE ITEMIZED WAGE STATEMENT IN**
16 **VIOLATION OF LABOR CODE §§ 226, 1174**
17 **AGAINST EMPLOYERS AND DOES 1-20, INCLUSIVE**

18 185. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
19 though set forth in full herein.

20 186. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-
21 exempt employees with itemized statements showing total hours worked, hourly wages, gross wages,
22 total deductions and net wages earned. An employer who violates these code sections is liable to its
23 employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the
24 initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay
25 period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is
26 deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement
27 at all.

1 187. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates
2 Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation
3 occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

4 188. At all relevant times, Defendants failed to provide Plaintiff with timely and accurate wage
5 and hour statements showing gross wages earned, total hours worked, all deductions made, net wages
6 earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and rates in
7 effect during each pay period and the corresponding number of hours worked at each hourly rate by
8 Plaintiff.

9 189. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

10 190. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
11 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
12 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
13 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
14 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
15 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
16 meal period, and rest period wages.

17 191. Plaintiff was paid on a bi-weekly basis, and therefore Defendants violated Labor Code
18 §226 approximately sixteen (16) times during the last year that Plaintiff worked for Defendants.
19 Consequently, Defendants are liable to Plaintiff for Plaintiff's actual damages, or penalties in the statutory
20 maximum amount of \$4,000.00, whichever is greater.

21 192. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
22 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other
23 applicable provisions, as well as attorneys' fees and costs.

1 **SIXTEENTH CAUSE OF ACTION**

2 **FOR WAITING TIME PENALTIES**

3 **LABOR CODE §§201-203**

4 **AGAINST EMPLOYERS DEFENDANTS AND DOES 1-20, INCLUSIVE**

5 193. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
6 though set forth in full herein.

7 194. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
8 other compensation due immediately upon termination or within 72 hours of resignation, as required.
9 These wages refer to, at a minimum, meal and rest period compensation that Defendants should have
10 paid, but did not pay to Plaintiff during the term of her employment and which were, at the latest, due
11 within the time restraints of Labor Code §§201-203.

12 195. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
13 203.

14 196. As a direct and proximate result of Defendants' willful failure to pay these wages,
15 Plaintiff is entitled to payment of her underpaid wages meal and rest periods as previously pleaded
16 herein, and more than \$4,018.50 in wait time penalties, calculated based on 30 days of a regular daily
17 wage of approximately \$133.95, including wages for missed meal and rest periods.

18 197. Based on Defendants' conduct as alleged herein, Defendants are liable for \$4,018.50 in
19 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
20 fees and costs.

21 **SEVENTEENTH CAUSE OF ACTION**

22 **FOR PRIVATE ATTORNEY GENERAL ACT**

23 **LABOR CODE §2699**

24 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

25 198. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 197, inclusive, as
26 though set forth in full herein.
27
28

199. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties for Defendants' violations of the California Labor Code.

200. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as previously pleaded in this Complaint.

201. On April 24, 2023, more than 65 calendar days before filing this Complaint, Plaintiff provided written notice by certified mail to the Labor and Workforce Development Agency and to Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby satisfying the requirements of Labor Code §2699.3(a). This Complaint include violations of Labor Code §§ 98.6, 201.3, 202, 203, 204, 221, 223, 226, 226.7, 227.3, 246, 510, 512, 551, 552, 1102.5, 1102.6, 1030, 2802, each of which is enumerated among the serious violations set forth in Labor Code §2699.5.

202. Here, Plaintiff's civil action alleges violations of provisions listed in Labor Code §2699.5 and violations of provisions other than those listed in Labor Code §2699.5. As such, Labor Code §2699.3(a) and §2699.3(c) apply to this action.

203. As of the filing of this Complaint, Plaintiff has not received any response from the Labor and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently, Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

204. Further, as of the filing of this Complaint, Plaintiff has not received from Defendants written notice by certified mail that the alleged violations have been cured, including a description of the actions taken. As such, Plaintiffs have complied with Labor Code §2699.3(c) and have been given authorization therefrom to commence a civil action which includes a cause of action pursuant to Labor Code §2699.

PENALTIES

205. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) (or any of its departments, divisions, commissions, board agency or employees), such civil penalties may, as an alternative, be recovered through a civil action brought by an aggrieved

1 employee on behalf of himself or herself and other current or former employees) and Labor Code
2 §2699(f) (which establishes a civil penalty for violations of all Labor Code provisions except those which
3 a civil penalty is specifically provided), the aggrieved employees seek recover of all applicable civil
4 penalties, as follows:

5 a) As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor
6 Code except for those for which a civil penalty is specifically provided, in the amount of one hundred
7 dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two hundred
8 dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, including
9 those violations notated in Paragraph 1-38.

10 b) As applicable, civil penalties under Labor Code §558 (in addition to and entirely
11 independent and apart from any other penalty provided for in the Labor Code), for violations of Labor
12 Code §§1-556, in the amount of \$50 for each underpaid aggrieved employee for each pay period the
13 aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid wages, and
14 \$100 for each subsequent violation for each underpaid employee for each pay period for which the
15 employee was underpaid; and also an additional amount sufficient to recover under paid wages as
16 penalties, with all wages recovered pursuant to Labor Code §557 paid to the aggrieved employees.
17 Plaintiff is entitled to recover approximately \$2,550 for civil penalties, including for violations under
18 Labor Code §§ 226.7, 512, 1030. Plaintiff is also able to collect an additional penalty to be distributed
19 to the other aggrieved employees in an amount according to proof;

20 c) As applicable, civil penalties under Labor Code §225.5 (in addition to and entirely
21 independent and apart from any other penalty provided in the Labor Code) for violations of Labor Code
22 § 221 and 223, in the amount of \$100 for each underpaid aggrieved employee for each pay period the
23 aggrieved employee was underpaid, and \$200 for each subsequent violation or any willful or intentional
24 violation, for each underpaid aggrieved employees regardless of whether the initial violation was
25 intentionally committed, in addition to 25 percent of the amount unlawfully withheld;

26 d) As applicable, civil penalties under Labor Code §210 (in addition to and entirely
27 independent and apart from any other penalty provided in the Labor Code), for each employee who
28 is/was not paid wages in accordance with Labor Code §§201.3, 204, 204b, 204.1, 204.2, 205, 205.5 and

1 1197.5, in the amount of a civil penalty of \$100 for each aggrieved employee per pay period for each
2 initial violation, and \$200 for each aggrieved employee per pay period for each subsequent violation,
3 plus 25 percent of the amount unlawfully withheld;

4 e) As applicable, civil penalties under Labor Code §2802 (in addition to and entirely
5 independent and apart from any other penalty provided in the Labor Code), for each violation of Labor
6 Code §2802, in the amount of \$100 for each aggrieved employee per pay period for each violation; and
7 \$200 for each aggrieved employee per pay period for each subsequent violation;

8 f) As applicable, civil penalties under Labor Code §226.3 (in addition to and entirely
9 independent and apart from any other civil penalty provided in the Labor Code), for each violation of
10 Labor Code §226(a), in the amount of \$250 for each aggrieved employee per pay period for each
11 violation and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

12 g) As applicable, civil penalties under Labor Code §§203 and/or 256 (in addition to and
13 entirely independent and apart from any other penalty provided in the Labor Code), for any aggrieved
14 employee who was discharged or quit, and was not paid all earned wages at termination in accordance
15 with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of pay,
16 at the same rate, for each day that he or she was paid late, until payment was/is made, up to a maximum
17 of thirty (30) days; and

18 h) As applicable, any and all additional applicable civil penalties and sums as provided by
19 the Labor Code and/or other relevant statutes.

20 206. In addition, Plaintiff seeks and is entitled to seventy-five percent (75%) of all penalties
21 obtained under Labor Code §2699 to be allocated to the LWDA, for education of employers and
22 employees about their rights and responsibilities under the Labor Code, and twenty-five percent (25%)
23 to the aggrieved employees.

24 207. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
25 recovery of pre-judgment interest on all amounts recovered herein.

26 208. As a direct and proximate result of Defendants' California Labor Code violations as set
27 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
28 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each

1 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
2 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
3 provide for a penalty, §§203, 210, 225.5, 226.3, 226.7, 510, 512, 558, and 1030.

4 209. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
5 recovery of pre-judgment interest on all amounts recovered herein.

6 210. Further, Plaintiff is entitled; to recover reasonable attorneys' fees and costs pursuant to
7 Labor Code §§2699(g)(1) and any other applicable statute.

8
9 **EIGHTEENTH CAUSE OF ACTION**

10 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**

11 **LABOR CODE §§1198.5, 226, ET SEQ.**

12 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

13 211. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
14 though set forth in full herein.

15 212. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request
16 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
17 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

18 213. Labor Code §226(f) requires an employer, within thirty (30) days of a written request
19 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
20 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

21 214. On April 21, 2023, Plaintiff made a written request to inspect or receive a copy of
22 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

23 215. Defendants failed and refused to permit Plaintiff's inspection of Plaintiff's personnel and
24 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to Plaintiff within
25 the time required by Labor Code §§ 226 and 1198.5, or ever.

26 216. As a result of Defendants' failure and refusal to comply with Labor Code §§226 and
27 1198.5, Plaintiff is entitled to recover from Defendants a civil penalty of \$750.00 for each violation,
28 totaling \$1,500.00.

1 **NINETEENTH CAUSE OF ACTION**

2 **FOR UNFAIR COMPETITION**

3 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**

4 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

5 217. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
6 though set forth in full herein.

7 218. The court has jurisdiction over this action pursuant to Business and Professions Code
8 section 17200 et seq., specifically Business and Professions Code section 17203, which provides that
9 any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in
10 any court of competent jurisdiction; and the court may make such orders or judgments, including the
11 appointment of a receiver, as may be necessary to prevent the use or employment by any person of any
12 practice which constitutes unfair competition, or as may be necessary to restore to any person in interest
13 any money or property, real or personal, which may have been acquired by means of such unfair
14 competition; and Business and Professions Code Section 17204, which provides for actions for any
15 relief pursuant to the Unfair Competition Law to be prosecuted exclusively in a court of competent
16 jurisdiction by any board, officer, person, corporation or association or by any person acting for the
17 interests of itself, or its members and that has suffered an injury in fact and lost money or property as
18 a result of Defendants' conduct.

19 219. Defendants' violations of 8 Code of Regulations §11160, Industrial Welfare Commission
20 Order No. 16-2001, Labor Code §§201-203, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198.5,
21 2699, and other applicable provisions, as alleged herein, including Defendants' failure and refusal to pay
22 minimum wages, overtime wages, Defendants' failure to provide meal and rest breaks, Defendants'
23 failure to provide timely and accurate wage and hour statements, Defendants' failure to pay compensation
24 due in a timely manner upon termination or resignation, and Defendants' failure to maintain complete
25 and accurate payroll records for the Plaintiff, constitute unfair business practices in violation of Business
26 & Professions Code §§17200, et seq.

220. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

221. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment against Defendants and each of them, in an amount according to proof but estimated to be no less than \$5,000,000 as follows:

222. For a money judgment representing compensatory damages including lost wages, earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money, together with interest on these amounts; for other special damages; and for general damages for mental pain and anguish and emotional distress and loss of earning capacity;

223. For payment failure to pay wages due pursuant to Labor Code §§201, 221, 226.7, 227.3, 512, 1030, and Industrial Welfare Commission Order No. 16-2001, and 8 Code of Regulations § 11160, in the amount according to proof;

224. For statutory penalties and damages pursuant to Labor Code §558 in the amount of no less than \$2,550.00;

225. For payment of unpaid minimum wage compensation pursuant to Labor Code §§1182.12, 1194, 1194.2, 1197, and Industrial Welfare Commission Order No. 16-2001, in the amount according to proof;

226. For liquidated damages pursuant to Labor Code §1194.2 in the amount according to proof;

227. For payment of unpaid overtime compensation pursuant to Labor Code §§201, 510, 1194, Industrial Welfare Commission Order No. 16-2001, and 8 Code of Regulations §11160, in the amount according to proof;

- 1 228. For payment of missed meal and rest period compensation pursuant to Labor Code
2 §§226.7, 512 in the amount according to proof;
- 3 229. For damages pursuant to Labor Code §221 in the amount according to proof;
- 4 230. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;
- 5 231. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no
6 less than \$25,250.00;
- 7 232. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
8 than \$4,018.50;
- 9 233. For civil penalties pursuant to Labor Code §98.6 in the amount of no less than \$10,000.00;
- 10 234. For civil penalties pursuant to Labor Code §1102.5 in the amount of no less than
11 \$10,000.00;
- 12 235. For civil penalties pursuant to Labor Code §§ 98.6 and 1102.5 for retaliatory conduct,
13 totaling \$20,000.00;
- 14 236. For statutory penalties pursuant to Labor Code §§ 226(f), 1198.5 in the amount of no less
15 than \$750.00 each, totaling \$1,500;
- 16 237. For civil penalties pursuant to Labor Code §2699(f), in addition to and entirely
17 independent and apart from other penalties in the Labor Code and for Labor Code violations without a
18 specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each
19 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;
- 20 238. For civil penalties under Labor Code §210, in addition to and entirely independent and
21 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
22 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
23 each subsequent violation, plus 25 percent of the amount unlawfully withheld;
- 24 239. For civil penalties under Labor Code §2802, in addition to and entirely independent and
25 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
26 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
27 each subsequent violation;
- 28

1 240. For civil penalties under Labor Code §§ 210 and 225.5, in addition to and entirely
2 independent and apart from any other penalty provided in the Labor Code, for each violation of Labor
3 Code §§204, 221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
4 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation or for each
5 willful or intentional violation, in addition to 25 percent of the amount unlawfully withheld;

6 241. For civil penalties under Labor Code §226.3, in addition to and entirely independent and
7 apart from any other penalty provided in the Labor Code, in the amount of \$250 for each aggrieved
8 employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for
9 each subsequent violation;

10 242. For civil penalties under Labor Code §§203 and/or 256, in addition to and entirely
11 independent and apart from any other penalty provided in the Labor Code, in the amount of one day of
12 pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination,
13 until payment was/is made, up to a maximum of thirty (30) days;

14 243. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
15 Labor Code §1194(a), and/or Civil Code §3287;

16 244. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
17 any other applicable statute; and

18 245. For prejudgment interest on each of the foregoing at the legal rate from the date the
19 obligation became due through the date of judgment in this matter.

20 **WHEREFORE**, Plaintiff further seeks judgment against Defendants, and each of them, in an
21 amount according to proof, as follows:

22 246. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
23 condemning Defendants' discriminatory practices;

24 247. For injunctive relief barring Defendants' discriminatory employment policies and
25 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

26 248. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
27 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

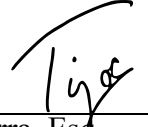
1 249. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
2 Code and/or any other basis;

3 250. For post-judgment interest; and

4 251. For any other relief that is just and proper.

5
6 DATED: October 5, 2023

GUERRA & CASILLAS LLP

7
8 By: 

Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorney for Plaintiff
MARCO A. BUELNA AGUILAR

9
10
11 **JURY TRIAL DEMANDED**

12 Plaintiff demands trial of all issues by jury.

13
14 DATED: October 5, 2023

GUERRA & CASILLAS LLP

15
16 By: 

Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorney for Plaintiff
MARCO A. BUELNA AGUILAR