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ELECTRONICALLY FILED
Superior Court of California
County of Sonoma
8/10/2023 9:09 AM
Robert Oliver, Clerk of the Court
By: Janie Dorman, Deputy Clerk

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF SONOMA

9 SALVADOR VELASQUEZ TAPIA,

10 Plaintiff,

11 vs.

12 RECOLOGY SONOMA MARIN, a California
13 corporation, MIKE TORRES, an individual, and
14 DOES 1 through 100, inclusive.

15 Defendants.
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Case No: **SCV-273863**

Complaint for:

1. DISABILITY DISCRIMINATION (CAL. GOV. CODE §§ 12940 *et. seq.*);
2. FAILURE TO ACCOMMODATE DISABILITY (CAL. GOV. CODE §§ 12940 *et. seq.*);
3. FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS (CAL. GOV. CODE §§ 12940 *et. seq.*);
4. DISCRIMINATION ON THE BASIS OF AGE (CAL. GOV. CODE §§ 12940 *et. seq.*);
5. HARASSMENT ON THE BASIS OF DISABILITY (CAL. GOV. CODE §§ 12940 *et. seq.*);
6. HARASSMENT ON THE BASIS OF AGE (CAL. GOV. CODE §§ 12940 *et. seq.*);
7. UNLAWFUL DENIAL OF CFRA LEAVE (CAL. GOV. CODE § 12495.2(a));
8. UNLAWFUL DISCRIMINATION DUE TO USE OF CFRA LEAVE (CAL. GOV. CODE § 12495.2(a));
9. VIOLATION OF THE HEALTHY WORKPLACES, HEALTHY FAMILIES ACT OF 2014 AND REQUEST FOR ATTORNEY'S

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- FEES (CAL. LAB. CODE §§245, 246 247, 248.5(e) AND 249
10. HOSTILE WORK ENVIRONMENT (CAL. GOV. CODE §§ 12940 *et seq.*);
11. FAILURE TO TAKE ALL REASONABLE STEPS TO PREVENT HARASSMENT, DISCRIMINATION AND RETALIATION (CAL. GOV. CODE §§ 12940 *et seq.*);
12. RETALIATION IN VIOLATION OF FEHA (CAL. GOV. CODE §§ 12940 *et. seq.*);
13. RETALIATION IN VIOLATION OF CALIFORNIA LABOR CODE §1102.5(b);
14. WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY (CAL. GOV. CODE §§ 12940 *et seq.* and CAL. LAB. CODE §§ 204, 206, 216, 218.5, 218.6);
15. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (CAL. CIVIL CODE § 3294);
16. FAILURE TO PAY OVERTIME (CAL. LAB. CODE §§ 510, 1194, 1198, and 2699);
17. FAILURE TO PROVIDE REST PERIODS (CAL. LAB. CODE § 226.7);
18. FAILURE TO PROVIDE MEAL PERIODS (CAL. LAB. CODE § 226.7);
19. FAILURE TO PAY EARNED WAGES (CAL. LAB. CODE §§ 204, 206, 216, 218.5, 218.6);
20. FAILURE TO FURNISH COMPLIANT WAGE STATEMENTS (CAL. LAB. CODE §§ 226 AND 226.3 *et seq.*);
21. WAITING TIME PENALTIES (CAL. LAB. CODE §§201, 202 AND 203);
22. UNFAIR/UNLAWFUL/FRAUDULENT BUSINESS PRACTICES

(CAL. BUS. & PROF. CODE §§
17200 *et seq.*); and
23. CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS
GENERAL ACT (CAL. LAB.
CODE § 2699 *et seq.*).

DEMAND FOR JURY TRIAL

Plaintiff SALVADOR VELASQUEZ TAPIA (herein “Plaintiff”) hereby brings this action against Defendants RECOLOGY SONOMA MARIN, a California corporation (herein “Defendant Recology”), MIKE TORRES, (herein “Defendant Torres”) an individual, and DOES 1 through 100 (herein collectively “Defendants”) for damages resulting from Defendants’ unlawful and tortious conduct and, as grounds therefore, alleges:

PARTIES

1. Plaintiff is a resident of the County of Sonoma in the State of California.

2. Plaintiff is informed and believes and thereon alleges that Defendant Recology, a California corporation, is authorized to and did business in the County of Sonoma in the State of California.

3. Plaintiff is informed and believes and thereon alleges that Defendant Torres, an individual, was an agent of Defendant Recology and on its behalf was authorized to and did business in County of Sonoma in the State of California.

4. Plaintiff is informed and believes and thereon alleges that events relevant to this complaint occurred in the County of Sonoma in the State of California. Plaintiff is further informed and believes that witnesses to the events described herein were and are residents of the County of Sonoma in the State of California.

5. Plaintiff is ignorant of the true names and capacities of Defendants sued herein as Does 1 through 100, inclusive, and therefore, sues these Defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when the same are ascertained. Plaintiff is informed and believes and thereon alleges that each of the

1 fictitiously named Defendants are responsible in some manner for the occurrences and
2 discriminatory acts alleged herein, and that Plaintiff's damages alleged herein were
3 proximately caused by these Defendants. The term "Defendants" herein includes Doe
4 Defendants.

5 6. Plaintiff is informed and believes and thereon alleges that at all relevant times
6 herein, each of the Defendants were the agents, employees, and/or joint venturers of, or
7 working in concert with the other Defendants, and were acting within the course and scope of
8 such agency, employment, joint venture and/or concerted activity. To the extent that said
9 conduct and omissions were perpetrated by Defendants and their agents, Defendants confirmed
10 and ratified said conduct and omissions.

11 7. At all times mentioned herein, Defendants, were the agents, servants, and alter-
12 egos of each other, and as such, the acts of one defendant are considered the acts of all
13 Defendants. Plaintiff is informed and believes, and thereon alleges that there is such unity of
14 interests and ownership between these Defendants that separate status no longer exists, and
15 further, observance of the fiction of separate existence among these Defendants would sanction
16 fraud and promote injustice.

17 8. Whenever and wherever reference is made in this Complaint to any act by a
18 Defendant or Defendants, such allegations and reference shall also be deemed to mean the acts
19 and failures to act of each defendant acting individually, jointly, and severally.

20 9. Whenever and wherever reference is made to individuals who are not named as
21 Plaintiff or Defendants in this Complaint are alleged to be agents, employees and/or
22 supervisors of Defendants, such individuals at all relevant times acted on behalf of Defendants
23 within the scope of their employment.

24 **FACTUAL ALLEGATIONS**

25 10. **As to Plaintiff's employment:** Plaintiff was employed by Defendant Recology
26 from on or about January 1, 2003, as a Driver until Plaintiff's employment was terminated on
27 or about June 17, 2022, as a Helper.

28 11. Plaintiff first worked with Defendants as a Driver, earning \$29.00 dollars an

1 hour. Plaintiff took medical disability leave during most of 2021. When Plaintiff returned to
2 work in February 2022, Plaintiff was downgraded to Helper and his wages were cut to \$19.85
3 per hour.

4 12. **As to Plaintiff's job performance:** At all times, throughout Plaintiff's
5 employment, Plaintiff performed Plaintiff's duties in an exemplary manner.

6 13. **As to Plaintiff's protected status:** Plaintiff was subjected to harassment based
7 on disability and age, by his coworker, Defendant Torres. Also, Plaintiff was subjected to
8 discrimination based on Plaintiff's disability, use of CFRA leave, and age; and as a result
9 suffered from a hostile work environment. Lastly, Plaintiff is a whistleblower and was
10 retaliated against for his complaints.

11 14. **Plaintiff was subjected to harassment and discrimination based on his**
12 **protected status.** Defendant Recology has a history of harassment and discrimination based on
13 disability and age.

14 15. **Factual allegations regarding Defendants' hostile work environment**
15 **towards employees who are disabled and failure to engage in the interactive process and**
16 **accommodate:**

17 16. On or about February 2021, Plaintiff became positive with COVID-19 while at
18 work. Plaintiff became very ill, and he suffered from severe health issues due to the infection.

19 17. Plaintiff constantly felt that Plaintiff's coworkers were simply harassing
20 Plaintiff. Plaintiff's coworkers would call Plaintiff while he would be driving for Defendant
21 Recology. Plaintiff would ask the callers to repeat what they were saying as the noise level
22 while driving the load trucks made it difficult for Plaintiff to hear the calls. Plaintiff would
23 then ask the coworker to hold so Plaintiff could pull over and park to safely carry on the
24 conversation, but the coworkers would hang up. For these reasons, Plaintiff was called into a
25 meeting with Defendant Recology.

26 18. On or about March 23, 2021, Plaintiff met with Defendant Recology as
27 Defendant Recology alleged that Plaintiff was having "comprehension and memory issues"
28 ("Issues.") Plaintiff met with Defendant Recology regarding the Issues.

1 19. As a result of the meeting with Defendant Recology, Plaintiff was placed on
2 paid administrative leave from on or about March 23, 2021, to on or about April 9, 2021, to
3 seek medical help for Plaintiff's alleged Issues.

4 20. Plaintiff was seen multiple times by a Kaiser Permanent neurologist named
5 Sarah Gong, MD. Plaintiff underwent various medical exams and tests. Further, Plaintiff
6 performed a memory test administered by Dr. Gong. Dr. Gong informed Plaintiff that the
7 memory test was based off a scale from one to five, five being the worst number to receive.
8 Plaintiff was given a rating of two by Dr. Gong. In an abundance of caution, Dr. Gong advised
9 Plaintiff that Plaintiff should not drive large trucks for a short duration and advised that
10 Plaintiff should be able to drive regular-sized vehicles. Plaintiff's Class B License was
11 suspended during this time. Plaintiff also visited an ENT doctor and was found to have lost
12 some hearing in one ear. All other tests regarding cat scans and MRIs were found to be normal.

13 21. Plaintiff was placed on FMLA leave from April 12, 2021, to June 30, 2021.
14 During this time, Plaintiff's Class C driving license was issued but shortly thereafter revoked
15 because of the medical leave Plaintiff was on.

16 22. On July 1, 2021, Plaintiff was suspended by Defendant Recology as his license
17 had been revoked. Defendant Recology, instead of participating in the interactive process for
18 Plaintiff's disability, suspended Plaintiff from his employment. Defendant Recology chose to
19 suspend Plaintiff rather than assist in accommodating Plaintiff while Plaintiff was awaiting his
20 license to be activated again.

21 23. Plaintiff continuously requested to be rehired by Defendant Recology as
22 Plaintiff had worked there his whole life and was ultimately planning to retire from the
23 company.

24 24. Plaintiff applied for his rehire on December 30, 2021, and was finally offered a
25 lower-paying position on February 8, 2022. Plaintiff began his new assignment as a "Helper"
26 on March 6, 2022.

27 25. Plaintiff's wages were lowered from \$29.00 to \$19.85 per hour. As Plaintiff had
28 worked for Defendant Recology for nearly 20 years and Defendant Recology has over 50

employees, Plaintiff had protections under the California Family Rights Act and Family and Medical Leave Act that Defendant Recology ignored.

26. On March 10, 2022, Plaintiff's license was reinstated as Plaintiff received a medical examiner's certificate qualified for driving. Plaintiff advised Defendant Recology that Plaintiff could drive for Defendants again, but Defendant Recology kept Plaintiff on as a Helper until June 17, 2022, when Plaintiff's employment was terminated.

27. **Factual allegations as to discrimination and harassment based on age and Plaintiff's wrongful termination.**

28. During Plaintiff's tenure with Defendant Recology, Plaintiff was in his late fifties. Plaintiff worked for Defendant Recology for nearly twenty years, and then Plaintiff's employment was terminated for various reasons including his age, as Defendant Recology wanted to hire younger workers that could be faster at the job tasks.

29. Plaintiff was harassed and bullied by his coworker Defendant Torres due to Plaintiff's age.

30. Defendant Torres would laugh at Plaintiff and catcall Plaintiff to keep up with the younger people when Plaintiff could not keep up to the waste collection truck. Defendant Torres would purposefully drive away and force him to run to catch up to the waste collection truck, and they would tell him that a younger man would be able to keep up. Plaintiff was constantly criticized and told that Plaintiff's work was not as good as a younger man's work. Plaintiff worked as diligently and resolutely as he could, and this harassment and bullying by Defendant Torres and Plaintiff's coworkers was not appreciated.

31. Plaintiff complained to his supervisor, Jose Garcia, about Defendant Torres. Mr. Garcia told Plaintiff "*Ay que ver eso*" or "*we should look into it,*" but Mr. Garcia never checked or done anything about Defendant Torres' behavior.

32. On June 17, 2022, Plaintiff was fired for taking Plaintiff's vehicle (during Plaintiff's rest break) to be serviced. The service location is approximately 3 minutes away from Defendant Recology work site, and Plaintiff had a previous appointment, so Plaintiff only needed to drop off his vehicle for the oil change. Had Plaintiff's driver picked up Plaintiff and

1 continued the workday, there would have been no issue, but due to the harassing nature of
2 Plaintiff's supervisor, what would have been a 10-minute rest break errand turned out longer
3 due to the supervisor instructing the Driver to leave Plaintiff behind. Plaintiff had never been
4 told that he could not use his private rest break time to run a private errand, nor had Plaintiff
5 been told that he could not leave the premises.

6 33. Plaintiff was replaced after his employment termination by a younger employee
7 doing the same work as Plaintiff was originally hired for by Defendant Recology.

8 34. **Factual allegations Defendants' retaliation against employees who**
9 **complain:**

10 35. Plaintiff was witness to many safety issues while employed by Defendant
11 Recology due to Defendants' reckless behaviors.

12 36. Plaintiff was teamed up to work with coworker Defendant Torres, who would
13 purposefully drive the wrong way, contrary to the street signs. Defendant Torres would do this
14 to complete the route quicker, rather than following the street signs. Defendant Torres would
15 also make illegal stops on the two lines in the middle of the street with signal lights. Defendant
16 Torres would then yell at Plaintiff to hurry up and get the trash, to which Plaintiff would
17 inform Defendant Torres it was unsafe to do so in the middle of the street. Defendant Torres
18 would continue to pressure Plaintiff, and Plaintiff would have to relent and do as Defendant
19 Torres says or else Defendant Torres would not move the truck from the street. Plaintiff would
20 have to get off the waste collection truck, grab the trash cans, and dump them into the truck's
21 bin, all while dodging the cars driving around the waste collection truck stopped in the middle
22 of the road.

23 37. Plaintiff complained to Mr. Garcia and Defendant Recology about the illegal
24 actions and dangerous acts performed by Defendant Torres, but no changes were made, and
25 Defendant Torres was not chastised nor written up.

26 38. Plaintiff's complaints about the dangerous and illegal activities he witnessed
27 created a hostile work environment for Plaintiff which made him a target of retaliation.

28 39. A few days before Plaintiff's employment termination, Plaintiff dropped off his

1 vehicle for maintenance during his break. Plaintiff asked his coworker Defendant Torres to
2 pick up Plaintiff at the vehicle maintenance place to continue work after their break was over.
3 Defendant Torres agreed to do so, but Defendant Torres did not pick up Plaintiff and left
4 Plaintiff stranded at the dealership. Plaintiff had to get a ride back to the Defendant Recology
5 lot and was reprimanded for taking a long break.

6 40. Plaintiff's employment was terminated on June 17, 2022.

7 41. **Plaintiff continues to suffer significant emotional distress as a result of the**
8 **disability discrimination Plaintiff suffered by Defendants.**

9 42. During Plaintiff's tenure with Defendant Recology, Plaintiff Defendant
10 Recology engaged in retaliation against Plaintiff for the perceived actions of Plaintiff's lawful
11 activity. Defendant Recology retaliated against Plaintiff by unlawfully terminating his
12 employment. Defendant Recology and Defendant Recology's management aided and abetted
13 each other in engaging in illegal retaliation thereby subjecting Plaintiff to the intentional
14 infliction of emotional distress caused by such retaliation.

15 43. Plaintiff has felt shame, embarrassment, harassment and continues to suffer
16 from significant emotional distress.

17 44. Plaintiff continues to not sleep well, suffer from anxiety, experience panic
18 attacks and other forms of emotional distress, all that began during his tenure with Defendant
19 Recology.

20 45. **Defendant Recology violated several wage and hour laws in order to**
21 **unlawfully profit from Plaintiff's labor.**

22 46. In addition to his disability claims and wrongful termination claims, Plaintiff
23 has claims for wage and hour violations.

24 47. During Plaintiff's tenure with Recology, Plaintiff was overworked and was
25 constantly forced to have late, interrupted, or altogether missed and interrupted meal periods
26 and rest periods.

27 48. Defendant Torres would keep a fast pace on the collection route while driving
28 the waste collection truck with Plaintiff. Defendant Torres would not stop or pause the truck to

1 allow for lawful rest or meal periods. Defendant Torres was always in a hurry, and if Plaintiff
2 asked to slow down, to take a break, to have a proper meal break, Defendant Torres would
3 refuse. Defendant Torres would not even pause to allow Plaintiff a water break.

4 49. Plaintiff complained to Defendants about Defendant Torres not allowing rest
5 breaks or meal periods, but Plaintiff was ignored.

6 50. Plaintiff occasionally worked over six hours without receiving a meal period.

7 51. Plaintiff only took one break per 10-hour shift, even though Plaintiff was
8 lawfully entitled to more.

9 52. Plaintiff only took one meal break, and his second meal break was automatically
10 deducted even though Defendant Recology was fully aware the second meal was not taken.

11 53. Plaintiff was not provided with proper meal and rest break premiums.

12 54. During Plaintiff's tenure with Defendant Recology, Plaintiff on occasion
13 worked through his meal periods due to the pressure by Defendants to finish Plaintiff's work
14 route within the scheduled workday. Defendant Torres constantly decided to cut short or miss
15 meal periods altogether in order to complete the assignments. Plaintiff complained to
16 Defendant Recology, but his complaints went ignored. As a result of Plaintiff working through
17 meal periods, he is entitled to unpaid overtime wages.

18 55. Plaintiff has not been provided his proper overtime.

19 56. During Plaintiff's tenure with Defendant Recology, Plaintiff was assured he'd
20 return back to his position of Driver and pay after being placed on medical disability as
21 Plaintiff was performing satisfactorily the job duties and tasks as requested by Defendant
22 Recology for nearly twenty years. But when Plaintiff returned to work after Plaintiff's medical
23 leave, Plaintiff was given a lower job title, more difficult and physical job responsibilities, and
24 Plaintiff's pay was cut from \$29.00 an hour to \$19.85, causing Plaintiff a great deal of
25 financial stress.

26 57. As a result, of not being paid premiums and overtime, Plaintiff is owed unpaid
27 wages, which should have been paid at the time owed by Defendants.

28 58. Further, Defendants' wage and hour violations were systematic in nature.

59. **Plaintiff is also entitled to waiting time penalties** for not receiving properly earned wages on a timely basis.

60. **Further, as a result of the said violations Plaintiff did not receive properly compliant wage statements**, subjecting Defendants to penalties.

61. **Wage and hour violations were systematic leading to PAGA Claims.** These wage and hour violations were committed against all similarly situated employees. Plaintiff filed PAGA claim with the LWDA.

62. Pursuant to the California Labor Code, California law, and applicable Wage Orders, Plaintiff is entitled to all damages, unpaid wages, statutory penalties, waiting time penalties, interest, and attorneys' fees for the illegal and wrongful acts and omissions of Defendants, as alleged throughout this Complaint.

PAGA ALLEGATIONS

63. Pursuant to the California Labor Code, California law and applicable Wage Order, Plaintiff is entitled to various "civil penalties," where appropriate and to the extent permitted by law and California Labor Code §§ 2698 and 2699 *et seq.* (herein "PAGA.")

64. Plaintiff, as an aggrieved party, has notified California's Labor and Workforce Development Agency (herein "LWDA") of Defendants' Labor Code and other violations as alleged herein with intent to seek all civil penalties under PAGA.

65. Plaintiff and other similarly situated employees ("Aggrieved Employees") suffered from systematic wage and hour claims.

66. Defendants failed to provide Plaintiff and other Aggrieved Employees with ten (10) minute rest periods for every four (4) hours of work, or a majority portion thereof, throughout their employment. Defendants did not completely relieve Plaintiff and other Aggrieved Employees of all duty during said rest periods. Further, Employers did not pay Plaintiff one additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or more statutory rest periods were not provided. Further, Plaintiff and Aggrieved Employees did not receive compensation for these missed rest breaks.

67. Defendants failed to provide Plaintiff and other Aggrieved Employees with

thirty (30) minute meal periods for every five (5) hours of work, and a second, uninterrupted thirty (30) minute meal period to employees who work more than ten hours in a day, or a majority portion thereof, throughout their employment. Defendants did not completely relieve Plaintiff, and other Aggrieved Employees, of all duty during said meal periods. Further, Defendants did not pay Plaintiff one additional hour of pay at Plaintiff's regular rate of compensation for each workday that one or more statutory meal periods were not provided. Further, Plaintiff and Aggrieved Employees did not receive compensation for these missed meal breaks.

68. Defendants failed to provide Plaintiff and other Aggrieved Employees with the wages earned and unpaid at the time of the separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. Plaintiff was owed compensation for unpaid rest and meal period premiums at the time of Plaintiff's termination.

69. Defendants willfully failed to pay Plaintiff and other Aggrieved Employees earned and due overtime wages upon separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. These earned but unpaid wages include overtime compensation.

70. Plaintiff and Aggrieved Employees have not been paid properly and are entitled to the "waiting-time penalty."

71. Plaintiff and Aggrieved Employees are owed for penalties for non-complaint wage statements.

72. Defendants retaliated against Plaintiff and other Aggrieved Employees for complaining to Plaintiff and other Aggrieved Employees' superiors about wage and hour violations. Plaintiff and other Aggrieved Employees superiors had the authority to investigate, discover, or correct the violation or non-compliance, concerning actions taken by Employers which Plaintiff and other Aggrieved Employees reasonably believed violated local, state, or federal rules or regulations.

73. Plaintiff filed a PAGA claim on June 9, 2023, LWDA Case No.: LWDA-CM-960807-23.

1 74. Plaintiff pursuant to California Labor Code § 2699.3(a)(2)(C) and PAGA sues
2 sue to collect the civil penalties authorized therein if so permitted by the LWDA to seek the
3 civil penalties.

4 **FIRST CAUSE OF ACTION**

5 **DISABILITY DISCRIMINATION**

6 **California Government Code §§ 12940 *et. seq.***

7 **(Against Defendant Recology and DOES 1-100, Inclusive)**

8 75. Plaintiff re-alleges and incorporates by this reference each of the preceding and
9 foregoing paragraphs as if fully set forth herein.

10 76. Plaintiff was at all times hereto an “employee” within the meaning of California
11 Government Code § 12926(c) and California Government Code §§ 12940(a) and (c), which
12 prohibit disability discrimination in employment.

13 77. Defendants were at all material times an “employer” as defined by California
14 Government Code § 12926(d) and within the meaning of California Government Code §§
15 12940(a) and (c) and, as such, were barred from discriminating in employment decisions on the
16 basis of disability, as set forth in California Government Code § 12940.

17 78. Defendants have discriminated against Plaintiff on the basis of Plaintiff’s
18 disability in violation of California Government Code § 12940(a) and (c), Article I of the
19 California Constitution and related statutes, by engaging in the course of conduct more fully
20 set forth in the General Allegations and all paragraphs stated above.

21 79. As a result of Defendants’ unlawful discrimination against Plaintiff, Plaintiff
22 have suffered and continues to suffer: (a) substantial humiliation, serious mental anguish,
23 emotional and physical distress; and (b) loss of past and future earnings, and employment
24 benefits and opportunities, on account of which Plaintiff is entitled to compensatory damages.
25 The exact amount and nature of such damages exceed the jurisdictional limits of this court, but
26 are presently unknown to Plaintiff, who will either seek leave to amend this Complaint upon
27 ascertaining such information or will prove the same at the time of trial.

28 80. As more fully set forth above, the disability discrimination by Defendants was

1 committed intentionally, maliciously, wantonly, oppressively, and fraudulently with a
2 conscious disregard for Plaintiff's rights and with the intent to vex, injure, punish, and annoy
3 Plaintiff so as to cause the injuries sustained by Plaintiff. Such acts amounted to oppression,
4 fraud, and malice, as described in California Civil Code § 3294. Plaintiff is therefore entitled to
5 punitive or exemplary damages in an amount sufficient to punish and make an example out of
6 Defendant.

7 81. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
8 Pursuant to California Government Code § 12965(b), Plaintiff is entitled to recover reasonable
9 attorneys' fees and costs (including expert costs) in an amount according to proof.

10 **SECOND CAUSE OF ACTION**

11 **FAILURE TO ACCOMMODATE DISABILITY**

12 **California Government Code §§ 12940 *et. seq.***

13 **(Against Defendant Recology and DOES 1-100, Inclusive)**

14 82. Plaintiff re-alleges and incorporates by this reference each of the preceding and
15 foregoing paragraphs as if fully set forth herein.

16 83. Plaintiff was at all times hereto an "employee" within the meaning of California
17 Government Code § 12926(c) and California Government Code §§ 12940(a) and (c), which
18 prohibit disability discrimination, including the failure to accommodate such disabilities.

19 84. Defendants were at all material times an "employer" as defined by California
20 Government Code § 12926(d) and within the meaning of California Government Code §§
21 12940(a) and (c) and, as such, were barred from discriminating in employment decisions on the
22 basis of disability, as set forth in California Government Code § 12940.

23 85. At the time of Plaintiff's employment with Defendants, Plaintiff was suffering
24 from a known health condition that substantially limited or impaired Plaintiff's major life
25 activities.

26 86. Despite having knowledge of Plaintiff's known health condition, Defendants
27 failed to provide Plaintiff with a reasonable accommodation for Plaintiff's known health
28 condition.

87. As a proximate result of Defendants' failure to accommodate Plaintiff's known health conditions, Plaintiff have suffered: (a) humiliation, serious mental anguish, and emotional and physical distress; and (b) loss of past and future earnings, and employment benefits and opportunities; all on account of which Plaintiff is entitled to compensatory damages. The amount and nature of such damages exceed the jurisdictional limits of this court, but are presently unknown to Plaintiff, who will either seek leave to amend this Complaint upon ascertaining such information or will prove the same at the time of trial.

88. As more fully set forth above, Defendants' failure to accommodate Plaintiff's known health conditions was committed intentionally, maliciously, wantonly, oppressively, and fraudulently with a conscious disregard of Plaintiff's rights and with the intent to vex, injure, punish, and annoy Plaintiff so as to cause the injuries sustained by Plaintiff. Such acts amounted to oppression, fraud, and malice, as described in California Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary damages in an amount sufficient to punish and make an example out of Defendant.

THIRD CAUSE OF ACTION

FAILURE TO ENGAGE IN A GOOD FAITH INTERACTIVE PROCESS

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

(Against Defendant Recology and DOES 1-100, Inclusive)

89. Plaintiff re-alleges and incorporates by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

90. Plaintiff was at all times hereto an “employee” within the meaning of California Government Code § 12926(c) and California Government Code §§ 12940(a) and (c), which prohibit disability discrimination in employment.

91. Defendants were at all material times an “employer” as defined by California Government Code § 12926(d) and within the meaning of California Government Code §§ 12940(a) and (c) and, as such, were barred from discriminating in employment decisions on the basis of disability, as set forth in California Government Code § 12940.

92. At the time of Plaintiff's employment with Defendants, Plaintiff was suffering

1 from a condition that substantially limited or impaired major life activities.

2 93. Despite having notice of Plaintiff's condition, and notice of Plaintiff's request
3 for reasonable accommodations, Defendants failed to engage in a timely, good faith,
4 interactive process with Plaintiff to determine effective reasonable accommodations in
5 violation of California Government Code §12940(n).

6 94. As a result of Defendants' failure to engage in the interactive process of
7 accommodation of his known disabilities, Plaintiff have suffered and continues to suffer: (a)
8 substantial humiliation, serious mental anguish, and emotional and physical distress; and (b)
9 loss of past and future earnings, and employment benefits and opportunities, on account of
10 which Plaintiff is entitled to compensatory damages. The exact amount and nature of such
11 damages exceed the jurisdictional limits of this court, but are presently unknown to Plaintiff,
12 who will either seek leave to amend this Complaint upon ascertaining such information or will
13 prove the same at the time of trial.

14 95. As more fully set forth above, Defendants' failure to engage in the interactive
15 process to accommodate Plaintiff's known disabilities was committed intentionally,
16 maliciously, wantonly, oppressively, and fraudulently with a conscious disregard for Plaintiff's
17 rights and with the intent to vex, injure, punish, and annoy Plaintiff so as to cause the injuries
18 sustained by Plaintiff. Such acts amounted to oppression, fraud, and malice, as described in
19 California Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary damages
20 in an amount sufficient to punish and make an example out of Defendant.

21 **FOURTH CAUSE OF ACTION**

22 **DISCRIMINATION ON THE BASIS OF AGE**

23 **California Government Code §§ 12940 *et. seq.***

24 **(Against Defendant Recology and DOES 1-100, Inclusive.)**

25 96. Plaintiff re-alleges and incorporates by this reference each of the preceding and
26 foregoing paragraphs as if fully set forth herein.

27 97. Defendants, and each of them, subjected Plaintiff to unwelcome discrimination as
28 described in detail above.

1 98. The California Fair Employment and Housing Act (California Government Code
2 § 12900 *et seq.*) prohibits discrimination on the basis of, among other things, disability and age.

3 99. Discriminating against Plaintiffs and/or creating a hostile work environment on
4 the basis of Plaintiff's disability and age is in violation of California Government Code §12940.

5 100. Plaintiff is informed and believes, and thereon alleges that his age was a
6 motivating factor in Defendants' wrongdoing in this case, which included, without limitation,
7 Defendants' refusal to advance Plaintiff and termination of Plaintiff's employment with
8 Defendants.

9 101. At all relevant times alleged herein, Plaintiff was and is an individual who is
10 elderly. Additionally, at all times herein, Plaintiff was willing, able, and qualified to perform the
11 duties and functions of the position in which Plaintiff was employed and/or trained or could have
12 performed the duties and functions of that position.

13 102. The unwelcome discriminatory practices were sufficiently severe or pervasive to
14 alter the terms and conditions of Plaintiff's employment and/or create a hostile, intimidating, or
15 offensive environment.

16 103. Plaintiff found Defendants' discriminatory practices outrageous, hostile, abrasive,
17 and exploitative.

18 104. Defendants are liable for the discriminatory practices. At all relevant times,
19 Defendants had actual and constructive knowledge of the discrimination described herein and
20 alleged herein. Defendants failed to take immediate and appropriate corrective action to stop the
21 discrimination. Thereby Defendants condoned, ratified, and participated in the discrimination by
22 Defendant and failed to protect Plaintiff from further discrimination.

23 105. As a direct and proximate result of Defendants' conduct and each of their acts
24 alleged herein, Plaintiff was harmed. Defendants' above-alleged conduct was extreme and
25 outrageous and has caused Plaintiff injury, damage, loss and harm including loss of income,
26 medical expenses, humiliation, embarrassment, severe mental and emotional distress and
27 discomfort based on the discrimination experienced, and Defendants' failure to take immediate
28 and appropriate action in response thereto, all which amount to Plaintiff's damage in excess of

1 the minimum jurisdiction of this court, the precise amount to be proven at trial.

2 106. Defendants' conduct was malicious and oppressive, in that it was conduct carried
3 on by Defendants in a willful and conscious disregard of Plaintiff's rights, subjecting Plaintiff to
4 cruel and unjust hardship. Thus, an award of exemplary and punitive damages is justified.

5 107. Plaintiff is hereby entitled to general and compensatory damages as prayed herein.
6 Plaintiff also requests an award of reasonable attorney fees, expert witness fees and costs as
7 allowed by law.

8 **FIFTH CAUSE OF ACTION**

9 **HARASSMENT ON THE BASIS OF DISABILITY**

10 **California Government Code §§ 12940 *et seq.***

11 **(Against All Defendants and DOES 1-100, Inclusive)**

12 108. Plaintiff re-alleges and incorporates by this reference each of the preceding and
13 foregoing paragraphs as if fully set forth herein.

14 109. Defendants, and each of them, subjected Plaintiff to unwelcome harassment on
15 the basis of disability as described in detail above.

16 110. The California Fair Employment and Housing Act (California Government
17 Code § 12900 *et seq.*) prohibits harassment on the basis of disability, as well as age.

18 111. Harassment against Plaintiff and/or creating a hostile work environment is in
19 violation of California Government Code § 12940.

20 112. Plaintiff is informed and believes, and thereon alleges that his disability was a
21 motivating factor in Defendants' wrongdoing in this case, which included, without limitation,
22 Defendants' refusal to advance Plaintiff and termination of Plaintiff's employment with
23 Defendants.

24 113. At all relevant times alleged herein, Plaintiff at all times herein, Plaintiff was
25 willing, able, and qualified to perform the duties and functions of the position in which
26 Plaintiff was employed and/or trained or could have performed the duties and functions of that
27 position.

28 114. The unwelcome harassment was sufficiently severe or pervasive to alter the

1 terms and conditions of Plaintiff's employment and/or create a hostile, intimidating, or
2 offensive environment.

3 115. Plaintiff found Defendants' harassment was outrageous, hostile, abrasive, and
4 exploitative.

5 116. Defendants are liable for the harassment. At all relevant times, Defendants had
6 actual and constructive knowledge of the harassment described herein and alleged herein.
7 Defendants failed to take immediate and appropriate corrective action to stop the harassment.
8 Thereby Defendants condoned, ratified, and participated in the harassment by Defendant and
9 failed to protect Plaintiff from further harassment.

10 117. As a direct and proximate result of Defendants' conduct and each of their acts
11 alleged herein, Plaintiff was harmed. Defendants' above-alleged harassment was extreme and
12 outrageous and has caused Plaintiff injury, damage, loss and harm including loss of income,
13 medical expenses, humiliation, embarrassment, severe mental and emotional distress and
14 discomfort based on the harassment experienced, and Defendants' failure to take immediate
15 and appropriate action in response thereto, all which amount to Plaintiff's damage in excess of
16 the minimum jurisdiction of this court, the precise amount to be proven at trial.

17 Defendants' harassment was malicious and oppressive, in that it was conduct carried on
18 by Defendants in a willful and conscious disregard of Plaintiff's rights, subjecting Plaintiff to
19 cruel and unjust hardship. Thus, an award of exemplary and punitive damages is justified.

20 118. Plaintiff is hereby entitled to general and compensatory damages as prayed
21 herein. Plaintiff also requests an award of reasonable attorney fees, expert witness fees and
22 costs as allowed by law.

23 **SIXTH CAUSE OF ACTION**

24 **HARASSMENT ON THE BASIS OF AGE**

25 **California Government Code §§ 12940 *et. seq.***

26 **(Against All Defendants and DOES 1-100, Inclusive.)**

27 119. Plaintiff re-alleges and incorporates by this reference each of the preceding and
28 foregoing paragraphs as if fully set forth herein.

1 120. Defendants, and each of them, subjected Plaintiff to unwelcome harassment on
2 the basis of age as described in detail above.

3 121. The California Fair Employment and Housing Act (California Government Code
4 § 12900 *et seq.*) prohibits harassment on the basis of disability and age in addition to other
5 protected categories.

6 122. Harassment against Plaintiffs and/or creating a hostile work environment on the
7 basis of Plaintiff's age is in violation of California Government Code § 12940.

8 123. Plaintiff is informed and believes, and thereon alleges that his age was a
9 motivating factor in Defendants' wrongdoing in this case, which included, without limitation,
10 Defendants' refusal to advance Plaintiff and termination of Plaintiff's employment with
11 Defendants.

12 124. At all relevant times alleged herein, Plaintiff at all times herein, Plaintiff was
13 willing, able, and qualified to perform the duties and functions of the position in which Plaintiff
14 was employed and/or trained or could have performed the duties and functions of that position.

15 125. Plaintiff alleges and believes that his age was a motivating factor for his dismissal
16 and that Plaintiff was replaced with a younger worker.

17 126. The unwelcome harassment was sufficiently severe or pervasive to alter the terms
18 and conditions of Plaintiff's employment and/or create a hostile, intimidating, or offensive
19 environment.

20 127. Plaintiff found Defendants' harassment was outrageous, hostile, abrasive, and
21 exploitative.

22 128. Defendants are liable for the harassment. At all relevant times, Defendants had
23 actual and constructive knowledge of the harassment described herein and alleged herein.
24 Defendants failed to take immediate and appropriate corrective action to stop the harassment.
25 Thereby Defendants condoned, ratified, and participated in the harassment by Defendant and
26 failed to protect Plaintiff from further harassment.

27 129. As a direct and proximate result of Defendants' conduct and each of their acts
28 alleged herein, Plaintiff was harmed. Defendants' above-alleged harassment was extreme and

1 outrageous and has caused Plaintiff injury, damage, loss and harm including loss of income,
2 medical expenses, humiliation, embarrassment, severe mental and emotional distress and
3 discomfort based on the harassment experienced, and Defendants' failure to take immediate and
4 appropriate action in response thereto, all which amount to Plaintiff's damage in excess of the
5 minimum jurisdiction of this court, the precise amount to be proven at trial.

6 130. Defendants' harassment was malicious and oppressive, in that it was conduct
7 carried on by Defendants in a willful and conscious disregard of Plaintiff's rights, subjecting
8 Plaintiff to cruel and unjust hardship. Thus, an award of exemplary and punitive damages is
9 justified.

10 131. Plaintiff is hereby entitled to general and compensatory damages as prayed herein.
11 Plaintiff also requests an award of reasonable attorney fees, expert witness fees and costs as
12 allowed by law.

13 **SEVENTH CAUSE OF ACTION**

14 **UNLAWFUL DENIAL OF CFRA LEAVE**

15 **California Government Code § 12495.2(a)**

16 **(Against Defendant Recology and DOES 1-100, Inclusive)**

17 132. Plaintiff re-alleges and incorporates by this reference each of the preceding and
18 foregoing paragraphs as if fully set forth herein.

19 133. California Government Code §12945.2 (a), declares it an unlawful employment
20 practice for any employer to refuse to grant a request by any employee with more than 12
21 months of service with the employer, and who has at least 1,250 hours of service with the
22 employer during the previous 12-month period, to take up to a total of 12 workweeks in any
23 12-month period for family care and medical leave, so long as the employer employs at least
24 50 employees within 75 miles of the worksite of the employee requesting such leave. Family
25 care and medical leave requested pursuant to Government Code section 12945.2, subdivision
26 (a), shall not be deemed to have been granted unless the employer provides the employee, upon
27 granting the leave request, a guarantee of employment in the same or a comparable position
28 upon the termination of the leave.

134. Defendants violated the CFRA, California Government Code § 12945.2 (a), by: refusing to provide Plaintiff with CFRA leave for which they were eligible; unreasonably delaying approval of requests for leave under the CFRA and otherwise interfering with Plaintiff's right to use CFRA leave; misrepresenting requirements for CFRA eligibility; and, requesting unnecessary and duplicative information from Plaintiff in support of their legitimate requests for CFRA leave.

135. As a direct result of the unlawful employment practices of Defendants, and each of them, as alleged herein, Plaintiff have incurred lost wages, lost benefits, and out of pocket expenses, in an amount to be proven at trial.

136. As a further and direct result of the unlawful employment practices of Defendants, Plaintiff have suffered anxiety, frustration, emotional distress, and injury in an amount to be proven at the time of trial.

137. Defendants committed the acts alleged herein by acting knowingly and willfully, with the wrongful and illegal deliberate intention of injuring Plaintiff from improper motives amounting to malice, and in conscious disregard of Plaintiff's CFRA rights. Plaintiff and is thus entitled to recover nominal, actual, compensatory, punitive, and exemplary damages in amounts according to proof at time of trial.

EIGHTH CAUSE OF ACTION

UNLAWFUL DISCRIMINATION DUE TO USE OF CFRA LEAVE

California Government Code § 12495.2(a)

(Against Defendant Recology and DOES 1-100, Inclusive)

138. Plaintiff re-alleges and incorporates by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

139. California Government Code § 12945.2 (l), declares it an unlawful employment practice, inter alia, for any employer to refuse to hire, or discharge, fine, suspend, expel, or discriminate against, any individual because of an individual's exercise of the right to family care and medical leave provided by California Government Code § 12945.2 subdivision 23 (a).

140. Defendants violated the CFRA by subjecting Plaintiff to disciplinary action for violation of Defendant's attendance policy as a result of their taking CFRA-qualifying leave. Discipline taken against Plaintiff included, but was not limited to: verbal warnings, written warnings, and termination.

141. As a direct result of the unlawful employment practices of Defendants, and each of them, as alleged herein, Plaintiff have incurred lost wages, lost benefits and out of pocket expenses, in an amount to be proven at trial.

142. As a further and direct result of the unlawful employment practices of Defendants Plaintiff has suffered anxiety, frustration, emotional distress, and injury in an amount to be proven at the time of trial.

143. Defendants committed the acts alleged herein by acting knowingly and willfully, with the wrongful and illegal deliberate intention of injuring Plaintiff from improper motives amounting to malice, and in conscious disregard of Plaintiff's CFRA rights. Plaintiff is thus entitled to recover nominal, actual, compensatory, punitive, and exemplary damages in amounts according to proof at time of trial.

NINETH CAUSE OF ACTION

VIOLATION OF THE HEALTHY WORKPLACES, HEALTHY FAMILIES ACT OF 2014 AND REQUEST FOR ATTORNEY'S FEES

California Government Code §§ 245, 246 247, 248.5(e) and 249

(Against Defendant Recology and DOES 1-100, Inclusive)

144. Plaintiff re-alleges and incorporates by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

145. Plaintiff is informed and believes, and on that basis alleges, that Defendant qualifies as an "employer" as that term is defined in The Healthy Workplaces, Healthy Families Act of 2014 ("Paid Sick Leave Law") (California Labor Code § 245.5(b)) and that Plaintiff is an "eligible employee" as that term is defined in the California Labor Code §§ 245.5(a) and 246(a).

146. Plaintiff is informed and believes, and on that basis alleges, that there was an

1 “eligibility to use sick leave” as defined in California Labor Code § 246(c) and that Plaintiff
2 was denied his entitlement to leave as prescribed in Paid Sick Leave Law.

3 147. Plaintiff is informed and believes, and on that basis alleges, that Defendants
4 denied Plaintiff “the right to use accrued sick days, discharge, threaten to discharge, demote,
5 suspend, or in any manner discriminate against an employee for using accrued sick days,
6 attempting to exercise the right to use accrued sick days....” (California Labor Code § 246.5 (c)
7 (1)).

8 148. Plaintiff is informed and believes, and on that basis alleges, that Defendants is
9 presumed to have retaliated against Plaintiff because Defendants “oppos[ed] a policy, practice
10 or other act that is prohibited by the sick leave law.” (California Labor Code § 246 et seq.).

11 149. As the result of Plaintiff’s termination, Plaintiff has incurred, and is now
12 incurring, a loss of wages in an amount to be proved at trial, but believed to exceed
13 \$25,000.00. These costs include, without limitation, lost wages and medical expenses, back
14 pay from the effective date of termination, medical expenses from the date of termination, lost
15 employment benefits from the date of termination, the loss of front pay as of the date of this
16 complaint, and any interest on the amount thereon. The costs also include administrative
17 penalties and attorneys’ fees that, as of the date of this complaint, exceed \$10,000.00.

18 150. Plaintiff is informed and believes, and on that basis alleges, that pursuant to
19 California Labor Code § 248.5 and 248.5(e), Defendants are liable to Plaintiff for the costs
20 described in the preceding paragraph.

21 151. As a result of Defendants’ conduct, Plaintiff has been required to retain the
22 services of GUZMÁN & TOKAR LLP and has and will incur attorney’s fees to prosecute this
23 action.

24 **TENTH CAUSE OF ACTION**

25 **HOSTILE WORK ENVIRONMENT**

26 **California Government Code §§ 12940 et seq.**

27 **(Against Defendant Recology and DOES 1-100, Inclusive)**

28 152. Plaintiff re-alleges and incorporates by this reference each of the preceding and

1 foregoing paragraphs as if fully set forth herein.

2 153. Plaintiff was subjected to unwanted harassing conduct in the form of comments
3 and behaviors made by Defendant Torres.

4 154. Defendants, through their agents and employees, engaged in a pattern and
5 practice of maintaining a hostile work environment in violation of FEHA, in connection with
6 their treatment of Plaintiff and the terms and conditions of his employment.

7 155. At all relevant times, Defendants had actual and constructive knowledge of the
8 hostile work environment described and alleged herein. Defendants condoned, ratified, and
9 participated in creating the hostile work environment. Defendants' failure to protect Plaintiff
10 from the hostile work has caused Plaintiff damages.

11 156. At all relevant times, Plaintiff considered the work environment hostile and
12 abrasive, but he stayed at his employment in order to pay his financial obligations and
13 responsibilities.

14 157. Plaintiff believes this work environment was hostile and that a reasonable male
15 in Plaintiff's position would likewise find the work environment hostile.

16 158. As a direct and proximate result of the willful, knowing, and intentional hostile
17 work environment to which Plaintiff was subjected and the failure to act by Defendants,
18 Plaintiff has suffered mental distress, anguish, indignation and loss of income and employment
19 benefits.

20 159. Plaintiff is thereby entitled to general and compensatory damages as prayed
21 herein. Plaintiff also requests an award of reasonable attorney's fees, expert witness fees and
22 costs as allowed by law.

23 160. Defendants' acts alleged herein are malicious, oppressive, despicable, and in
24 conscious disregard of Plaintiff's rights. As such, punitive damages are warranted against non-
25 governmental entity Defendants in order to punish them and to discourage such unlawful
26 behavior.

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ELEVENTH CAUSE OF ACTION
**FAILURE TO TAKE ALL REASONABLE STEPS TO PREVENT HARASSMENT,
DISCRIMINATION AND RETALIATION**
California Government Code §§ 12940 *et seq.*
(Against Defendant Recology and DOES 1-100, Inclusive)

161. Plaintiff re-alleges and incorporates by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

162. FEHA requires Defendants to take all reasonable steps to prevent discrimination, harassment and retaliation based on disability and age.

163. Defendants failed to take all reasonable steps to prevent the discrimination, harassment and retaliation against Plaintiff as more fully described above. Defendants further failed to take all immediate and appropriate corrective actions to stop the harassment, discrimination and retaliation Plaintiff experienced.

164. As a direct and proximate result of Defendants’ failure to prevent harassment, discrimination and retaliation against Plaintiff, Plaintiff was harmed. Defendants’ above-alleged conduct was extreme and outrageous and has caused Plaintiff injury, damage, loss and harm including loss of income, medical expenses, humiliation, embarrassment, severe mental and emotional distress and discomfort. Defendants’ failure to take immediate and appropriate action in response thereto, all which amount to Plaintiff’s damage in excess of the minimum jurisdiction of this court.

165. Plaintiff is thereby entitled to general and compensatory damages as prayed herein. Plaintiff also requests an award of reasonable attorneys’ fees, expert witness fees and costs as allowed by law.

166. Defendants’ failure to take all reasonable steps necessary to prevent discrimination and harassment, was malicious and oppressive, in that it was conduct carried on by Defendants in a willful and conscious disregard of Plaintiff’s rights and subjected him to cruel and unjust hardship. Thus, an award of exemplary and punitive damages is justified.

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TWELFTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF FEHA

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

(Against Defendant Recology and DOES 1-100, Inclusive.)

167. Plaintiff re-alleges and incorporates by this reference each of the preceding and foregoing paragraphs as if fully set forth herein.

168. Defendants, and each of them, subjected Plaintiff to unwelcome harassment and discrimination, resulting in retaliation based on his protected categories.

169. The California Fair Employment and Housing Act (California Government Code § 12900 *et seq.*) prohibits retaliation on the basis of disability and age (among other protected categories.)

170. Harassment against Plaintiff and/or creating a hostile work environment on the basis of Plaintiff’s disability and age is in violation of California Government Code § 12940.

171. Plaintiff is informed and believes, and thereon alleges that his disability and age was a motivating factor in Defendants’ wrongdoing in this case, which included, without limitation, Defendants’ refusal to advance Plaintiff and termination of Plaintiff’s employment with Defendants.

172. At all relevant times alleged herein, Plaintiff at all times herein, Plaintiff was willing, able, and qualified to perform the duties and functions of the position in which Plaintiff was employed and/or trained or could have performed the duties and functions of that position. Plaintiff was disabled and injured. Plaintiff is in his late fifties.

173. The unwelcome harassment was sufficiently severe or pervasive to alter the terms and conditions of Plaintiff’s employment and/or create a hostile, intimidating, or offensive environment.

174. Plaintiff found Defendants’ harassment was outrageous, hostile, abrasive, and exploitative.

175. Defendants are liable for the harassment. At all relevant times, Defendants had

1 actual and constructive knowledge of the harassment described herein and alleged herein.
2 Defendants failed to take immediate and appropriate corrective action to stop the harassment.
3 Thereby Defendants condoned, ratified, and participated in the harassment by Defendant and
4 failed to protect Plaintiff from further harassment.

5 176. As a direct and proximate result of Defendants' conduct and each of their acts
6 alleged herein, Plaintiff was harmed. Defendants' above-alleged harassment was extreme and
7 outrageous and has caused Plaintiff injury, damage, loss and harm including loss of income,
8 medical expenses, humiliation, embarrassment, severe mental and emotional distress and
9 discomfort based on the harassment experienced, and Defendants' failure to take immediate
10 and appropriate action in response thereto, all which amount to Plaintiff's damage in excess of
11 the minimum jurisdiction of this court, the precise amount to be proven at trial.

12 177. Defendants' harassment was malicious and oppressive, in that it was conduct
13 carried on by Defendants in a willful and conscious disregard of Plaintiff's rights, subjecting
14 Plaintiff to cruel and unjust hardship. Thus, an award of exemplary and punitive damages is
15 justified.

16 178. Plaintiff is hereby entitled to general and compensatory damages as prayed
17 herein. Plaintiff also requests an award of reasonable attorney fees, expert witness fees and
18 costs as allowed by law.

19 **THIRTEENTH CAUSE OF ACTION**

20 **RETALIATION IN VIOLATION OF CALIFORNIA LABOR CODE § 1102.5(b)**

21 **(Against Defendant Recology and DOES 1-100, Inclusive)**

22 179. Plaintiff re-alleges and incorporates by this reference each of the preceding and
23 foregoing paragraphs as if fully set forth herein.

24 180. At all relevant times, California Labor Code § 1102.5 was in effect and was
25 binding on Defendants.

26 181. This statute prohibits Defendant Recology from retaliating against any
27 employee, including Plaintiff, for raising complaints of illegality. Plaintiff complained about
28 discrimination and harassment in the workplace, and as a result, Defendants terminated

1 Plaintiff.

2 182. As a proximate result of Defendants' willful, knowing, and intentional
3 violations of California Labor Code § 1102.5, Plaintiff has suffered and continues to suffer
4 humiliation, emotional distress, and mental and physical pain and anguish, all to Plaintiff's
5 damage in a sum according to proof.

6 183. As a result of Defendants' adverse employment actions against Plaintiff,
7 Plaintiff has suffered general and special damages in sums according to proof.

8 184. Defendants' misconduct was committed intentionally, in a malicious,
9 fraudulent, despicable, and oppressive manner, entitling Plaintiff to punitive damages against
10 Defendants.

11 185. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
12 Pursuant to California Code of Civil Procedure §§ 1021.5 and 1032, *et seq.*, Plaintiff is entitled
13 to recover reasonable attorneys' fees and costs in an amount according to proof.

14 **FOURTEENTH CAUSE OF ACTION**

15 **WRONGFUL TERMINATION OF EMPLOYMENT**

16 **IN VIOLATION OF PUBLIC POLICY**

17 **California Government Code §§ 12940 *et seq.*, and**

18 **California Labor Code §§ 204, 206, 216, 218.5, 218.6**

19 **(Against Defendant Recology and DOES 1-100, Inclusive)**

20 186. Plaintiff re-alleges and incorporates by this reference each of the preceding and
21 foregoing paragraphs as if fully set forth herein.

22 187. This cause of action arises under the public policies of the State of California
23 and of the United States; Defendants' retaliation against Plaintiff and ultimate termination of
24 his employment was in violation of such public policies, including those set forth in statutes
25 and regulations prohibiting discrimination, harassment and retaliation or complaints about
26 violations of the FEHA and/or California Labor Code, including, but not limited to the Family
27 Medical Leave Act, the California Family Rights Act, statutes and regulations prohibiting
28 gender-based and/or disabilities arising from workplace injuries,

1 discrimination/harassment/retaliation, and statutes and regulations prohibiting employers from
2 discriminating/harassing/retaliating employees who seek a safe work environment, seek to be
3 free from harassment in the workplace, to time off to attend to criminal proceeding matters and
4 to have complaints thereto properly addressed by the employer.

5 188. As a direct and proximate result of Defendants' conduct as set forth above,
6 Plaintiff's emotional well-being has substantially suffered and will continue to suffer; Plaintiff
7 has experienced and continues to experience severe emotional distress, in an amount to be
8 proven at trial. Plaintiff alleges that he has and will continue to suffer substantial losses in
9 earnings, other employment opportunities, employment benefits and other damages, the precise
10 amounts to be proven at trial.

11 189. Defendants' conduct as described herein was malicious and oppressive and done
12 with a conscious disregard of Plaintiff's rights. Defendants' acts were designed to humiliate
13 and oppress Plaintiff; and they had that effect. Defendants condoned, ratified, and encouraged
14 the unlawful conduct. Thus, Plaintiff is entitled to punitive damages against Defendants under
15 California Civil Code § 3294.

16 190. As a direct, foreseeable, and proximate result of Defendants' conduct as alleged
17 herein, Plaintiff has suffered and will continue to suffer actual damages, including lost
18 earnings and other employment benefits, in a sum in excess of the jurisdictional limit of this
19 Court, the exact amount of which is not yet known, which amount will be proved at the time of
20 trial.

21 191. As a further direct, foreseeable, and proximate result of said wrongful acts and
22 failures to act by Defendants, Plaintiff has suffered and will continue to suffer substantial
23 emotional distress and will incur other incidental and consequential damages and losses, all in
24 an amount to be proven at time of trial. Plaintiff claims such amounts as damages together with
25 prejudgment interest pursuant to any provision of law providing for prejudgment interest.

26 192. As a further direct and proximate result of Defendants' retaliatory and wrongful
27 actions against Plaintiff as alleged herein, Plaintiff suffered special damages that include,
28 without limitation, the loss of wages, salary, benefits, and/or additional amounts of money he

1 would have received but for Defendants' discriminatory and/or retaliatory actions as alleged
2 herein. Plaintiff also continues to suffer the intangible loss of such employment-related
3 opportunities as, including without limitation, experience in the position he held and
4 advancement opportunities.

5 193. As a further direct, foreseeable, and proximate result of said wrongful acts and
6 failures to act by Defendants, Plaintiff has suffered and will continue to suffer humiliation,
7 shame, despair, embarrassment, depression, and mental pain and anguish, all to Plaintiff's
8 damage in an amount to be proven at time of trial.

9 194. The aforementioned acts were carried out by Defendants in a malicious, willful
10 and oppressive manner with the intent to injure and damage Plaintiff, entitling Plaintiff to
11 recover exemplary damages from Defendants under California Civil Code § 3294. Defendants'
12 decision to terminate Plaintiff in violation of public policy was done with intent to injure
13 Plaintiff and with the intent to prevent the exercise of his statutory rights and obligations.
14 Defendants' officers, directors, and managerial and supervisory employees participated in the
15 unlawful conduct as alleged above or had actual knowledge that the above-alleged conduct was
16 unlawful and nevertheless authorized and/or ratified the practices with conscious disregard of
17 the rights and safety of Plaintiff.

18 **FIFTEENTH CAUSE OF ACTION**

19 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

20 **California Civil Code § 3294**

21 **(Against All Defendants and DOES 1-100, Inclusive)**

22 195. Plaintiff re-alleges and incorporates by this reference each of the preceding and
23 foregoing paragraphs as if fully set forth herein.

24 196. Defendants engaged in retaliation against Plaintiff for his lawful activity and
25 aided and abetted each other in engaging in illegal retaliation thereby subjecting Plaintiff to the
26 intentional infliction of emotional distress caused by such retaliation.

27 197. The acts of Defendants as described herein were extreme and outrageous and an
28 abuse of the authority and position of Defendants, individually and jointly. Such conduct was

1 intended to cause severe emotional distress or was done with conscious disregard for the
2 probability of causing such distress. Such conduct exceeded the inherent risks of employment
3 and was not the sort of conduct normally expected to occur in the workplace. Defendants and
4 its employees abused their positions of authority toward Plaintiff and engaged in conduct
5 intended to humiliate Plaintiff and convey the message that he was powerless to defend his
6 rights.

7 198. As a proximate result of the aforementioned acts, Plaintiff has suffered
8 embarrassment, anxiety, humiliation, serious mental anguish, and emotional and physical
9 distress. Plaintiff will continue to suffer damages in a sum that exceeds the jurisdictional limits
10 of this court but is yet to be ascertained. Plaintiff will either seek leave to amend this
11 Complaint upon ascertaining such information or will prove the same at the time of trial.

12 199. As more fully set forth above, the acts of Defendants were intentional,
13 malicious, wanton, oppressive, and fraudulent, with conscious disregard for Plaintiff's rights
14 and with the intent to vex, injure, punish, and annoy Plaintiff so as to cause the injuries
15 sustained by Plaintiff, within the meaning of California Civil Code § 3294. Plaintiff is
16 therefore entitled to punitive or exemplary damages in an amount sufficient to punish and
17 make an example out of Defendants.

18 **SIXTEENTH CAUSE OF ACTION**

19 **FAILURE TO PAY OVERTIME**

20 **California Labor Code §§ 510, 1194, 1198, and 2699**

21 **(Against Defendant Recology and DOES 1-100, Inclusive)**

22 200. Plaintiff re-alleges and incorporates by this reference each of the preceding and
23 foregoing paragraphs as if fully set forth herein.

24 201. Plaintiff was required to work during his meal periods and rest breaks as well as
25 complete assignments and tasks before he clocks out. Plaintiff is entitled to that overtime pay.

26 202. At all times herein relevant, the Wage Order applicable to Plaintiff's
27 employment by Defendants provides that such employees employed for more than eight (8)
28 hours in a workday or more than forty (40) hours in a workweek are entitled to payment at the

1 rate of time and one half for all hours so worked. Employees who work more than twelve (12)
2 hours in a workday or more than eight (8) hours on a seventh workday are entitled to overtime
3 compensation at a rate of two times their regular rates of pay. The right to overtime
4 compensation at one- and one-half times the regular rate for hours worked in excess of eight
5 (8) hours in a workday or forty (40) hours in a work week or on a seventh workday in a work
6 week has been codified in California Labor Code § 510. Defendants have failed to pay Plaintiff
7 the overtime compensation owed to him.

8 203. Defendants' failure to pay Plaintiff the overtime compensation due to him, as
9 required by the applicable Wage Order and the California Labor Code, violates the provisions
10 of California Labor Code §§ 1194, 1198, 510, and 2699 and was unlawful.

11 204. Therefore, Plaintiff is entitled to recover from Defendants the unpaid wages,
12 plus interest on that amount, liquidated damages, penalties, reasonable attorneys' fees, and
13 costs of this suit pursuant to California Labor Code §§ 1194 and 1194.2.

14 **SEVENTEENTH CAUSE OF ACTION**

15 **FAILURE TO PROVIDE REST PERIODS**

16 **California Labor Code § 226.7**

17 **(Against All Defendants and DOES 1-100, Inclusive)**

18 205. Plaintiff re-alleges and incorporates by this reference each of the preceding and
19 foregoing paragraphs as if fully set forth herein.

20 206. Defendants routinely failed to provide Plaintiff duty-free rest periods and/or to
21 pay Plaintiff one additional hour of pay for each duty-free rest period that was not provided in
22 accordance with California Labor Code § 226.7.

23 207. Defendants' conduct violated the provisions of California Labor Code § 226.7 in
24 that Defendants did not provide Plaintiff rest periods or pay to Plaintiff one hour of wages as
25 compensation for each duty-free rest period not provided as required by law. Plaintiff is
26 entitled to recover the unpaid wages that Defendants owe him, plus interest on that amount at
27 the rate of ten percent per annum, reasonable attorneys' fees under California Labor Code §
28 2699, and costs of suit.

1 208. As a proximate result of the aforementioned violations, Plaintiff has been
2 damaged in an amount according to proof at the time of trial, but not in an amount in excess of
3 the jurisdiction of this Court.

4 **EIGHTEENTH CAUSE OF ACTION**

5 **FAILURE TO PROVIDE MEAL PERIODS**

6 **California Labor Code § 226.7**

7 **(Against Defendant Recology and DOES 1-100, Inclusive)**

8 209. Plaintiff re-alleges and incorporates by this reference each of the preceding and
9 foregoing paragraphs as if fully set forth herein.

10 210. Defendants routinely failed to provide Plaintiff duty-free meal periods and/or to
11 pay Plaintiff one additional hour of pay for each duty-free meal period that was not provided in
12 accordance with California Labor Code § 226.7.

13 211. Defendants' conduct violated the provisions of California Labor Code § 226.7 in
14 that Defendants did not provide Plaintiff meal periods or pay to Plaintiff one hour of wages as
15 compensation for each duty-free rest period not provided as required by law. Plaintiff is
16 entitled to recover the unpaid wages that Defendants owe him, plus interest on that amount at
17 the rate of ten percent per annum, and reasonable attorneys' fees under California Labor Code
18 § 2699.

19 212. As a proximate result of the aforementioned violations, Plaintiff has been
20 damaged in an amount according to proof at the time of trial, but not in an amount in excess of
21 the jurisdiction of this Court.

22 **NINETEENTH CAUSE OF ACTION**

23 **FAILURE TO PAY EARNED WAGES**

24 **California Labor Code §§ 204, 206, 216, 218.5, 218.6**

25 **(Against Defendant Recology and DOES 1-100, Inclusive)**

26 213. Plaintiff re-alleges and incorporates by this reference each of the preceding and
27 foregoing paragraphs as if fully set forth herein.

28 214. Defendants failed to pay all wages due to Plaintiff in violation of California

1 Labor Code §§ 204, 206, 216, 218.5, 218.6.

2 215. Defendants' failure to pay wages as alleged herein was willful as Defendants
3 knew that Plaintiff did not receive all earned pay based on at least the following: (1)
4 Defendants willfully refused to pay Plaintiff for all hours he worked; and (2) such records
5 would reflect that Plaintiff was not paid overtime or an hour of wages for each duty-free rest or
6 meal period that was not provided as required by California Labor Code and the applicable
7 Wage Orders.

8 **TWENTIETH CAUSE OF ACTION**

9 **FAILURE TO FURNISH COMPLIANT WAGE STATEMENTS**

10 **California Labor Code §§ 226 *et seq.***

11 **(Against Defendant Recology and DOES 1-100, Inclusive)**

12 216. Plaintiff re-alleges and incorporates by this reference each of the preceding and
13 foregoing paragraphs as if fully set forth herein.

14 217. Pursuant to California Labor Code § 226(a), on a semi-monthly basis or at the
15 time of the payment of wages, Defendants were required to furnish each of their employees
16 with an accurate itemized statement in writing showing, *inter alia*, the gross and net wages
17 earned.

18 218. During all pertinent times, Defendants intentionally failed to furnish Plaintiff
19 with properly itemized statements. Defendants also failed to provide Plaintiff duty-free rest
20 periods or pay Plaintiff one hour of wages as compensation for each duty-free rest period not
21 provided in accordance with California Labor Code. Defendants failed to furnish Plaintiff with
22 an itemized statement in writing showing that Plaintiff had earned one additional hour of pay
23 for meal and/or rest periods not provided and showing the overtime hours worked by Plaintiff.
24 Defendants failed to provide overtime wages worked by Plaintiff.

25 219. Pursuant to California Labor Code § 226(e), employees (such as Plaintiff) who
26 suffer injury as a result of a knowing and intentional failure by an employer to comply with the
27 provisions of California Labor Code § 226(a) are entitled to recover the greater of all actual
28 damages or fifty dollars for the initial pay period in which a violation occurs and one hundred

1 dollars per employee for each violation in a subsequent pay period, not exceeding an aggregate
2 penalty of four thousand dollars (\$4,000), and are entitled to costs and reasonable attorneys'
3 fees.

4 220. Defendants knowingly and intentionally failed to provide to Plaintiff accurate
5 itemized statements in compliance with California Labor Code §§ 226(a) and 2699 and did so
6 in order to conceal their liability from Plaintiff.

7 **TWENTY-FIRST CAUSE OF ACTION**

8 **WAITING TIME PENALTIES**

9 **California Labor Code §§ 201, 202 and 203**

10 **(Against Defendant Recology and DOES 1-100, Inclusive)**

11 221. Plaintiff re-alleges and incorporates by this reference each of the preceding and
12 foregoing paragraphs as if fully set forth herein.

13 222. California Labor Code § 201 provides in relevant part: “[i]f an employer
14 discharges an employee, the wages earned and unpaid at the time of discharge are due and
15 payable immediately.”

16 223. As alleged herein, Defendants failed to pay wages of Plaintiff at the time the
17 wages became due and payable. Thus, Defendants violated California Labor Code §§ 201, 202,
18 and 2699.

19 224. Defendants’ failure to pay wages as alleged herein was willful as Defendants
20 knew that Plaintiff did not receive all earned pay based on at least the following: (1)
21 Defendants willfully refused to pay Plaintiff for all hours he worked; and (2) such records
22 would reflect that Plaintiff was not paid overtime or an hour of wages for each duty-free rest or
23 meal period that was not provided as required by California Labor Code and the applicable
24 Wage Orders.

25 225. As a result of Defendants’ unlawful acts, Plaintiff is entitled to recover, pursuant
26 to California Labor Code § 203, continuing wages as a penalty from the due date thereof at the
27 same rate until paid or this action was commenced, up to thirty days, and penalties under
28 California Labor Code § 2699.

1 **TWENTY-SECOND CAUSE OF ACTION**

2 **UNFAIR/UNLAWFUL/FRAUDULENT BUSINESS PRACTICES**

3 **California Business and Professions Code §§ 17200 *et seq***

4 **(Against Defendant Recology and DOES 1-100, Inclusive)**

5 226. Plaintiff re-alleges and incorporates by this reference each of the preceding and
6 foregoing paragraphs as if fully set forth herein.

7 227. California Business and Professions Code §§ 17200 *et seq.* (herein “UCL”)
8 prohibits unfair competition, including but not limited to any unlawful, unfair, or fraudulent
9 business practices.

10 228. California Labor Code § 90.5(a) provides that it is the public policy of the State
11 of California to vigorously enforce labor standards in order to ensure that employees are not
12 required to work under substandard unlawful conditions, and to protect employers who comply
13 with the law from those, such as Defendants, who attempt to gain a competitive advantage at
14 the expense of their employees by failing to comply with minimum labor standards.

15 229. Defendants’ policies and practices of failing to pay the legally required wages,
16 provide accurate itemized statements, to timely pay all wages owed, and to provide duty-free
17 meal and/or rest periods, as set forth above, violates the UCL in that:

18 a. It constitutes an unlawful business practice by definition and, thus,
19 violates the UCL;

20 b. Defendants’ practices are unethical, unscrupulous, and substantially
21 injurious to consumers. The harm to Plaintiff, all others similarly situated, and to members of
22 the general public, outweighs the utility, if any, of Defendants’ policy and practice; and

23 c. Defendants’ practices have misled Plaintiff and members of the general
24 public.

25 230. The unlawful, unfair, and fraudulent business practices by Defendants, as
26 described above, present a continuing threat to the public in that consumers throughout
27 California have suffered and continue to suffer an injury in fact and lost money as a result of
28 Defendants’ unlawful, unfair, and fraudulent acts or practices. In addition, Defendants have

1 been unjustly enriched as a result of their conduct. Plaintiff and members of the general public
2 have no other adequate remedy of law in that absent equitable relief from the court, Defendants
3 are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest,
4 thus engendering a multiplicity of judicial proceedings.

5 231. Plaintiff is entitled to restitution of monies due to him as a result of said
6 Defendants' unlawful, unfair, and fraudulent conduct, and seeks injunctive relief.

7 232. Plaintiff is entitled to restitution of the unpaid amounts, as an equitable remedy,
8 and interest at the rate of ten percent per annum, costs of suit, and reasonable attorneys' fees
9 pursuant to the underlying claims as alleged herein above.

10 233. Pursuant to California Business and Professions Code § 17203, this court may
11 order paid the full amounts wrongfully retained by Defendants to Plaintiff, who was not fully
12 compensated for Defendants' failure to provide duty-free rest periods for the statutory period.
13 Plaintiff will, upon leave of court, amend this Complaint to state the amount of such
14 wrongfully retained amounts when they are ascertained.

15 234. Injunctive relief is necessary and appropriate to prevent Defendants from
16 repeating the wrongful business practices alleged herein.

17 235. Plaintiff's success in this action will enforce important rights affecting the
18 public interest and in that regard, Plaintiff sues on behalf of the public as well as himself.
19 Plaintiff seeks and is entitled to money owing and unpaid, an injunction, an equitable
20 accounting, and all other equitable relief required to remedy Defendants' failure to pay the
21 required money.

22 **TWENTY-THIRD CAUSE OF ACTION**

23 **CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT**

24 **California Labor Code § 2699 *et seq.***

25 **(Against Defendant Recology and DOES 1-100, Inclusive)**

26 236. Plaintiff re-alleges and incorporates by this reference each of the preceding and
27 foregoing paragraphs as if fully set forth herein.

28 237. Plaintiff is an "aggrieved employee" pursuant to The Private Attorneys General

Act (“PAGA”), as Plaintiff was employed by Defendants during the applicable statutory period and suffered each of the California Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of Plaintiff’s self, and all other current and former aggrieved employees of Defendants, the civil penalties provided by PAGA, plus reasonable attorneys’ fees and costs.

238. Plaintiff seeks to recover the PAGA civil penalties through a representative action permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal. 4th 969. Therefore, class certification of these PAGA claims is not required.

239. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following California Labor Code provisions:

- California Labor Code § 512: Failure to Provide Compliant Meal Periods
- California Labor Code § 510: Failure to Pay Work-Off-the-Clock Wages
- California Labor Code §§ 1194: Failure to Pay Balance of Wages Owed
- California Labor Code § 226: Non-Compliant Wage Statements
- California Labor Code § 203: Waiting-Time Penalties

240. With respect to violations of California Labor Code Section 226(a), California Labor Code § 226.3 imposes a civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250.00) per aggrieved employee for the first violation, and one thousand dollars (\$1,000.00) per aggrieved employee for each subsequent violation of California Labor Code § 226(a).

241. California Labor Code §§ 2699 *et seq.* imposes a civil penalty of one hundred dollars (\$100.00) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200.00) pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided, including without limitation California Labor Code § 1174.

242. The above-referenced civil penalties shall include the recovery of amounts specified in the applicable sections of the California Labor Code, and if not specifically provided, those under California Labor Code § 2699(f), and shall include those amounts

1 sufficient to recover underpaid wages due and owed to Plaintiff and other aggrieved employees
2 pursuant to the California Labor Code.

3 243. Plaintiff reserves Plaintiff's rights to allege any additional and all other
4 violations of the California Labor Code and applicable IWC Wage Order(s) as may be
5 disclosed in discovery and as a result of additional investigation that may be pursued in this
6 action.

7 244. Plaintiff was compelled to retain the services of counsel to file this court action
8 to protect Plaintiff's interests and those of other aggrieved employees, and to assess and collect
9 the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs,
10 which Plaintiff is entitled to recover pursuant to California Labor Code § 2699.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff hereby prays that the Court enter judgment in his favor and
13 against Defendant Recology, Defendant Torres, and DOES 1 through 100, inclusive,
14 collectively Defendants, and each of them, as follows:

- 15 a. For compensatory damages and other costs incurred by Plaintiff according to
16 proof, but believed to exceed \$25,000;
- 17 b. For payment of earned wages, meal and rest period compensation, waiting time
18 compensation and other damages according to proof in an amount to be
19 ascertained at trial, and in excess of the jurisdictional limit of this Court;
- 20 c. For emotional distress damages;
- 21 d. For payment of all statutory obligations and penalties as required by law;
- 22 e. For civil penalties to the extent permitted by law and California Labor Code §§
23 2698 and 2699 *et seq.*;
- 24 f. For an accounting, under administration of Plaintiff and subject to Court review;
- 25 g. For injunctive relief compelling production of Plaintiff employment file and/or
26 wage records;
27
28

- 1 h. A declaration of the rights and interests of the parties;
2 i. For prejudgment interest at the legal rate;
3 j. For attorney's fees and costs;
4 k. For costs of suit incurred herein;
5 l. For restitution and disgorgement of ill-gotten profits;
6 m. For punitive damages in an amount sufficient to punish Defendants for the
7 wrongful conduct alleged herein and to deter such conduct in the future; and,
8 n. For such further relief as the Court may deem appropriate.
9

10 ADDITIONALLY, Plaintiff SALVADOR VELASQUEZ TAPIA demands trial of this
11 matter by jury. The amount demanded exceeds \$25,000.00. (California Government Code §
12 72055).
13

14 Dated: August 9, 2023

GUZMÁN & TOKAR LLP

15 By: 
16 Marcia Guzmán, Esq.
17 Victoria Tokar, Esq.
18 Attorneys for Plaintiff
19 SALVADOR VELASQUEZ TAPIA
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