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

MARITZA AGUILAR, an individual,

Plaintiff,

v.

LOS CUATES MEXICAN GRILL, INC., a
California Corporation; JOSE
GUADALUPE VALDEZ-LARA, an
individual; MARIA NOEMI VALDEZ, an
individual; and DOES 1 THROUGH 20,
inclusive,

Defendants.

Case No.: 23ST CV 29846

Unlimited Jurisdiction

COMPLAINT

- 1. DISCRIMINATION BASED ON PROTECTED STATUS – DISABILITY, SEX AND GENDER;**
- 2. FAILURE TO ACCOMMODATE;**
- 3. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;**
- 4. FAILURE TO TAKE REASONABLE STEPS TO PREVENT DISCRIMINATION;**
- 5. NONPAYMENT OF MINIMUM WAGES;**
- 6. NONPAYMENT OF REGULAR WAGES;**
- 7. NONPAYMENT OF OVERTIME COMPENSATION;**
- 8. FAILURE TO PROVIDE MEAL BREAKS;**
- 9. FAILURE TO PROVIDE REST PERIODS;**
- 10. VIOLATION OF CALIFORNIA FAMILY RIGHTS ACT (“CFRA”) RIGHTS;**
- 11. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226(a)];**

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- 12. **FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226.3];**
 - 13. **UNTIMELY PAYMENT OF WAGES;**
 - 14. **UNLAWFUL WITHHOLDING OF WAGES;**
 - 15. **WAITING TIME PENALTIES;**
 - 16. **CALIFORNIA PRIVATE ATTORNEY GENERAL ACT [California Labor Code §2698];**
 - 17. **NEGLIGENCE;**
 - 18. **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS; AND**
 - 19. **UNFAIR BUSINESS PRACTICES.**

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DEMAND FOR JURY TRIAL

Plaintiff MARITZA AGUILAR (“PLAINTIFF”) hereby files this Complaint against Defendants LOS CUATES MEXICAN GRILL, INC. (“LCMG”), a California Corporation, JOSE GUADALUPE VALDEZ-LARA (“VALDEZ-LARA”), an individual, MARIA NOEMI VALDEZ (“VALDEZ”), an individual, and DOES 1 THROUGH 20, inclusive (Collectively, “DEFENDANTS”). PLAINTIFF is informed and believes, and on the basis of that information and belief, alleges as follows:

PARTIES

1. PLAINTIFF is, and at all times material hereto was, an individual residing in the County of Los Angeles in the State of California.

2. PLAINTIFF is informed and believes, and on this basis alleges that Defendant LCMG is, and at all times material hereto was, a California corporation organized and existing under the laws of the State of California and authorized to conduct business in the County of Los Angeles.

3. PLAINTIFF is informed and believes, and on this basis alleges that Defendant VALDEZ-LARA is an individual conducting business in California and working in the County of Los Angeles.

4. PLAINTIFF is informed and believes, and on this basis alleges that Defendant VALDEZ is an individual conducting business in California and working in the County of Los

1 Angeles.

2 5. The true names and capacities of DOES 1 through 20, inclusive, whether individual,
3 corporate, associate, or otherwise, are unknown to PLAINTIFF at this time, who therefore sues
4 said defendants by such fictitious names; when the true names and capacities of such defendants
5 are ascertained, PLAINTIFF will seek leave of court to amend this Complaint to insert same.
6 PLAINTIFF is informed and believes and thereon alleges that each defendant named as a DOE is
7 responsible for each and every act and obligation hereinafter set forth.

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

15 **JURISDICTION AND VENUE**

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

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

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

23 9. Starting around November 2018, PLAINTIFF was employed as a kitchen staff by
24 LCMG. LCMG is a Mexican restaurant doing business as Guisados Al Patron, employing around
25 10 employees. VALDEZ-LARA is named as the Chief Executive Officer, Chief Financial Officer
26 and Director, and Maria Noemi VALDEZ is also named as Director of LCMG.

27 10. Through weekly checks, PLAINTIFF was paid \$17.50/hour, which was her most
28 recent hourly rate. She would receive her overtime pay in cash separately from her paychecks.

1 11. Like other employees similarly situated, LCMG conducted unauthorized
2 modification of employees', including PLAINTIFF's, reported hours and lead to employees' hours
3 earned but unpaid.

4 12. PLAINTIFF is informed and believes that LCMG unfairly paid male employees
5 with a higher rate at \$20/hour, while LCMG's female employees were paid the same rate.

6 13. Before a computer-based time reporting system was applied at LCMG,
7 PLAINTIFF would have to text the owner her hours, but she would only receive cash at a regular
8 wage rate for overtime hours and these overtime hours were not accurately reflected on her
9 paystubs.

10 14. With only Wednesday off, PLAINTIFF was scheduled to work on weekends from
11 3 p.m. to 11 p.m. and on weekdays from 3 p.m. to 10 p.m. or 8 a.m. to 3 p.m.

12 15. Like other similarly situated employees, PLAINTIFF typically was not given meal
13 and rest breaks, and sometimes she had to clock out early to train new employees and clock back
14 in early before her lunch breaks were over.

15 16. On or around March 13, 2023, when she was handling some heavy packages for
16 food preparation, PLAINTIFF's right hand, neck and hips were injured. She was later sent to the
17 clinic and was placed on disability leave. She was not allowed to use her sick leave.

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

25 18. On June 26, 2023, PLAINTIFF filed a complaint with the Department of Fair
26 Employment and Housing ("DFEH") and obtained a Right to Sue letter on the same day.
27 PLAINTIFF herein with this Complaint serves DEFENDANTS with the DFEH complaint and
28 Right to Sue notices.

FIRST CAUSE OF ACTION

DISCRIMINATION IN VIOLATION

OF CALIFORNIA GOVERNMENT CODE §12940, ET SEQ

(PLAINTIFF against LCMG and DOE 1 through 10)

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

20. PLAINTIFF was an employee of DEFENDANTS.

21. During PLAINTIFF's employment with DEFENDANTS, PLAINTIFF was injured, and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under FEHA. DEFENDANTS herein were aware of PLAINTIFF's injury and disability. However, DEFENDANTS otherwise expected PLAINTIFF to work through the pain without treatment or accommodation.

22. Moreover, PLAINTIFF constantly endured sex and gender-based discrimination at work, particularly she was paid lower than her male counterparts. DEFENDANTS knew of such discrimination against PLAINTIFF but failed to take immediate and appropriate corrective action.

23. As a substantial result of DEFENDANTS' intentional acts, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

24. PLAINTIFF believes that DEFENDANTS' 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.

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

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SECOND CAUSE OF ACTION

FAILURE TO ACCOMMODATE – DISABILITY DISCRIMINATION

IN VIOLATION OF GOVERNMENT CODE §12940(m)

(PLAINTIFF against LCMG and DOE 1 through 10)

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

27. PLAINTIFF was employed as an employee by DEFENDANTS.

28. During PLAINTIFF's employment with DEFENDANTS, PLAINTIFF was injured, and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under FEHA.

29. DEFENDANTS herein were aware of PLAINTIFF's disability that limited PLAINTIFF's work activities.

30. PLAINTIFF was able to perform the essential duties of the position or a vacant alternative position to which PLAINTIFF could have been reassigned with reasonable accommodation for PLAINTIFF's disability.

31. However, DEFENDANTS failed to provide such reasonable accommodation for PLAINTIFF's disability. DEFENDANTS otherwise expected PLAINTIFF to work through the pain without treatment or accommodation.

32. As a substantial result of DEFENDANTS' failure to accommodate, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

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

THIRD CAUSE OF ACTION

FAILURE TO ENGAGE IN INTERACTIVE PROCESS

IN VIOLATION OF CALIFORNIA GOVERNMENT CODE §12940(n)

(PLAINTIFF against LCMG and DOE 1 through 10)

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

35. PLAINTIFF was an employee of DEFENDANTS.

36. PLAINTIFF had a disability that was known to DEFENDANTS, and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under FEHA.

37. PLAINTIFF requested that DEFENDANTS make reasonable accommodation for PLAINTIFF so that PLAINTIFF would be able to perform the essential job requirements.

38. PLAINTIFF was willing to participate in an interactive process to determine whether reasonable accommodation could be made so that PLAINTIFF would be able to perform the essential job requirements.

39. However, DEFENDANTS failed to participate in a timely good-faith interactive process with PLAINTIFF to determine whether reasonable accommodation could be made.

40. As a substantial result of DEFENDANTS' failure to engage in the interactive process, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

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

FOURTH CAUSE OF ACTION

FAILURE TO TAKE REASONABLE STEPS TO PREVENT DISCRIMINATION

IN VIOLATION OF GOVERNMENT CODE §12940 (k)

(PLAINTIFF against LCMG 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 disability, sex and gender discrimination in violation of public policy in the course of employment.

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

1 PLAINTIFF harm.

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

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

7 **FIFTH CAUSE OF ACTION**
8 **NONPAYMENT OF MINIMUM WAGES**
9 **(PLAINTIFF against all DEFENDANTS)**

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

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

16 50. PLAINTIFF performed work for DEFENDANTS.

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

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

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

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

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

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

7 **EIGHTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE MEAL BREAKS**

9 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

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

23 69. Section 11(C) of the *IWC Wage Order(s)* provides that "Unless the employee is
24 relieved of all duty during a 30-minute meal period, the meal period shall be considered an "on
25 duty" meal period and counted as time worked. An "on duty" meal period shall be permitted only
26 when the nature of the work prevents an employee from being relieved of all duty and when by
27 written agreement between the parties an on-the-job paid meal period is agreed to. The written
28 agreement shall state that the employee may, in writing, revoke the agreement at any time."

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

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

9 72. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
10 non-exempt position.

11 73. PLAINTIFF’s employment with DEFENDANTS entitled PLAINTIFF to meal
12 breaks.

13 74. PLAINTIFF was at times not given meal breaks and at other times meal breaks
14 which were not compliant with labor laws.

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

20 **NINTH CAUSE OF ACTION**

21 **FAILURE TO PROVIDE REST PERIODS**

22 **(PLAINTIFF against all DEFENDANTS)**

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

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

1 78. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
2 non-exempt position.

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

7 80. Throughout PLAINTIFF's employment, DEFENDANTS typically did not provide
8 PLAINTIFF with rest breaks and/or compliant breaks for every four hours of work.

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

14 **TENTH CAUSE OF ACTION**

15 **VIOLATION OF CFRA RIGHTS**

16 **(PLAINTIFF against all DEFENDANTS)**

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

19 83. PLAINTIFF was eligible for medical leave.

20 84. PLAINTIFF requested or took leave for PLAINTIFF's own serious health
21 condition that made PLAINTIFF unable to perform the functions of PLAINTIFF's job with
22 DEFENDANTS.

23 85. PLAINTIFF provided reasonable notice to DEFENDANTS of PLAINTIFF's need
24 for medical leave, including its expected timing and length.

25 86. DEFENDANTS refused to grant PLAINTIFF's request for medical leave.

26 87. PLAINTIFF was harmed.

27 88. DEFENDANTS' decision and conduct were substantial factors in causing
28 PLAINTIFF's harm.

1 89. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
2 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties.

3 **ELEVENTH CAUSE OF ACTION**

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

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

6 **(PLAINTIFF against all DEFENDANTS)**

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

9 91. *Labor Code* §226(a) requires employers to provide accurate itemized wage
10 statements for each wage payment. *Labor Code* §226(e) provides for a recovery of the greater of
11 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
12 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
13 aggregate penalty of four thousand dollars (\$4,000) (per employee).

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

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

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

23 **TWELFTH CAUSE OF ACTION**

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

25 **IN VIOLATION OF LABOR CODE § 226.3**

26 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

11 98. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
12 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties
13 promulgated under *Labor Code* §§226 and 226.3.

14 **THIRTEENTH CAUSE OF ACTION**

15 **UNTIMELY PAYMENT OF WAGES**

16 **(PLAINTIFF against all DEFENDANTS)**

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

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

24 101. DEFENDANTS failed to timely pay PLAINTIFF all minimum wages, regular
25 wages, overtime wages, meal and rest break premiums that are due and payable for each pay
26 period.

27 102. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
28 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties.

1 **FOURTEENTH CAUSE OF ACTION**

2 **UNLAWFUL WITHHOLDING OF WAGES**

3 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

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

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

19 **FIFTEENTH CAUSE OF ACTION**

20 **WAITING TIME PENALTIES**

21 **(PLAINTIFF against all DEFENDANTS)**

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

24 109. *Labor Code* §203 provides that “if an employer willfully fails to pay, without
25 abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages
26 of an employee who is discharged or who quits, the wages of the employee shall continue as a
27 penalty from the due date thereof at the same rate until paid or until an action therefor is
28 commenced; but the wages shall not continue for more than 30 days.”

1 110. PLAINTIFF's employment with DEFENDANTS ended.

2 111. DEFENDANTS failed to pay PLAINTIFF all wages when due since PLAINTIFF's
3 termination until the date of filing this Complaint.

4 112. DEFENDANTS willfully failed to pay PLAINTIFF final wages in full.

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

10 **SIXTEENTH CAUSE OF ACTION**

11 **CALIFORNIA PRIVATE ATTORNEY GENERAL ACT**

12 **LABOR CODE § 2698**

13 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

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

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1 **SEVENTEENTH CAUSE OF ACTION**

2 **NEGLIGENCE**

3 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

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

14 122. 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 **EIGHTEENTH CAUSE OF ACTION**

17 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

18 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

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

1 127. 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 **NINETEENTH CAUSE OF ACTION**

6 **UNFAIR BUSINESS PRACTICES**

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

8 **(PLAINTIFF against all DEFENDANTS)**

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

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

- 15 a. Discriminating against employees based on disability, sex and gender;
- 16 b. Failing to accommodate;
- 17 c. Failing to pay minimum, regular, overtime wages earned and owed to
18 employees;
- 19 d. Failing to provide proper meal breaks and rest periods, or to pay premium
20 wages for missed meal and rest periods to PLAINTIFF;
- 21 e. Failing to provide CFRA required sick leaves; and,
- 22 f. The foregoing wrongful activities have caused harm, fear, pressure, and
23 humiliation to the employee(s) at DEFENDANTS.

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

26 131. Pursuant to the provisions of §17203 of the California Business and Professions
27 Code, PLAINTIFF is entitled to restoration of lost wages, meal breaks and rest periods premium
28 wages, interests, and profits DEFENDANTS have collected by the use of the unfair, deceptive,

and misleading business practices described in this Complaint.

132. 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.

133. 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;

1 12. Attorneys' fees; and

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

7 Dated: December 6, 2023

BITTON & ASSOCIATES

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10 _____
11 Ophir J. Bitton, Esq.
12 Lei Wei, Esq.
13 Attorneys for Plaintiff,
14 Maritza Aguilar
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Dated: December 6, 2023



Ophir J. Bitton, Esq.

Lei Wei, Esq.

Attorneys for Plaintiff,

Maritza Aguilar