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Electronically FILED by
Superior Court of California,
County of Los Angeles
8/31/2023 4:33 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Tarasyuk, Deputy Clerk

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

SERGEY SHTERN, an individual,

Plaintiff,

v.

TITAN COLLISION CENTER, a California
Corporation; ANTON IVCHENKO, an
individual; and DOES 1 THROUGH 20,
inclusive,

Defendants.

Case No.: 23STCV21091

Unlimited Jurisdiction

COMPLAINT

- 1. WRONGFUL TERMINATION AND RETALIATION IN VIOLATION OF PUBLIC POLICY;**
- 2. DISCRIMINATION BASED ON PROTECTED STATUS – DISABILITY, RACE AND NATIONALITY;**
- 3. FAILURE TO ACCOMMODATE;**
- 4. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;**
- 5. FAILURE TO TAKE REASONABLE STEPS TO PREVENT DISCRIMINATION AND/OR RETALIATION;**
- 6. NONPAYMENT OF MINIMUM WAGES;**
- 7. NONPAYMENT OF REGULAR WAGES;**
- 8. NONPAYMENT OF OVERTIME COMPENSATION;**
- 9. FAILURE TO PROVIDE MEAL BREAKS;**
- 10. FAILURE TO PROVIDE REST PERIODS;**
- 11. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226(a)];**

Complaint

Sergey Shtern v. Titan Collision Center, et al.

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

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DEMAND FOR JURY TRIAL

14 Plaintiff SERGEY SHTERN (“PLAINTIFF”) hereby files this Complaint against
15 Defendants TITAN COLLISION CENTER (“TITAN”), a California Corporation, ANTON
16 IVCHENKO (“IVCHENKO”), an individual, and DOES 1 THROUGH 20, inclusive
17 (Collectively, “DEFENDANTS”). PLAINTIFF is informed and believes, and on the basis of that
18 information and belief, alleges as follows:

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PARTIES

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

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

25 3. PLAINTIFF is informed and believes, and on this basis alleges that Defendant
26 IVCHENKO is an individual conducting business in California and working in the County of Los
27 Angeles.

28 4. The true names and capacities of DOES 1 through 20, inclusive, whether individual,

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

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

13 **JURISDICTION AND VENUE**

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

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

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

21 8. From around April 7 to May 7, 2023, PLAINTIFF was employed as a car mechanic
22 by TITAN.

23 9. TITAN is an auto body and collision repair shop hiring around five employees.

24 10. IVCHENKO is named as the Chief Executive Officer, Chief Financial Officer and
25 Director of TITAN.

26 11. PLAINTIFF was supposed to be paid a monthly payment at \$15/hour through the
27 cellphone app Zelle. However, he did not receive any pay during his time of employment.

28 12. Typically, PLAINTIFF was not given lunch or rest breaks and his breaks, when he

occasionally got them, were interrupted with work duties urged by IVCHENKO. He was also not allowed to leave the premises during his breaks.

13. Because TITAN did not have proper equipment for employees to use, PLAINTIFF injured his hand and back at work. Although he reported his injuries to IVCHENKO, nothing was done by TITAN, and IVCHENKO told PLAINTIFF that “someone is going to get hurt as the equipment is not safe.” Every time PLAINTIFF made a complaint, IVCHENKO would always bring up his nationality and tell him “If you don’t like it, go back to Russia” in a very aggressive tone.

14. After PLAINTIFF made a request for his wage payment after the first month of work, IVCHENKO refused his request and blocked him from further communication, essentially terminating him.

15. There were other similarly situated employees who were not put on the payroll.

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

17. On July 26, 2023, PLAINTIFF filed a complaint with the Department of Fair Employment and Housing (“DFEH”) and obtained a Right to Sue letter on the same day. PLAINTIFF herein with this Complaint serves DEFENDANTS with the DFEH complaint and Right to Sue notices.

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

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

7 **SECOND CAUSE OF ACTION**

8 **DISCRIMINATION IN VIOLATION**

9 **OF CALIFORNIA GOVERNMENT CODE §12940, ET SEQ**

10 **(PLAINTIFF against TITAN and DOE 1 through 10)**

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

13 28. PLAINTIFF was an employee of DEFENDANTS.

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

19 30. Moreover, PLAINTIFF constantly endured severe race and nationality-based
20 discrimination at work. DEFENDANTS knew of such discrimination against PLAINTIFF but
21 failed to take immediate and appropriate corrective action.

22 31. PLAINTIFF's disability, race and nationality were substantial motivating reasons
23 for DEFENDANTS' conduct that caused the wrongful termination against PLAINTIFF.

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

26 33. PLAINTIFF believes that DEFENDANTS' conducts described above were done
27 with malice, fraud and oppression and with conscious disregard for PLAINTIFF's rights and with
28

the intent, design and purpose to cause PLAINTIFF harm. As such, PLAINTIFF is also entitled to punitive and exemplary damages.

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

THIRD CAUSE OF ACTION

FAILURE TO ACCOMMODATE – DISABILITY DISCRIMINATION

IN VIOLATION OF GOVERNMENT CODE §12940(m)

(PLAINTIFF against TITAN and DOE 1 through 10)

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

36. PLAINTIFF was employed as an employee by DEFENDANTS.

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

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

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

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

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

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

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FOURTH CAUSE OF ACTION

FAILURE TO ENGAGE IN INTERACTIVE PROCESS

IN VIOLATION OF CALIFORNIA GOVERNMENT CODE §12940(n)

(PLAINTIFF against TITAN and DOE 1 through 10)

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

44. PLAINTIFF was an employee of DEFENDANTS.

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

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

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

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

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

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

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO TAKE REASONABLE STEPS**
3 **TO PREVENT DISCRIMINATION AND RETALIATION**
4 **IN VIOLATION OF GOVERNMENT CODE §12940 (k)**
5 **(PLAINTIFF against TITAN and DOE 1 through 10)**

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

8 52. PLAINTIFF was employed as an employee by DEFENDANTS.

9 53. PLAINTIFF was subject to disability, race and nationality discrimination and
10 retaliation in violation of public policy in the course of employment.

11 54. DEFENDANTS failed to take all reasonable steps to prevent discrimination and
12 retaliation. DEFENDANTS ignored PLAINTIFF's complaints about disability, race and
13 nationality discrimination and retaliation and as a result by not doing anything, had condoned,
14 ratified and participated in the acts causing PLAINTIFF harm.

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

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

20 **SIXTH CAUSE OF ACTION**

21 **NONPAYMENT OF MINIMUM WAGES**
22 **(PLAINTIFF against all DEFENDANTS)**

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

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

59. PLAINTIFF performed work for DEFENDANTS.

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

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

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

SEVENTH CAUSE OF ACTION

NONPAYMENT OF WAGES

(PLAINTIFF against all DEFENDANTS)

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

64. PLAINTIFF performed work for DEFENDANTS.

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

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

EIGHTH CAUSE OF ACTION

NONPAYMENT OF OVERTIME COMPENSATION

(PLAINTIFF against all DEFENDANTS)

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

68. *Labor Code* §510(a) provides that any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the

seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

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

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

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

72. PLAINTIFF was not paid for all of the overtime hours worked.

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

NINTH CAUSE OF ACTION

FAILURE TO PROVIDE MEAL BREAKS

(PLAINTIFF against all DEFENDANTS)

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

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

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

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

4 78. Section 11(C) of the *IWC Wage Order(s)* provides that “Unless the employee is
5 relieved of all duty during a 30-minute meal period, the meal period shall be considered an “on
6 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only
7 when the nature of the work prevents an employee from being relieved of all duty and when by
8 written agreement between the parties an on-the-job paid meal period is agreed to. The written
9 agreement shall state that the employee may, in writing, revoke the agreement at any time.”

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

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

18 81. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
19 non-exempt position.

20 82. PLAINTIFF’s employment with DEFENDANTS entitled PLAINTIFF to meal
21 breaks.

22 83. PLAINTIFF was at times not given meal breaks and at other times meal breaks
23 which were not compliant with labor laws.

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

(PLAINTIFF against all DEFENDANTS)

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

(PLAINTIFF against all DEFENDANTS)

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

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

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

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

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

14 **TWELFTH CAUSE OF ACTION**

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

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

17 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

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

4 **THIRTEENTH CAUSE OF ACTION**

5 **UNTIMELY PAYMENT OF WAGES**

6 **(PLAINTIFF against all DEFENDANTS)**

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

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

14 102. DEFENDANTS failed to timely pay PLAINTIFF all minimum wages, regular
15 wages, overtime wages, meal and rest break premiums that are due and payable for each pay
16 period.

17 103. As a result of DEFENDANTS’ aforementioned unlawful act, PLAINTIFF suffered
18 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties.

19 **FOURTEENTH CAUSE OF ACTION**

20 **UNLAWFUL WITHHOLDING OF WAGES**

21 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

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

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

FIFTEENTH CAUSE OF ACTION

WAITING TIME PENALTIES

(PLAINTIFF against all DEFENDANTS)

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

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

111. PLAINTIFF's employment with DEFENDANTS ended.

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

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

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

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1 **SIXTEENTH CAUSE OF ACTION**

2 **CALIFORNIA PRIVATE ATTORNEY GENERAL ACT**

3 **LABOR CODE § 2698**

4 **(PLAINTIFF against all DEFENDANTS)**

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

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

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

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

17 **SEVENTEENTH CAUSE OF ACTION**

18 **NEGLIGENCE**

19 **(PLAINTIFF against all DEFENDANTS)**

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

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

27 121. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

1 122. DEFENDANTS' breach was and is the actual and proximate cause of
2 PLAINTIFF's harm.

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

5 **EIGHTEENTH CAUSE OF ACTION**

6 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

7 **(PLAINTIFF against all DEFENDANTS)**

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

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

15 126. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

16 127. DEFENDANTS' breach was and is the actual and proximate cause of
17 PLAINTIFF's harm.

18 128. As a result of this negligence, PLAINTIFF suffered and continues to suffer serious
19 emotional distress in the form of suffering, anguish, fright, horror, nervousness, grief, anxiety,
20 worry, shock, humiliation, shame, embarrassment, and depression. This was a foreseeable result
21 of DEFENDANTS' negligence.

22 **NINETEENTH CAUSE OF ACTION**

23 **NEGLIGENT HIRING, SUPERVISION, AND RETENTION**

24 **(PLAINTIFF against all DEFENDANTS)**

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

27 130. DEFENDANTS hired PLAINTIFF's supervisors.
28

1 his or her representative, and the employer agree in writing to a date beyond 30 calendar days to
2 inspect the records, and the agreed-upon date does not exceed 35 calendar days from the
3 employer's receipt of the written request. Upon a written request from a current or former
4 employee, or his or her representative, the employer shall also provide a copy of the personnel
5 records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days
6 from the date the employer receives the request, unless the current or former employee, or his or
7 her representative, and the employer agree in writing to a date beyond 30 calendar days to produce
8 a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the
9 employer's receipt of the written request."

10 139. On July 26, 2023, PLAINTIFF requested DEFENDANTS to produce
11 PLAINTIFF's personnel file, all W2 information, all wage related documents, and all signed
12 documents.

13 140. DEFENDANTS failed to provide PLAINTIFF with complete employment records,
14 among other things.

15 141. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
16 damage.

17 142. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and
18 penalties promulgated under *Labor Code*.

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

21 **TWENTY-FIRST CAUSE OF ACTION**

22 **UNFAIR BUSINESS PRACTICES**

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

24 **(PLAINTIFF against all DEFENDANTS)**

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

27 145. DEFENDANTS, themselves or through their supervisors, in an effort to exploit,
28 harass, and discriminate against their employees for profit or otherwise, have engaged in the

1 following unlawful, unfair, deceptive, and misleading business practices, amongst others outlined
2 in this complaint:

- 3 a. Wrongfully terminating and retaliating against employees with disability, race
4 and nationality-based reasons;
- 5 b. Discriminating against employees based on disability, race and nationality;
- 6 c. Failing to accommodate;
- 7 d. Failing to properly supervise and train its employees;
- 8 e. Failing to pay minimum, regular, overtime wages earned and owed to
9 employees;
- 10 f. Failing to provide proper meal breaks and rest periods, or to pay premium
11 wages for missed meal and rest periods to PLAINTIFF;
- 12 g. Failing to provide reimbursement for business expenses; and,
- 13 h. The foregoing wrongful activities have caused harm, fear, pressure, and
14 humiliation to the employee(s) at DEFENDANTS.

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

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

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

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

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PRAYER FOR RELIEF

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

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

1 Dated: August 31, 2023

BITTON & ASSOCIATES

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5 Ophir J. Bitton, Esq.
6 Lei Wei, Esq.
7 Attorneys for Plaintiff,
8 Sergey Shtern
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1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFF hereby demands a trial of the claims by jury to the extent authorized by law.

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6 Dated: August 31, 2023

BITTON & ASSOCIATES

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10 Ophir J. Bitton, Esq.
11 Lei Wei, Esq.
Attorneys for Plaintiff,
Sergey Shtern