

Ophir J. Bitton (SBN: 204310)
Lei Wei (SBN: 337624)
BITTON & ASSOCIATES
7220 Melrose Avenue, 2nd Floor
Los Angeles, CA 90046
Tel. No.: (310) 356-1006
Fax No.: (818) 524-1224

Attorneys for Plaintiff,
Jessie Jacob

Electronically FILED by
Superior Court of California,
County of Los Angeles
7/05/2023 4:15 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By N. Alvarez, Deputy Clerk

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

JESSIE JACOB, an individual,

Plaintiff,

v.

YOUTHFILL MD XIX, LLC, a California
Limited Liability Company; DAVID D.
HOPP, an individual; and DOES 1
THROUGH 20, inclusive,

Defendants.

Case No.:

23STCV15624

Unlimited Jurisdiction

COMPLAINT

- 1. CONSTRUCTIVE WRONGFUL
TERMINATION AND RETALIATION
IN VIOLATION OF PUBLIC
POLICY;**
- 2. SEXUAL HARASSMENT – HOSTILE
WORKING ENVIRONMENT;**
- 3. FAILURE TO TAKE REASONABLE
STEPS TO PREVENT HARASSMENT
AND RETALIATION;**
- 4. NONPAYMENT OF MINIMUM
WAGES;**
- 5. NONPAYMENT OF REGULAR
WAGES;**
- 6. NONPAYMENT OF OVERTIME
COMPENSATION;**
- 7. UNTIMELY PAYMENT OF WAGES;**
- 8. FAILURE TO PROVIDE MEAL
BREAKS;**
- 9. FAILURE TO PROVIDE REST
PERIODS;**
- 10. FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS [California
Labor Code §226(a)];**
- 11. FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS [California
Labor Code §226.3];**
- 12. UNLAWFUL WITHHOLDING OF**

Complaint

Beatriz Castillo v. Spanglish Kitchen, Inc., et al.

Page 1 of 22

are ascertained, PLAINTIFF will seek leave of court to amend this Complaint to insert same. PLAINTIFF is informed and believes and thereon alleges that each defendant named as a DOE is responsible for each and every act and obligation hereinafter set forth.

5. PLAINTIFF is informed and believes and thereon alleges that each defendant named in this Complaint now is, and was at all times herein mentioned, the agent, servant, employee, representative, alter ego, members of and/or engaged in a joint venture, partnership and common enterprise of the other defendants herein, and was at all such times acting within the course and scope of said agency and employment and with the consent and permission of each of the other co-defendants, and each of the defendants herein ratified each of the acts of each of the other co-defendants, and each of them.

JURISDICTION AND VENUE

6. Jurisdiction is proper because, upon information and belief, plaintiff worked for defendants in the state of California, and all actions relevant to this Complaint occurred in the State of California.

7. Venue is proper in Los Angeles County because, upon information and belief, at least some of the transactions that are the subject matter of this Complaint occurred therein and/or each defendant is found, maintains office, transacts business, and/or has an agent therein.

FACTS COMMON TO ALL CAUSES OF ACTION

8. Starting around January 2022, PLAINTIFF was employed as a staff worker at YOUTHFILL.

9. YOUTHFILL provides medical services including MedSpa, hiring 30 employees.

10. HOPP is named as the Manager of YOUTHFILL.

11. Through bi-weekly checks, PLAINTIFF was paid \$20/hour, which was her most recent hourly rate.

12. While she worked overtime, those hours would be modified by YOUTHFILL without her authorization.

13. On top of her base wage, PLAINTIFF was promised \$12.50 commission for every \$500 sales at her first job interview. But after she got hired, she only received \$6.25 for the same

1 amount of sales instead. At times YOUTHFILL discounted PLAINTIFF's non-discretionary
2 commissions without her consent, claiming it was her fault.

3 14. YOUTHFILL also promised PLAINTIFF 10% commission on any skin care
4 product sales, but she never received that commission.

5 15. Moreover, PLAINTIFF did not receive any paystubs showing her pay statements
6 until around August 2022.

7 16. With a work schedule from Monday to Friday, PLAINTIFF typically did not
8 receive compliant meal and rest breaks, because she could not leave the office, always busy helping
9 patients, and YOUTHFILL instructed employees to clock out at break time but continue working.

10 17. One day, PLAINTIFF drew a cartoon figure with big eyes shaped like hearts inside
11 hearts on a blackboard. Her supervisor saw the figure and asked her very loudly "well don't you
12 like little girls?" saying she was a pedophile familiar with a sign belongs to pedophile groups on
13 social media. PLAINTIFF felt extremely offended and humiliated for being insulted like that in an
14 open workplace.

15 18. Since PLAINTIFF quit YOUTHFILL due to the abusive working environment on
16 or around February 25, 2023, she still has not received her commission for the past four months.

17 19. When PLAINTIFF contacting Employment Development Department ("EDD"),
18 she was told that YOUTHFILL did not report her wages to the IRS for the entire time she worked
19 there, causing her to miss out on important benefits such as unemployment.

20 20. On April 19, 2023, PLAINTIFF complied with *Labor Code* §2699.3(a) in that
21 PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development
22 Agency ("LWDA") and DEFENDANTS of the specific provisions of the labor Code alleged to
23 have been violated, including the facts and theories to support the alleged violation. As of the date
24 of filing this complaint, (more than 60 calendar days after PLAINTIFF's LWDA letters were
25 mailed via certified mail), PLAINTIFF has not received any notification that the LWDA intended
26 to investigate the alleged violations.

27 21. On April 19, 2023, PLAINTIFF filed a complaint with the Department of Fair
28 Employment and Housing ("DFEH") and obtained a Right to Sue letter on the same day.

1 PLAINTIFF herein with this Complaint serves DEFENDANTS with the DFEH complaint and
2 Right to Sue notices.

3 **FIRST CAUSE OF ACTION**

4 **CONSTRUCTIVE WRONGFUL TERMINATION**
5 **AND RETALIATION IN VIOLATION OF PUBLIC POLICY**
6 **(PLAINTIFF against YOUTHFILL and DOE 1 through 10)**

7 22. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
8 Complaint by reference as though fully set forth herein.

9 23. PLAINTIFF was employed as an employee by DEFENDANTS.

10 24. PLAINTIFF was subjected to working conditions that violated public policy and
11 the California Fair Employment and Housing Act (“FEHA”), in that DEFENDANTS conducted
12 sexual harassment and created hostile working environment against PLAINTIFF. These policies
13 are also enumerated in *Labor Code* §132(a), FEHA, the California and United States Constitutions,
14 among other laws and regulations.

15 25. DEFENDANTS intentionally created and/or knowingly permitted these working
16 conditions.

17 26. These working conditions were so intolerable that a reasonable person in
18 PLAINTIFF’s position would have had no reasonable alternative except to resign.

19 27. PLAINTIFF resigned because of these working conditions, and the employment
20 relationship was actually severed involuntarily by DEFENDANTS’ acts, against PLAINTIFF’s
21 will.

22 28. PLAINTIFF’s protected status described above were substantial motivating factors
23 for DEFENDANTS’ adverse employment actions taken against PLAINTIFF.

24 29. As a substantial result of DEFENDANTS’ intentional acts in violation of public
25 policy and FEHA, PLAINTIFF was harmed. Specifically, PLAINTIFF lost income, and endured
26 emotional and mental damages, among other related damages. The exact amount of damage to
27 PLAINTIFF shall be proved at trial.

1 30. PLAINTIFF believes that DEFENDANTS' conducts described above were done
2 with malice, fraud and oppression and with conscious disregard for PLAINTIFF's rights and with
3 the intent, design and purpose to cause PLAINTIFF harm. As such, PLAINTIFF is also entitled to
4 punitive and exemplary damages.

5 31. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs,
6 among other damages against DEFENDANTS.

7 **SECOND CAUSE OF ACTION**

8 **SEXUAL HARASSMENT – HOSTILE WORKING ENVIRONMENT**

9 **(PLAINTIFF against YOUTHFILL and DOE 1 through 10)**

10 32. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
11 Complaint by reference as though fully set forth herein.

12 33. PLAINTIFF was, at all times relevant, an employee of DEFENDANTS.

13 34. PLAINTIFF was subjected to sexually harassing conduct because PLAINTIFF was
14 a woman.

15 35. The harassing conduct was severe and/or pervasive.

16 36. A reasonable woman in PLAINTIFF's circumstances would have considered the
17 work environment to be hostile, intimidating, offensive, oppressive, and/or abusive.

18 37. PLAINTIFF considered the work environment to be hostile, intimidating,
19 offensive, oppressive, and/or abusive.

20 38. A supervisor engaged in the conduct, and DEFENDANTS' supervisors and/or
21 agents knew or should have known the conduct and failed to take immediate and appropriated
22 corrective action.

23 39. As a result of the supervisor's intentional acts and DEFENDANTS' failure to
24 properly act to protect PLAINTIFF, in violation of public policy, PLAINTIFF was harmed.
25 Specifically, PLAINTIFF lost income, and endured emotional and mental damages, among other
26 related damages. The exact amount of damage to PLAINTIFF shall be proved at trial.

27 40. PLAINTIFF believes that DEFENDANTS and its supervisory employee, the
28 supervisor's conducts described above were done with malice, fraud and oppression and with

conscious disregard for PLAINTIFF's rights and with the intent, design and purpose to cause PLAINTIFF harm. As such, PLAINTIFF is also entitled to punitive and exemplary damages.

41. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs, among other damages against all DEFENDANTS.

THIRD CAUSE OF ACTION

FAILURE TO TAKE REASONABLE STEPS

TO PREVENT HARASSMENT AND RETALIATION

IN VIOLATION OF GOVERNMENT CODE §12940 (k)

(PLAINTIFF against YOUTHFILL and DOE 1 through 10)

42. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

43. PLAINTIFF was employed as an employee by DEFENDANTS.

44. PLAINTIFF was subject to harassment and retaliation in violation of public policy in the course of employment.

45. DEFENDANTS failed to take all reasonable steps to prevent harassment and retaliation. DEFENDANTS ignored PLAINTIFF's complaints about harassment and retaliation and as a result by not doing anything, had condoned, ratified and participated in the acts causing PLAINTIFF harm.

46. As a substantial result of DEFENDANTS' failure to take reasonable steps to prevent harassment and retaliation, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

47. In addition, PLAINTIFF is entitled to interest, penalties, attorney's fees and costs, among other damages against DEFENDANTS.

FOURTH CAUSE OF ACTION

NONPAYMENT OF MINIMUM WAGES

(PLAINTIFF against all DEFENDANTS)

48. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

49. *Labor Code* § 1194.2(a), in pertinent part, states, “[i]n any action... to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

50. PLAINTIFF performed work for DEFENDANTS.

51. PLAINTIFF was paid less than the minimum wage by DEFENDANTS for hours worked. Thus, PLAINTIFF was deprived of PLAINTIFF's regular rate of pay and even minimum wage.

52. PLAINTIFF was at all times relevant a non-exempt hourly employee of DEFENDANTS.

53. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived of regular time wages and liquidated damages in amounts to be proven at trial, and PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties, attorney's fees and costs.

FIFTH CAUSE OF ACTION

NONPAYMENT OF WAGES

(PLAINTIFF against all DEFENDANTS)

54. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

55. PLAINTIFF performed work for DEFENDANTS.

56. DEFENDANTS owes PLAINTIFF wages at the regular rate for uncompensated work time under the terms of the employment.

57. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived of wages in amounts to be proven at trial, and PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS plus interest, penalties and attorney's fees and costs.

//

//

//

SIXTH CAUSE OF ACTION

NONPAYMENT OF OVERTIME COMPENSATION

(PLAINTIFF against all DEFENDANTS)

58. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

59. *Labor Code* §510(a) provides that 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. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

60. PLAINTIFF performed work for DEFENDANTS that PLAINTIFF worked overtime hours for more than eight (8) hours in a day and/or forty (40) hours in a week.

61. DEFENDANTS knew or should have known that PLAINTIFF had worked overtime hours.

62. PLAINTIFF was at all times relevant a non-exempt hourly employee of DEFENDANTS.

63. PLAINTIFF was not paid for the overtime hours worked.

64. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived of wages and overtime in amounts to be proven at trial, and PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties and attorney's fees and costs.

SEVENTH CAUSE OF ACTION

UNTIMELY PAYMENT OF WAGES

(PLAINTIFF against all DEFENDANTS)

65. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

1 66. *Labor Code* §210(a) provides that any employer who fails to timely pay the wages
2 of each employee shall be subject to a penalty in the amount of one hundred dollars (\$100) per
3 employee per violation in an initial citation, and two hundred dollars per employee per employee
4 for each violation in a subsequent citation, or any willful and intentional violation, plus 25 percent
5 of the amount unlawfully withheld.

6 67. DEFENDANTS failed to timely pay PLAINTIFF all minimum wages, regular
7 wages, and overtime wages that are due and payable for each pay period.

8 68. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
9 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties.

10 **EIGHTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE MEAL BREAKS**

12 **(PLAINTIFF against all DEFENDANTS)**

13 69. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
14 Complaint by reference as though fully set forth herein.

15 70. *Labor Code* §512(a) provides that employees who work more than five hours in a
16 day are entitled to a meal period of at least 30 minutes; and a second meal period of at least 30
17 minutes if they work for more than 10 hours in a day.

18 71. *Labor Code* §512 further provides that "An employer may not employ an employee
19 for a work period of more than 10 hours per day without providing the employee with a second
20 meal period of not less than 30 minutes, except that if the total hours worked is no more than 12
21 hours, the second meal period may be waived by mutual consent of the employer and the employee
22 only if the first meal period was not waived."

23 72. *Labor Code* §516 provides that the Industrial Welfare Commission may adopt or
24 amend working condition orders with respect to meal periods for any workers in California
25 consistent with the health and welfare of those workers.

26 73. Section 11(C) of the *IWC Wage Order(s)* provides that "Unless the employee is
27 relieved of all duty during a 30-minute meal period, the meal period shall be considered an "on
28 duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only

1 when the nature of the work prevents an employee from being relieved of all duty and when by
2 written agreement between the parties an on-the-job paid meal period is agreed to. The written
3 agreement shall state that the employee may, in writing, revoke the agreement at any time.”

4 74. Section 11(D) of the *IWC Wage Order(s)* provides that “If an employer fails to
5 provide an employee a meal period in accordance with the applicable provisions of this order, the
6 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
7 compensation for each workday that the meal period is not provided.”

8 75. Furthermore, an employer may not undermine a formal policy of providing meal
9 breaks by pressuring employees to perform their duties in ways that omit breaks. The wage orders
10 and governing statute do not countenance an employer's exerting coercion against the taking of,
11 creating incentives to forego, or otherwise encouraging the skipping of legally protected breaks.

12 76. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
13 non-exempt position.

14 77. PLAINTIFF’s employment with DEFENDANTS entitled PLAINTIFF to meal
15 breaks.

16 78. PLAINTIFF was at times not given meal breaks and at other times meal breaks
17 which were not compliant with labor laws.

18 79. PLAINTIFF had been harmed and DEFENDANTS are liable to PLAINTIFF for
19 one (1) hour of additional premium pay at the regular rate of compensation for each day in which
20 the proper meal was not provided. The exact amount of missed meal break wages owed to
21 PLAINTIFF shall be proved at trial, and PLAINTIFF is entitled to recovery of such amounts from
22 DEFENDANTS, plus interest, penalties and attorney’s fees and costs.

23 **NINTH CAUSE OF ACTION**

24 **FAILURE TO PROVIDE REST PERIODS**

25 **(PLAINTIFF against all DEFENDANTS)**

26 80. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
27 Complaint by reference as though fully set forth herein.
28

1 81. State law requires employers to authorize paid rest periods of a specified minimum
2 duration of 10 minutes for every four hours an employee works. (See, e.g., *8 California Code*
3 *Regulations* §§11010-11150 ¶2 and §11160 ¶1; Wage order No. 5)

4 82. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
5 non-exempt position.

6 83. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to rest
7 breaks. PLAINTIFF's shifts that were over four (4) hours therefore were entitled to a rest period
8 of not less than ten (10) minutes prior to exceeding four (4) hours of employment for each four (4)
9 hours of work.

10 84. Throughout PLAINTIFF's employment, DEFENDANTS typically did not provide
11 PLAINTIFF with rest breaks and/or compliant breaks for every four hours of work. Further, at
12 times PLAINTIFF worked more than 10 hours in a shift; however, PLAINTIFF was not given or
13 advised that PLAINTIFF may take a third rest break.

14 85. An employer who fails to provide rest periods as required by an applicable Wage
15 Order must pay the employee one (1) additional hour of pay at the employee's regular rate of pay
16 for each workday that a rest period was not provided. The exact amount of missed rest break wages
17 owed to PLAINTIFF shall be proved at trial, and PLAINTIFF is entitled to recovery of such
18 amounts from DEFENDANTS, plus interest, penalties and attorney's fees and costs.

19 **TENTH CAUSE OF ACTION**

20 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

21 **IN VIOLATION OF LABOR CODE § § 226(a)(e)**

22 **(PLAINTIFF against all DEFENDANTS)**

23 86. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
24 Complaint by reference as though fully set forth herein.

25 87. *Labor Code* §226(a) requires employers to provide accurate itemized wage
26 statements for each wage payment. *Labor Code* §226(e) provides for a recovery of the greater of
27 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
28

one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) (per employee).

88. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage statements, willfully or intentionally. DEFENDANTS also failed to account for accurate withholdings, hours, wage rates, overtime, meal and rest premiums, and sick leaves, among other things.

89. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties promulgated under *Labor Code* §§226.

90. PLAINTIFF is also entitled to injunctive relief to ensure compliance with the aforementioned *Labor Code* provision.

ELEVENTH CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

IN VIOLATION OF LABOR CODE § 226.3

(PLAINTIFF against all DEFENDANTS)

91. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

92. *Labor Code* §§226 and 226.3 provides for civil penalties against anyone who violates *Labor Code* §226. *Labor Code* §226(a) requires employers to provide accurate itemized wage statements for each wage payment. Specifically, *Labor Code* §226.3 provides a penalty of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage statement in compliance with *Labor Code* §226.

93. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage statements, willfully or intentionally. DEFENDANTS also failed to account for accurate withholdings, hours, wage rates, overtime, meal and rest premiums, and sick leaves, among other things.

1 94. As a result of DEFENDANTS’ aforementioned unlawful act, PLAINTIFF suffered
2 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties
3 promulgated under *Labor Code* §§226 and 226.3.

4 **TWELFTH CAUSE OF ACTION**

5 **UNLAWFUL WITHHOLDING OF WAGES**

6 **(PLAINTIFF against all DEFENDANTS)**

7 95. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
8 Complaint by reference as though fully set forth herein.

9 96. *Labor Code* §216 provides that it is a misdemeanor for an employer to “willfully
10 refuse to pay wages due and payable after demand has been made” or “falsely deny the amount or
11 validity thereof.”

12 97. *Labor Code* §225.5 provides a penalty of \$100 for an initial violation and \$200 for
13 any subsequent violation of §216 plus 25% of the withheld amount.

14 98. Upon termination by DEFENDANTS, PLAINTIFF was entitled by law to receive
15 all of PLAINTIFF’s wages and paycheck(s) immediately. DEFENDANTS also unlawfully
16 withheld the balance of earned wages, overtime, missed meal and rest break wages. Moreover,
17 these wages were demanded thereafter.

18 99. As a result of DEFENDANTS’ aforementioned unlawful acts, PLAINTIFF
19 suffered damage. DEFENDANTS are subject to the penalty under *Labor Code* §225.5. The exact
20 amount of penalties will be proved at trial, and PLAINTIFF is entitled to such penalties plus
21 interest as required by law in addition to restitution of all wages earned but not paid.

22 **THIRTEENTH CAUSE OF ACTION**

23 **WAITING TIME PENALTIES**

24 **(PLAINTIFF against all DEFENDANTS)**

25 100. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
26 Complaint by reference as though fully set forth herein.

27 101. *Labor Code* §203 provides that “if an employer willfully fails to pay, without
28 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages

of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

102. PLAINTIFF’s employment with DEFENDANTS ended.

103. DEFENDANTS failed to pay PLAINTIFF all wages when due since PLAINTIFF’s termination until the date of filing this Complaint.

104. DEFENDANTS willfully failed to pay PLAINTIFF final wages in full.

105. As a result of DEFENDANTS’ aforementioned unlawful act, PLAINTIFF suffered damage. PLAINTIFF is entitled to recover from DEFENDANTS the statutory penalty wages for each day they were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum pursuant to *Labor Code* sections 203, plus interest and attorney’s fees in the amount to be proven at trial.

FOURTEENTH CAUSE OF ACTION

CALIFORNIA PRIVATE ATTORNEY GENERAL ACT

LABOR CODE § 2698

(PLAINTIFF against all DEFENDANTS)

106. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

107. PLAINTIFF and the other non-exempt employees are “aggrieved employees” as defined by *Labor Code* §2699(c) in that they are all current or former employees of DEFENDANTS, and one or more of the causes of action in this complaint was committed against PLAINTIFF and the aggrieved employees.

108. PLAINTIFF is a proper representative to bring a civil action on behalf of PLAINTIFF and other current and former employees of DEFENDANTS pursuant to the procedures specified in *Labor Code* §2699.3.

109. As such, PLAINTIFF and the aggrieved employees are entitled to civil penalties pursuant to *Labor Code* §558 and §2699(a), (f) and (g), cost, expenses, and attorneys’ fees for violation of *Labor Code* Sections listed in this complaint.

1 **FIFTEENTH CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(PLAINTIFF against all DEFENDANTS)**

4 110. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
5 Complaint by reference as though fully set forth herein.

6 111. DEFENDANTS owe, and at all times relevant owed, a duty to their employees to
7 provide a safe, non-retaliatory and harassment-free work environment, to make sure that its
8 supervisors take action against employees practicing workplace retaliation, and harassment, to
9 make sure supervisors and managers look after the safety of employees during their watch, to pay
10 employees proper wages when due, and to provide them with proper wage statements.

11 112. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

12 113. DEFENDANTS' breach was and is the actual and proximate cause of
13 PLAINTIFF's harm.

14 114. As a substantial result of DEFENDANTS' negligent acts, PLAINTIFF was harmed.
15 The exact amount of damage to PLAINTIFF shall be proved at trial.

16 **SIXTEENTH CAUSE OF ACTION**

17 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

18 **(PLAINTIFF against all DEFENDANTS)**

19 115. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
20 Complaint by reference as though fully set forth herein.

21 116. DEFENDANTS owe, and at all times relevant owed, a duty to their employees to
22 provide a safe, non-retaliatory and harassment-free work environment, to make sure that its
23 supervisors take action against employees practicing workplace retaliation, and harassment, to
24 make sure supervisors and managers look after the safety of employees during their watch, to pay
25 employees proper wages when due, and to provide them with proper wage statements.

26 117. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

27 118. DEFENDANTS' breach was and is the actual and proximate cause of
28 PLAINTIFF's harm.

1 119. As a result of this negligence, PLAINTIFF suffered and continues to suffer serious
2 emotional distress in the form of suffering, anguish, fright, horror, nervousness, grief, anxiety,
3 worry, shock, humiliation, shame, embarrassment, and depression. This was a foreseeable result
4 of DEFENDANTS' negligence.

5 **SEVENTEENTH CAUSE OF ACTION**

6 **NEGLIGENT HIRING, SUPERVISION, AND RETENTION**

7 **(PLAINTIFF against all DEFENDANTS)**

8 120. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
9 Complaint by reference as though fully set forth herein.

10 121. DEFENDANTS hired PLAINTIFF's supervisor.

11 122. PLAINTIFF's supervisor became unfit and incompetent to perform the work for
12 which PLAINTIFF's supervisor was hired.

13 123. DEFENDANTS knew or should have known of PLAINTIFF's supervisor became
14 unfit and incompetent to perform the work, and PLAINTIFF's supervisor created a particular risk
15 to others.

16 124. PLAINTIFF's supervisor's unfitness and incompetence harmed PLAINTIFF.

17 125. DEFENDANTS' negligence in hiring, supervising and retaining of PLAINTIFF's
18 supervisor was a substantial factor in causing PLAINTIFF's harm. The exact amount of damage
19 to PLAINTIFF shall be proved at trial.

20 **EIGHTEENTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE EMPLOYMENT DOCUMENTS**

22 **(PLAINTIFF against all DEFENDANTS)**

23 126. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
24 Complaint by reference as though fully set forth herein.

25 127. *Labor Code* §226(b) states that "(b) An employer that is required by this code or
26 any regulation adopted pursuant to this code to keep the information required by subdivision (a)
27 shall afford current and former employees the right to inspect or receive a copy of records
28 pertaining to their employment, upon reasonable request to the employer. The employer may take

1 reasonable steps to ensure the identity of a current or former employee. If the employer provides
2 copies of the records, the actual cost of reproduction may be charged to the current or former
3 employee.”

4 128. *Labor Code* §432 provides that “If an employee or applicant signs any instrument
5 relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon
6 request.”

7 129. *Labor Code* §1198.5 provides that “The employer shall make the contents of those
8 personnel records available for inspection to the current or former employee, or his or her
9 representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days
10 from the date the employer receives a written request, unless the current or former employee, or
11 his or her representative, and the employer agree in writing to a date beyond 30 calendar days to
12 inspect the records, and the agreed-upon date does not exceed 35 calendar days from the
13 employer’s receipt of the written request. Upon a written request from a current or former
14 employee, or his or her representative, the employer shall also provide a copy of the personnel
15 records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days
16 from the date the employer receives the request, unless the current or former employee, or his or
17 her representative, and the employer agree in writing to a date beyond 30 calendar days to produce
18 a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the
19 employer’s receipt of the written request.”

20 130. On April 19, 2023, PLAINTIFF requested DEFENDANTS to produce
21 PLAINTIFF’s personnel file, all W2 information, all wage related documents, and all signed
22 documents.

23 131. DEFENDANTS failed to provide PLAINTIFF with complete employment records,
24 among other things.

25 132. As a result of DEFENDANTS’ aforementioned unlawful act, PLAINTIFF suffered
26 damage.

27 133. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and
28 penalties promulgated under *Labor Code*.

134. PLAINTIFF is also entitled to injunctive relief to ensure compliance with the
aforementioned *Labor Code* provision.

NINETEENTH CAUSE OF ACTION

UNFAIR BUSINESS PRACTICES

IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200 ET. SEQ.

(PLAINTIFF against all DEFENDANTS)

135. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

136. DEFENDANTS, themselves or through their supervisors, in an effort to exploit, harass, and discriminate against their employees for profit or otherwise, have engaged in the following unlawful, unfair, deceptive, and misleading business practices, amongst others outlined in this complaint:

- a. Wrongfully and constructively terminating and retaliating against employees with gender-based reasons;
- b. Harassing employees based on gender;
- c. Failing to properly supervise and train its employees;
- d. Failing to pay minimum, regular, overtime wages earned and owed to employees;
- e. Failing to provide proper meal breaks and rest periods, or to pay premium wages for missed meal and rest periods to PLAINTIFF; and,
- f. The foregoing wrongful activities have caused harm, fear, pressure, and humiliation to the employee(s) at DEFENDANTS.

137. PLAINTIFF is entitled to enforce all applicable penalty provisions of the California Business and Professions Code §17202.

138. Pursuant to the provisions of §17203 of the California Business and Professions Code, PLAINTIFF is entitled to restoration of lost wages, meal breaks and rest periods premium wages, interests, and profits DEFENDANTS have collected by the use of the unfair, deceptive, and misleading business practices described in this Complaint.

139. Pursuant to provisions of §17203 et seq. of the California Business and Professions Code, DEFENDANTS must be ordered to disgorge all the unlawful profits in the relevant statutory to PLAINTIFF, which DEFENDANTS have received from improperly billing clients and cheating of employees in terms of their hours reported as having been worked but not paid.

140. Pursuant to the provisions of §17203 of the California Business and Professions Code, this Court should issue an injunction prohibiting DEFENDANTS from engaging in the foregoing unfair, deceptive, and misleading business practices.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and DOES 1 through 20 inclusive, as follows:

1. General and compensatory damages in an amount to be subject to proof at trial to the extent permitted by law;
2. Liquidated damages (if applicable);
3. Special damages;
4. Emotional distress damages;
5. Civil and statutory penalties (including under PAGA where applicable);
6. Restoration of all money PLAINTIFF lost that DEFENDANTS have collected by the use of the unfair, deceptive, and misleading business practices described as in unfair business practices cause of action;
7. Injunctive relief prohibiting DEFENDANTS from engaging in the unfair, deceptive, and misleading business practices described as in unfair business practices cause of action;
8. Declaration that DEFENDANTS' business practices are unfair within the meaning described as in unfair business practices cause of action;
9. Punitive and exemplary damages;
10. Pre-judgment interest;
11. Costs of lawsuit herein incurred;
12. Attorneys' fees; and

1 13. For an award of such other and further equitable and legal relief as this Court may
2 deem appropriate.

3
4
5
6 Dated: June 29, 2023

BITTON & ASSOCIATES

7
8 

9
10 Ophir J. Bitton, Esq.
11 Lei Wei, Esq.
12 Attorneys for Plaintiff,
13 Jessie Jacob
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: June 29, 2023



Ophir J. Bitton, Esq.

Lei Wei, Esq.

Attorneys for Plaintiff,

Jessie Jacob