

Matthew A. Haulk (SBN 272457)
Email: mhaulk@hemploymentlaw.com
Jose M. Herrera (SBN 289590)
Email: jherrera@hemploymentlaw.com

HAULK & HERRERA LLP
100 Pine Street, Suite 1250
San Francisco, CA 94111
Telephone: (415) 745-3219
Facsimile: (415) 745-3301

Attorneys for Plaintiff and all others similarly situated
LILY MAI

ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*
09/13/2023
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

LILY MAI, an individual, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

FSC BARBER - BUFFA L.L.C., a California
Limited Liability Company, JONAH BUFFA,
an individual, and DOES 1 TO 50,

Defendants.

CASE NO.: **CGC-23-609045**

**CLASS ACTION AND INDIVIDUAL
COMPLAINT FOR:**

- (1) UNPAID WAGES**
- (2) FAILURE TO PROVIDE REST PERIODS**
- (3) WAGE STATEMENT VIOLATIONS**
- (4) WAITING TIME VIOLATIONS**
- (5) FAILURE TO REIMBURSE FOR NECESSARY BUSINESS EXPENSES**
- (6) VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
- (7) PAGA PENALTIES**
- (8) WRONGFUL DISCHARGE – PUBLIC POLICY**
- (9) RETALIATION**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

[UNLIMITED CIVIL JURISDICTION]

INTRODUCTION

1. Plaintiff LILY MAI brings this employment action against Defendant FSC BARBER - BUFFA L.L.C., (the "Company") its owner and principal Defendant JONAH

1 BUFFA, and Defendants DOES 1 to 50 ("Defendants") for failure to pay overtime wages,
2 failure to permit rest periods, failure to furnish wage statement, failure to pay all wages
3 due upon separation of employment, failure to reimburse business expenses, wrongful
4 termination and retaliation. Plaintiff also brings this action as a class action for the
5 Company's failure to pay overtime wages, failure to permit rest periods, failure to pay all
6 wages due upon separation, failure to furnish accurate wage statements and failure to
7 reimburse business expenses to its California barber employees. As a result of these acts
8 or omissions, the Company has violated California statutory laws as described below.

9 **PARTIES**

10 2. Plaintiff LILY MAI ("Plaintiff") is a natural person and is domiciled in San
11 Francisco County, California.

12 3. Defendant FSC BARBER - BUFFA L.L.C., a California Limited Liability
13 Company, was at all relevant times doing business in San Francisco County, California.

14 4. Defendant JONAH BUFFA, an individual, was at all relevant times doing
15 business in San Francisco County, California.

16 5. Plaintiff is ignorant of the true names and capacities of the defendants sued
17 under the fictitious names of Does 1 through 50. Plaintiff will amend this Complaint to show
18 their true names and capacities when the same have been ascertained. Plaintiff is
19 informed and believe that each of the fictitiously named Doe Defendants is legally
20 responsible in some manner for the occurrences alleged and that Plaintiff's injuries and
21 damages, as alleged, were proximately caused by these Doe Defendants' actions.

22 6. FSC BARBER - BUFFA L.L.C., JONAH BUFFA, and Doe Defendants 1
23 through 50, inclusive, are referred to herein collectively as "Defendants". Plaintiff is
24 informed and believe and thereon allege that at all times pertinent hereto, each Defendant
25 was the agent and employee of each of its co-Defendants, and in doing the things
26 described herein, was acting within the course and scope of his/her authority as such
27 agent and employee, and each Defendant ratified and approved the acts of his/her agents
28 and employees. Defendants acted as Plaintiff's "employer" and are responsible for any

and all damages claimed by Plaintiff in this action under Labor Code section 558.1.

CLASS ACTION ALLEGATIONS

7. Plaintiff brings this case as a class action pursuant to California Code of Civil Procedure § 382 on behalf of a class (hereafter the “Class”) and on behalf of two subclasses, Waiting Time Penalties Subclass and Health Care Security Ordinance Subclass consisting of the following:

- a. The Class: All persons who performed barber services in the State of California during the Class Period for the Company (“Class Members”). The Class Period is the time period starting four years before the filing of the initial Complaint in this action plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the “Emergency Rules Related to COVID-19”.
- b. The Health Care Security Ordinance Subclass: All persons who performed at least eight hours of work per week in San Francisco County, California for the Company during the Class Period (“HCSO Subclass”).
- c. The Waiting Time Penalties Subclass: All members of the Class who separated from their working relationship with the Company during the three years immediately preceding the filing of the Complaint through the present plus any additional time during which the statute of limitation was tolled pursuant to the Emergency Rules Related to COVID-19 (the “Waiting Time Subclass”). On information and belief, all members of the Waiting Time Penalty Subclass that are no longer working for the Company were not paid all wages due at the time of their respective separation/termination.

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1 8. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of
2 Court to amend or modify the class description with greater specificity, by division into
3 subclasses, or by limitation to particular issue.

4 9. This action has been brought and may properly be maintained as a class
5 action under the provisions of § 382 of the Code of Civil Procedure because there is a
6 well-defined community of interest in the litigation and the Class and Waiting Time
7 Penalties Subclass are easily ascertainable.

8 10. Numerosity. The members of the Class and Subclasses are so numerous
9 that joinder of all members would be unfeasible and not practicable. The membership of
10 the class and subclass are unknown to Plaintiff at this time; however, it is estimated that
11 the Class and Subclass number greater than fifty (50) individuals. The identity of such
12 membership is readily ascertainable via inspection of the Company's employment and
13 personnel records.

14 11. Typicality. Plaintiff's claims are typical of the claims of the members of the
15 Class. Defendants subjected all Class Members and Subclass Members to identical
16 violations of the California Labor Code, the Wage Orders of the California Industrial
17 Welfare Commission, and the California Business and Professions Code. The factual
18 grounds of Defendants' violations are common to all Class Members and Subclass
19 Members and represent a common thread of unlawful conduct resulting in injury to all
20 members of the Class and Subclass.

21 12. Commonality. Common questions of law and fact exist with respect to all
22 members of the Class and predominate over any questions solely affecting individual
23 members. Issues of law and fact common to the Class include:

- 24 a. Whether the Company failed to pay regular and overtime wages for
25 all hours worked by Plaintiff and other aggrieved employees, in
26 violation of Cal. Labor Code §§ 218 et seq., 510, 1194;
- 27 b. Whether Plaintiff and members of the Class were authorized and
28 permitted to take 10-minute rest breaks for every 3.5 hours of work or

major fraction therein;

- c. Whether Plaintiff and members of the Class were paid one hour of premium pay for each day Defendants failed to authorize and permit a rest break;
- d. Whether Plaintiff and members of the Subclass who are former employees were paid all wages owed to them upon separation pursuant to Cal. Labor Code §§ 201-203;
- e. Whether Defendants issued itemized wage statements which failed to accurately state the actual hours and/or pay rates that Plaintiff and Class Members worked and the actual wages earned in violation of Cal. Labor Code § 226;
- f. Whether Plaintiff and members of the Subclass received all health care expenditures owed to them pursuant to San Francisco Health Care Security Ordinance;
- g. Whether the violations alleged in (a-f) above constitutes unfair business practices in violation of California's Unfair Competition Law, Section 17200 et seq. of the Business and Professions Code.

13. Adequacy. Plaintiff will fairly and adequately represent the interests of the Classes and has no interests adverse to or in conflict with other Class Members. Plaintiff is represented by attorneys who have class action experience in wage and hour and class action law and are committed to vigorously prosecuting this action on behalf of the members of the Class.

14. Superiority. A class action is superior to the other available methods for the fair and efficient adjudication of this controversy since, among other things, joinder of all Class Members is impracticable, and a class action will reduce the risk of inconsistent adjudications or repeated litigation over the same conduct. Further, the expense and burden of individual lawsuits would make it virtually impossible for Class Members, Defendant, or the court to cost-effectively redress separately the unlawful conduct alleged.

1 Plaintiff knows of no difficulties to be encountered in the management of this action that
2 would preclude its maintenance as a class action.

3 **FACTUAL ALLEGATIONS**

4 15. FSC BARBER - BUFFA L.L.C. dba Fellow Barber ("Fellow Barber") operates
5 elevated barbershops in California and New York. In February 2022, Ms. Mai was hired
6 as a barber at Fellow Barber's San Francisco (Valencia) location. Fellow Barber
7 compensates its employees on a commission-only basis.

8 16. Ms. Mai received 46% commission of all services rendered. Pursuant to
9 piece-rate pay obligations, Fellow Barber was required to compensate Ms. Mai for all non-
10 productive time (i.e., time spent setting-up/cleaning work stations between appointments,
11 time spent waiting for appointments, etc.). Yet, Ms. Mai received only her 46% commission
12 on a weekly basis, irrespective of the hours worked.

13 17. From February 2022 through September 2022, Ms. Mai generally worked 6
14 days per week, 9 hours per day. From October 2022 through May 2023, Ms. Mai generally
15 worked five days per week, nine hours per day. Fellow Barber does not stagger client
16 appointments to permit employees to take timely ten-minute rest breaks. In addition,
17 employees are required to utilize their own barber equipment to complete assigned work
18 tasks without reimbursement for use of such equipment.

19 18. As a further example of Defendants' egregious violations of employer
20 obligations, Defendants failed to comply with San Francisco Health Care Security
21 Ordinance. This ordinance mandates that employers contribute towards healthcare
22 expenditures for their employees, a requirement that the Defendants neglected to fulfill.

23 19. On information and belief, Defendants maintain an unlawful policy of
24 requiring barbers to provide daily "tips" to subsidize the wages of front office staff, without
25 ever establishing a formal tip pooling agreement. Throughout Plaintiff's employment, she
26 voiced objections to this policy. Moreover, in or around May 2023, a client mistakenly paid
27 Plaintiff directly for haircut services through Venmo, resulting in an underpayment for the
28 services. The error was promptly discovered, and Defendant demanded that Plaintiff

1 reimburse the difference between the received amount and the market price for the haircut
2 services. Plaintiff vehemently disputed this demand and declined to pay more than what
3 was received from the client. Subsequently, Plaintiff was suspended without pay for
4 objecting to Defendants' unlawful policies and was constructively discharged.

5 20. Plaintiff and the Class Members, including the Subclass Members, were
6 employed as non-exempt workers in California by the Defendants at various times during
7 the Class Period.

8 **A. Failure to Pay Regular and Overtime Wages**

9 21. During the Class Period, Plaintiff, like other members of the Class, was paid
10 on a piece rate basis. Pursuant to California Labor Code 226.2, Fellow Barber was
11 required to compensate Plaintiff and all Class Members separately for all nonproductive
12 work. However, Plaintiff and all Class Members received only their piece rate earnings
13 and did not receive separate compensation for non-productive time in violation of Labor
14 Code Section 226.2. In addition, Plaintiff, like other members of the Class, regularly
15 received a production bonus which was not included in her regular rate of pay for
16 calculation of overtime premium.

17 **B. Failure to Permit Rest Breaks**

18 22. During the Class Period, Plaintiff, like other members of the Class, was
19 discouraged from taking code compliant rest breaks and Company did not authorize or
20 permit code compliant rest breaks. For example, Class Members were booked for
21 consecutive haircut appointments which prevented Class Members from taking compliant
22 rest breaks. During the Class Period, Plaintiff, like other members of the Class, was not
23 paid one hour of premium pay for missed or delayed rest breaks.

24 **C. Failure to Issue Accurate Itemized Wage Statements**

25 23. During the Class Period, Plaintiff, like other Class Members, was never
26 issued accurate or itemized wage statements reflecting the hours worked and wages
27 owed. This includes, but is not limited to, wage statements showing owed break premiums
28 and/or actual overtime wages.

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29. **Unpaid Regular Wages:** Plaintiff and Class Members should have received regular wages according to the hours worked during Plaintiff's employment. Defendants owe Plaintiff regular wages and have failed and refused, and continue to fail and refuse, to pay Plaintiff and Class Members the amounts owed as regular wages.

30. **Unpaid Overtime Wages:** Plaintiff and Class Members were entitled to overtime compensation for all overtime hours worked during their employment. During Plaintiff's and the Class Members' employment, Defendants failed to pay Plaintiff and the Class Members for all hours worked, including Plaintiff's and the Class Members' overtime hours, and Plaintiff and the Class Members are therefore entitled to the amounts owed as overtime wages. Defendants also failed to pay Plaintiff and the Class Members at the correct overtime premium for all overtime hours worked.

31. **Liquidated Damages:** Plaintiff and the Class Members are entitled to liquidated damages under Labor Code section 1194.2(a), and attorneys' fees and costs.

32. As a direct and proximate result of Defendants' conduct, as set forth herein, Plaintiff and the Class Members have sustained damages and have been deprived of wages and overtime compensation that are owed in amounts to be proven at trial. Plaintiff and the Class Members are entitled to recovery of such amounts, plus interest, liquidated damages, and attorneys' fees and costs.

SECOND CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS
(Plaintiff on Behalf of the Herself and the Class against All Defendants)

33. Plaintiff, on behalf of herself and the Class Members, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

34. The applicable IWC Wage Order authorizes and requires employees to take paid rest periods based on the total hours worked daily at the rate often minutes rest per four hours or major fraction thereof. Cal. Labor Code § 226.7(a) provides: "No employer shall require an employee to work during any . . . rest period mandated by an applicable order of the Industrial Welfare Commission."

35. Pursuant to Defendants' policies and the demands of Plaintiff's and the Class Members' duties, Plaintiff and the Class Members routinely were required to take delayed rest periods and/or to skip rest periods. By requiring and permitting Plaintiff and the Class Members to miss these rest periods, or take delayed rest periods, Defendants violated California Labor Code section 226.7 and the applicable IWC Wage Order and California Labor Code section 226.7. As a result of the unlawful acts of Defendants set forth herein, Plaintiff and the Class Members are entitled to additional wages for the missed and delayed rest periods.

THIRD CAUSE OF ACTION
FAILURE TO PROVIDE ACCURATE WAGE STATEMENTS
(Plaintiff on Behalf of Herself and the Class against All Defendants)

36. Plaintiff, on behalf of herself and the Class, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

37. Defendants knowingly and intentionally failed to provide timely, accurate, itemized wage statements in accordance with Cal. Lab. Code §226(a) and the applicable IWC Wage Order to Plaintiff and the Class. Such failure caused injury to Plaintiff and the Class by, among other things, impeding Plaintiff and the Class from knowing the amount of wages to which Plaintiff and the Class are and was legally entitled. At all times relevant herein, Defendants have failed to maintain records of hours worked by Plaintiff and the Class as required under Labor Code §1174(d).

38. Prior to the completion of discovery, and to the best of Plaintiff's knowledge at the time of filing this Complaint, Plaintiff's good faith estimate of the number of pay periods in which Defendants have failed to provide accurate itemized wage statements to Plaintiff and the Class is each and every pay period. Plaintiff and the Class are entitled to damages in the amount provided under Cal. Lab. Code §226(e), including the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurred and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) and is entitled to an award of costs and reasonable attorney's fees.

1 **FOURTH CAUSE OF ACTION**
2 **WAITING TIME VIOLATIONS**
3 **(Plaintiff on Behalf of the Herself and the Waiting Time Penalty Subclass against**
4 **All Defendants)**

5 39. Plaintiff, on behalf of herself and the Waiting Time Penalty Subclass,
6 incorporates by reference all other paragraphs of this Complaint as if they were re-alleged
7 and set forth herein.

8 40. California Labor Code §201(a) provides, in pertinent part, as follows: "If an
9 employer discharges an employee, the wages earned and unpaid at the time of discharge
10 are due and payable immediately."

11 41. California Labor Code §202(a) provides, in pertinent part, as follows: "If an
12 employee not having a written contract for a definite period quits his or her employment,
13 his or her wages shall become due and payable not later than 72 hours thereafter, unless
14 the employee has given 72 hours previous notice of his or her intention to quit, in which
15 case the employee is entitled to his or her wages at the time of quitting."

16 42. California Labor Code §206(a) provides, in pertinent part, as follows: "In
17 case of a dispute over wages, the employer shall pay, without condition, and within the
18 time set by this article, all wages, or parts thereof, conceded by him to be due, leaving to
19 the employee all remedies she might otherwise be entitled to as to any balance claimed."

20 43. Where an employer willfully fails to pay, without abatement or reduction, in
21 accordance with sections 201 through 203 of the California Labor Code, all wages due to
22 an employee who has been discharged or has quit, California Labor Code §203 entitles
23 the affected employee to receive from the employer a penalty of up to 30 days wages
24 calculated from the due date of the wages until the time an action to recover the wages is
25 commenced.

26 44. As alleged herein, Defendants have failed to pay earned wages (including
27 but not limited to overtime pay for all hours worked) to Plaintiff and the Waiting Time
28 Penalty Subclass at the time they became due and payable, and has thus violated sections
201, 202, 203 and 206 of the California Labor Code.

45. Defendants' failure to pay wages as alleged herein was willful in that Defendants knew that Plaintiff and the Waiting Time Penalty Subclass were not receiving all of their earned compensation because, inter alia, Defendants knowingly did not fully, fairly and properly compensate Plaintiff and the Waiting Time Penalty Subclass for overtime.

46. It has been more than 30 days since the date of termination of Plaintiff's employment period and all members of the Waiting Time Penalty Subclass Class that are no longer employed by Defendant.

47. As a result of Defendants' willful, unlawful acts, discussed herein, Plaintiff and the Waiting Time Penalty Subclass Class are entitled to recover, pursuant to California Labor Code §203, continuing wages as a penalty for a total of 30 days.

FIFTH CAUSE OF ACTION
FAILURE TO REIMBURSE EMPLOYEE FOR
NECESSARY EXPENDITURES OR LOSSES
(Plaintiff on Behalf of Herself and the Class against All Defendants)

48. Plaintiff, on behalf of herself and the Class, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

49. Plaintiff and the Proposed Class incurred expenditures and/or losses as a direct consequence of discharging Plaintiff and the Proposed Class Members' job duties and/or obeying the directions of Defendants. The expenditures and losses that Plaintiff and the Proposed Class Members incurred were necessary and reasonable.

50. Defendants failed to reimburse Plaintiff and the Proposed Class Members for the full amount of the expenditures and/or losses as required by law, including Labor Code section 2802(a), and Plaintiff and the Proposed Class members have suffered damages as a result.

SIXTH CAUSE OF ACTION
VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200
(Plaintiff on Behalf of the Herself and the Class and HCSO Subclass against All Defendants)

51. Plaintiff, on behalf of herself and the Class Members and HCSO Subclass

Members, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

52. Defendants' violations of the Labor Code, HCSO, and other laws and regulations as alleged by this Complaint, and other wrongful, tortious and illegal acts and omissions, all constitute unfair business practices in violation of the Unfair Competition Law, Business and Professions Code § 17200 et seq.

53. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff, the Class Members, and members of the public. Defendants' utilization of such unfair business practices constitutes unfair competition and provides an unfair advantage over Defendants' competition. Defendants should be made to disgorge the ill-gotten gains and restore such monies to Plaintiff and the Class Members.

54. Defendants' unfair business practices entitles Plaintiff and the Class Members to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendants account for, disgorge and restore to Plaintiff and the Class Members any compensation unlawfully withheld from Plaintiff and the Class Members, and for which Defendants were unjustly enriched.

SEVENTH CAUSE OF ACTION
CIVIL PENALTIES – PRIVATE ATTORNEY GENERAL ACT (“PAGA”)
(Plaintiff Against All Defendants)

55. Plaintiff incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

56. Plaintiff brings this cause of action on behalf of Plaintiff and all other aggrieved current and former employees of Defendants and seeks civil penalties for each and every violation alleged herein. Plaintiff is an aggrieved employee. Plaintiff was employed by Defendants and the violations alleged herein were committed against Plaintiff. At the time of each violation, Defendants employed one or more employees.

57. On or around the date of the filing of this Complaint, Plaintiff filed a claim with the California Labor and Workforce Development Agency (hereafter, “LWDA”) and

provided a copy by certified mail to Defendants.

58. Plaintiff complied with all procedural requirements of Labor Code § 2699.3 before filing this Complaint. The LWDA did not respond to Plaintiff's notice of the alleged violations within the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies.

59. As a result of the aforesaid wrongful and illegal conduct of the Defendant, and each of them, Plaintiff is entitled to civil penalties in an amount to be determined at trial, costs, and attorney's fees.

EIGHTH CAUSE OF ACTION
WRONGFUL DISCHARGE – PUBLIC POLICY
(Plaintiff Against FSC BARBER - BUFFA L.L.C.)

60. Plaintiff incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

61. Plaintiff was employed by Defendants. Defendants discharged Plaintiff from employment. As further alleged herein, a substantial motivating reason for Plaintiff's discharge was in violation of public policy.

62. Plaintiff was harmed and suffered legal damages, and Defendants' conduct was a substantial factor in causing Plaintiff's harm.

NINTH CAUSE OF ACTION
Retaliation in Violation of California Labor Code § § 1102.5 and 98.6
(Plaintiff Against FSC BARBER - BUFFA L.L.C.)

63. 1. Plaintiff, on behalf of herself, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

64. 72. Plaintiff complained about and refused to participate in Defendant's wrongful and unlawful conduct throughout her employment as explained above. Defendant retaliated against Plaintiff for refusing to abide by its unlawful policies.

65. 73. Defendant took adverse employment action against Plaintiff, including termination.

66. 75. Defendant's retaliatory conduct is a violation of Labor Code § 1102.5 (c) which provides "[a]n employer, or any person acting on behalf of the employer, shall not

1 retaliate against an employee for refusing to participate in an activity that would result in a
2 violation of state or federal statute, or a violation of or noncompliance with a local, state,
3 or federal rule or regulation.” Defendants retaliated against Plaintiff when she complained
4 about and refused to participate in Defendants' unlawful conduct described in this
5 Complaint.

6 67. 76. Plaintiff was not required to exhaust any administrative remedies to bring
7 her Labor Code § 1102.5 claim because Labor Code § 244(a) provides that no such
8 exhaustion is required under any Labor Code provision unless “that section under which
9 the action is brought expressly requires exhaustion of an administrative remedy”. Labor
10 Code § 1102.5 does not have an exhaustion requirement.

11 68. 77. Defendant had a duty to either refrain from the wrongful acts or to prevent
12 and/or restrain others from committing the wrongful acts.

13 69. 78. Plaintiff suffered injuries as a result of Defendants' violation of Labor
14 Code § 1102.5(c) including loss of earnings and benefits, and severe emotional distress,
15 all of which will be proven at trial. In addition to any other legal remedies, Plaintiff is also
16 entitled to statutory damages not exceeding \$10,000 for each violation of Labor Code §
17 1102.5 pursuant to Labor Code § 1102.5(f). Plaintiff is also entitled to an award of
18 attorneys' fees for bringing this action pursuant to Labor Code § 1102.5(j).

19 70. 79. Defendant took adverse employment action against Plaintiff in retaliation
20 for her complaints and refusal to accept unlawful conduct in violation of California Labor
21 Code § 98.6 which provides that “no person may “discriminate, retaliate or take any
22 adverse action against any employee because the employee... made a written or oral
23 complaint that he or she is owed unpaid wages... or because of the exercise by the
24 employee... on behalf of himself, herself, or others of any rights afforded him or her”.
25 Plaintiff suffered injuries as a result of Defendants' violation of California Labor Code §
26 98.6, including loss of earnings and benefits, and severe emotional and physical distress,
27 all of which will be proven at a hearing. In addition to any other legal remedies, an employer
28 who violates this section is liable for a civil penalty pursuant to subsection (b)(3) not

1 exceeding \$10,000 per employee per each violation of this section, to be awarded to the
2 employee or employees who suffered the violation.

3 71. Plaintiff was not required to exhaust any administrative remedies to bring her
4 California Labor Code § 1102.5 or 98.6 claims because California Labor Code § 244(a)
5 provides that no such exhaustion is required under any California Labor Code provision
6 unless “that section under which the action is brought expressly requires exhaustion of an
7 administrative remedy”. Neither California Labor Code § 1102.5 or 98.6 have an
8 exhaustion requirement.

9 72. Defendant committed the acts alleged herein maliciously, fraudulently and
10 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil
11 motive amounting to malice, and in conscious disregard of Plaintiff's rights. Defendant's
12 conduct warrants the assessment of punitive damages in an amount sufficient to punish
13 Defendant and deter others from engaging in similar misconduct.

14 **DEMAND FOR JURY TRIAL**

15 73. Plaintiff hereby demands trial by jury against Defendants of hers and the
16 Class's claims against Defendants.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for judgment against Defendants:

19 1. For compensatory damages in the amount of Plaintiff's unpaid regular and
20 overtime wages, plus liquidated damages, as well as an award of costs, interest, and
21 reasonable attorney's fees.

22 2. For penalties pursuant to Labor Code §226(6) for violation of Labor Code §
23 226(a) in the amount of fifty dollars (\$50) for the initial pay period in which a violation
24 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent
25 pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000) per
26 Class Member;

27 3. For waiting time penalties pursuant to Labor Code § 203 equal for Plaintiff
28 and each Subclass Member who was terminated or resigned equal to their daily wage

1 times thirty (30) days;

2 4. For reimbursement of business expenses expended by Plaintiff and the
3 Class Members;

4 5. For restitution for unfair competition pursuant to Business and Professions
5 Code section 17200, *et seq.*, including disgorgement of profits, in an amount as may be
6 determined;

7 6. For compensatory damages in an amount to be proven at trial;

8 7. General and special damages, in an amount to be proven at trial;

9 8. For punitive and exemplary damages;

10 9. For all statutory penalties, civil penalties and liquidated damages as
11 authorized by law;

12 10. Pre-judgment interest on any damages or other amounts deemed payable;

13 11. For attorney's fees and costs of suit;

14 12. For other or further relief as the Court deems just and proper.

15 Dated: September 13, 2023

HAULK & HERRERA LLP

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17 By: 

18 Matthew A. Haulk, Esq.
19 Jose M. Herrera, Esq.
20 Attorneys for Plaintiff and all others
21 similarly situated
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