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FLORISEL RAMIREZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION
(UNLIMITED JURISDICTION)

FLORISEL RAMIREZ,

Plaintiff,

vs.

SHRI LAKSHMIJI ENTERPRISES LLC, a
California limited liability company; and
DOES 1 to 25, inclusive,

Defendants.

Case No.: 37-2023-00050746-CU-OE-CTL

COMPLAINT FOR DAMAGES FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 7) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);
- 8) Failure to Provide Personnel Records;
- 9) Failure to Provide Pay Records;
- 10) Civil Penalties (Lab. Code §§ 2698, *et seq.*);
- 11) Disability Discrimination (Gov. Code, §§ 12940(a); 12926(m));
- 12) Failure to Engage in the Interactive Process (Gov. Code, §12940(n));

- 13) Failure to Accommodate Disability (Gov. Code, § 12940(m));
- 14) Retaliation in Violation of the FEHA (Gov. Code, § 12940(h));
- 15) Failure To Prevent Discrimination and Retaliation in Violation of the FEHA (Gov. Code, §§ 12940(k));
- 16) Retaliation In Violation of Labor Code Section 6310;
- 17) Wrongful Constructive Discharge In Violation of Public Policy; and
- 18) Unfair Competition (Bus. & Prof. Code, § 17200 *et seq.*)

JURY TRIAL DEMANDED

COMES NOW Plaintiff, FLORISEL RAMIREZ (hereafter “Plaintiff”), and complains and alleges as follows:

INTRODUCTION

1. Plaintiff brings this action based on alleged violations of the California Labor Code, Industrial Welfare Commission Order No. 5-2001 (hereafter “the Wage Order”), the Fair Employment Housing Act (“FEHA”), the Business and Professions Code, and public policy against SHRI LAKSHMIJI ENTERPRISES LLC, a California limited liability company, and DOES 1 to 25, inclusive, (collectively “SHRI LAKSHMIJI” or “Defendants”).

JURISDICTION AND VENUE

2. Jurisdiction and venue are proper in this Court and this action is properly filed in the County of San Diego – Central District because Defendant SHRI LAKSHMIJI ENTERPRISES LLC and DOES 1 to 25, inclusive, do business in the County of San Diego and because Defendants’ obligations and liabilities arise therein, and because the work that was performed by Plaintiff in the County of San Diego is the subject of this action. Moreover, Plaintiff’s damages sought herein exceed \$25,000.

THE PARTIES

3. Plaintiff Florisel Ramirez is a female resident of California. At all relevant

1 times, Plaintiff was an “employee” within the meaning of Title 8 California Code of
2 Regulations Section 11050 and an “Aggrieved Employee” within the meaning of Labor Code
3 Section 2699(c).

4 4. Defendant SHRI LAKSHMIJI ENTERPRISES LLC is and was a California
5 limited liability company, doing business in San Diego County, and which employed Plaintiff.
6 As such, it is a citizen of California based on Plaintiff’s information and belief.

7 5. The “Aggrieved Employees” are all current and former non-exempt or hourly
8 paid employees who worked for Defendants in California during the relevant time period
9 pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys
10 General Act of 2004 (“PAGA”).

11 6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
12 participation in the conduct alleged herein, of the defendants sued as DOES 1-25, inclusive, but
13 is informed and believes and thereon alleges that said defendants are legally responsible for the
14 wrongful conduct alleged herein and therefore sues these defendants by such fictitious names.
15 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE
16 defendants when ascertained.

17 7. Plaintiff is informed and believes and thereon alleges that, at all relevant times
18 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
19 remaining Defendants, and in doing the things hereinafter alleged, were acting within the
20 course and scope of such agency or employment, and with the approval and ratification of each
21 of the other Defendants.

22 8. Plaintiff is informed and believes and thereon alleges that each and every one of
23 the acts and omissions alleged herein were performed by, and/or are attributable to, all
24 Defendants, each acting as agents and/or employees, and/or under the direction and control of
25 each of the other Defendants, and that said acts and failures to act were within the course and
26 scope of said agency, employment, and/or direction and control.

27 9. At all relevant times, in perpetrating the acts and omissions alleged herein,
28 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a

1 lack of a practice which resulted in Defendants not paying Plaintiff and the Aggrieved
2 Employees in accordance with applicable California labor laws as alleged herein.

3 **GENERAL ALLEGATIONS**

4 10. SHRI LAKSHMIJI first began to employ Plaintiff on or around April 20, 2023
5 as a housekeeper at its SureStay by Best Western Chula Vista San Diego Bay hotel located at
6 699 E Street in Chula Vista, California. SHRI LAKSHMIJI continuously employed her in that
7 capacity until on or about July 7, 2023 when her employment ended. During her employment,
8 Plaintiff generally worked five days a week, from Wednesday to Sunday, from approximately
9 9:00 a.m. to 5:00 p.m./6:00 p.m. and sometimes until 8:00 p.m. SHRI LAKSMIJI required
10 Plaintiff to clean 18 to 20 rooms in a day.

11 11. At all relevant times, SHRI LAKSHMIJI issued wages to Plaintiff and all of the
12 other Aggrieved Employees on a biweekly basis and paid them by the hour. At all relevant
13 times, SHRI LAKSHMIJI classified Plaintiff and all of the other Aggrieved Employees as non-
14 exempt employees entitled to the protections of the Labor Code and the Wage Order. SHRI
15 LAKSHMIJI employed Plaintiff and all of the Aggrieved Employees more than six, eight, ten,
16 and twelve hours per day. Plaintiff's latest rate of pay was approximately \$15.50 per hour.

17 12. SHRI LAKSHMIJI failed to pay Plaintiff and the other Aggrieved Employees
18 for all time worked or subject to its control. Plaintiff and the other Aggrieved Employees were
19 not paid for all hours worked and consistently worked "off the clock" in that the company had a
20 policy and practice of rounding down work hours and "time shaving" which led to Plaintiff and
21 others not being paid for all hours worked, which would include the minimum wage. Moreover,
22 to the extent employees such as Plaintiff and others worked through their meal periods and
23 those meal periods were interrupted, they were not compensated for that time, which would be
24 akin to a minimum wage violation. Furthermore, SHRI LAKSHMIJI management would often
25 text/call Plaintiff and the other Aggrieved Employees about work-related matters before they
26 had clocked in for the start of their shifts or after they had clocked out at the end of their shifts.

27 13. Due to the above "off the clock" violations, SHRI LAKSHMIJI failed to pay
28 Plaintiff and the Aggrieved Employees properly-calculated overtime wages. The Aggrieved

1 Employees' actual work hours, which included the "off the clock" work as described above,
2 entitled them to overtime, however, it was not company policy to keep accurate track of all
3 hours worked and to pay employees the accurate amount of overtime, especially since the "off
4 the clock" work was not factored into the equation. There were weeks in which Plaintiff worked
5 up to 60 hours, however, she was not paid overtime. Furthermore, any incentive payments
6 and/or bonus payments were not factored into employees' regular rate of pay for purposes of
7 deciphering the correct overtime rate of pay. In addition, any bonus and/or incentive payments
8 were not factored into the correct meal and rest break premium pay per *Ferra v. Loews*
9 *Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

10 14. SHRI LAKSHMIJI failed to provide all compliant meal periods and authorize
11 and permit all compliant rest periods to which Plaintiff and the other Aggrieved Employees
12 were entitled. Plaintiff and the other Aggrieved Employees were entitled to take off-duty,
13 uninterrupted 30-minute meal periods before the fifth and tenth hours of work and to take
14 uninterrupted 10-minute rest periods for every four hours or major fraction thereof worked. Due
15 to the workload, Plaintiff and the Aggrieved Employees would not be able to take timely,
16 uninterrupted meal periods before the 5th or 10th hour worked. Plaintiff would often not be able
17 to take a meal period at all due to the press of business and pressure from management
18 (supervisor Carlos Mendez) to finish all the assigned work for that day. Similarly, Plaintiff and
19 the other Aggrieved Employees were not able to take their 10 minute rest breaks due to the
20 work load/ press of business. Throughout her employment, Plaintiff never took rest breaks
21 because her supervisor, Carlos Mendez, would constantly instruct her to do more tasks and it
22 was impossible for her to take her breaks. In fact, on information and belief, Carlos Mendez
23 yelled at employees for taking their breaks ("what are you doing sitting down? Here people
24 don't take rest breaks"). Even when Plaintiff and the other Aggrieved Employees would try to
25 take their meal periods, SHRI LAKSHMIJI management/staff, including Carlos Mendez, would
26 interrupt them with more work assignments or questions about work related matters. On
27 information and belief, SHRI LAKSHMIJI did not provide premium wages for these meal and
28 rest break violations; if SHRI LAKSHMIJI did provide premium wages, they were not paid at

1 the correct rate, as explained above.

2 15. SHRI LAKSHMIJI failed to reimburse Plaintiff and the other Aggrieved
3 Employees for business expenses they incurred in direct consequence of the discharge of their
4 duties. SHRI LAKSHMIJI required Plaintiff and the Aggrieved Employees to use their own
5 personal cell phones to communicate with management concerning work matters using a
6 platform/app. SHRI LAKSHMIJI management, including supervisor Carlos Mendez, would text
7 Plaintiff and the others on their personal phones on a regular basis, to ask them how many
8 rooms they had cleaned, inform them of rooms that needed service, and send them their work
9 schedules. However, SHRI LAKSHMIJI did not provide Plaintiff and the others with mobile
10 phones and did not reimburse Plaintiff and the other Aggrieved Employees for these mobile
11 phone expenses. Accordingly, SHRI LAKSHMIJI was in violation of California Labor Code
12 sections 2800 and 2802.

13 16. SHRI LAKSHMIJI failed to pay its employees all wages due to them within
14 any time period specified by California Labor Code section 204, including the minimum wages
15 and overtime as described above as well as meal/rest break premiums.

16 17. SHRI LAKSHMIJI did not provide Plaintiff and the other Aggrieved
17 Employees accurate, itemized wage statements. Wage statements must include, among other
18 things, total hours worked by the employee. Labor Code § 226(a)(2). SHRI LAKSHMIJI issued
19 wage statements that inaccurately reflected total hours worked, gross and net wages earned, and
20 the number of hours worked at each hourly rate because of SHRI LAKSHMIJI's failure to
21 properly pay wages as explained herein. Labor Code §§ 226(a)(1), (2), (5), (9). SHRI
22 LAKSHMIJI's failure to maintain accurate records as to the hours worked daily by employees
23 also constitutes a violation of Labor Code section 1174(d).

24 18. Finally, because SHRI LAKSHMIJI did not properly pay all wages earned as
25 explained herein, SHRI LAKSHMIJI also failed to pay final wages owed to Plaintiff and the
26 other Aggrieved Employees in violation of Labor Code section 203. These earned but unpaid
27 wages include minimum wages and compensation for all hours worked, overtime compensation,
28 premium pay for missed meal and rest breaks, and business expense reimbursement, among

1 others.

2 19. Plaintiff would also have claims under the Fair Employment and Housing Act
3 (“FEHA”). In or around June 2023, Plaintiff was experiencing heart related complications and
4 provided SHRI LAKSHMIJI with a work restriction letter from her physician which limited
5 her to cleaning only 10 rooms per day and not lifting anything heavier than 30 pounds. SHRI
6 LAKSHMIJI did not accommodate Plaintiff’s disability. Supervisor Carlos Mendez not only
7 insisted that she clean 11+ rooms, but also made her go up and down all day, despite her
8 limitations and continue using a cart that weighs about 100 pounds. Moreover, Plaintiff
9 repeatedly complained about unsafe working conditions regarding a naked guest who was
10 lying on the bed (sexually aroused) upon Plaintiff entering the room on two separate occasions
11 after announcing herself. This caused Plaintiff to feel scared and anxious every time she
12 entered a room to clean. SHRI LAKSMIJI retaliated against Plaintiff and suspended her twice
13 due to her disability and for reporting the unsafe working conditions in violation of Labor
14 Code section 6310. Due to Defendants’ failure to accommodate, retaliation against Plaintiff,
15 the unsafe working conditions, along with the rampant labor code violations that were
16 occurring, including the fact that Plaintiff was not receiving proper statutory breaks and was
17 also not being paid any overtime at all despite working over 8 hour days, Plaintiff was forced
18 to resign from her employment on or around July 7, 2023.

19 20. Pursuant to California Government Code § 12960, Plaintiff has exhausted her
20 administrative remedies. Plaintiff filed a complaint with the State of California Civil Rights
21 Department (“CRD”) (previously “DFEH”) alleging claims in this complaint. On the same
22 day, the CRD issued a notice of right-to-sue to Plaintiff against the named Defendants.

23 **FIRST CAUSE OF ACTION**

24 **FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED**

25 **(Lab. Code §§ 510, 1194, 1197, and 1198)**

26 **(By Plaintiff against all Defendants)**

27 21. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

28 22. At all relevant times, Plaintiff was a non-exempt employee of Defendants and

1 entitled to the benefits and protections of California Labor Code §§ 510, 1194, 1197, and 1198,
2 and the Wage Order.

3 23. Section 2(K) of the Wage Order defines “hours worked” as “the time during
4 which an employee is subject to the control of an employer, and includes all the time the
5 employee is suffered or permitted to work, whether or not required to do so.”

6 24. Section 3 of the Wage Order states:

7 (A) Daily Overtime - General Provisions

8 (1) The following overtime provisions are applicable to
9 employees 18 years of age or over and to employees 16 or
10 17 years of age who are not required by law to attend
11 school and are not otherwise prohibited by law from
12 engaging in the subject work. Such employees shall not
13 be employed more than eight (8) hours in any workday or
14 more than 40 hours in any workweek unless the employee
15 receives one and one-half (1 ½) times such employee’s
16 regular rate of pay for all hours worked over 40 hours in
17 the workweek. Eight (8) hours of labor constitutes a day’s
18 work. Employment beyond eight (8) hours in any
19 workday or more than six (6) days in any workweek is
20 permissible provided the employee is compensated for
21 such overtime at not less than:

22 (a) One and one-half (1 ½) times the employee’s
23 regular rate of pay for all hours worked in excess
24 of eight (8) hours up to and including 12 hours in
25 any workday, and for the first eight (8) hours
26 worked on the seventh (7th) consecutive day of
27 work in a workweek.

28 (b) Double the employee’s regular rate of pay for
all hours worked in excess of 12 hours in any
workday and for all hours worked in excess of
eight (8) hours on the seventh (7th) consecutive
day of work in a workweek.

(c) The overtime rate of compensation required to
be paid to a nonexempt full-time salaried
employee shall be computed by using the
employee’s regular hourly salary as one-fortieth
(1/40) of the employee’s weekly salary.

25. Section 4 of the Wage Order requires an employer to pay non-exempt employees

1 at least the minimum wage set forth therein for all hours worked, which consist of all hours that
2 an employer has actual or constructive knowledge that employees are working.

3 26. Labor Code section 510 states:

4 Eight hours of labor constitutes a day's work. Any work in excess
5 of eight hours in one workday and any work in excess of 40
6 hours in any one workweek and the first eight hours worked on
7 the seventh day of work in any one workweek shall be
8 compensated at the rate of no less than one and one-half times the
9 regular rate of pay for an employee. Any work in excess of 12
10 hours in one day shall be compensated at the rate of no less than
11 twice the regular rate of pay for an employee. In addition, any
12 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. Nothing in this section requires an
employer to combine more than one rate of overtime
compensation in order to calculate the amount to be paid to an
employee for any hour of overtime work.

13 27. California Labor Code § 1194 invalidates any agreement between an employer
14 and an employee to work for less than the minimum wage required under the applicable Wage
15 Order.

16 28. California Labor Code § 1197 makes it unlawful for an employer to pay an
17 employee less than the minimum wage required under the applicable Wage Order for all hours
18 worked during a payroll period.

19 29. California Labor Code § 1198 makes it unlawful for an employer to employ an
20 employee under conditions that violate the Wage Order.

21 30. In conjunction, these provisions of the California Labor Code require employers
22 to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates
23 for all hours worked, including unrecorded hours when the employer knew or reasonably should
24 have known that employees were working during those hours. (*See Morillion v. Royal Packing*
25 *Co.* (2000) 22 Cal.4th 575, 585.)

26 31. Defendants required Plaintiff to work in excess of eight (8) hours in one workday
27 and forty (40) hours in one workweek without compensating her for such time worked at the
28 premium rates required by California law.

1 32. As described more fully above, Defendants failed to pay all minimum, regular,
2 overtime, and double time wages to Plaintiff because Defendants paid wages based on rounded
3 times, did not pay for off-the-clock work, and failed to pay overtime and double time wages
4 based on correct regular rates of pay.

5 33. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
6 amount, subject to proof, to the extent that she was not paid the full amount of wages earned
7 during each pay period during the applicable limitations period, including minimum, overtime,
8 and double-time wages.

9 34. As a result of Defendants' conduct, Plaintiff seeks damages and/or restitution for
10 unpaid wages which Defendants failed to pay her at the rates set forth herein, interest thereon,
11 and costs of suit and reasonable attorney's fees pursuant to California Labor Code §§ 1194.

12 **SECOND CAUSE OF ACTION**

13 **FAILURE TO PROVIDE REST BREAKS**

14 **(Lab. Code §§ 226.7 and 1198)**

15 **(By Plaintiff against all Defendants)**

16 35. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

17 36. At all relevant times during the applicable limitations period, Plaintiff was a
18 non-exempt employee of Defendants and entitled to the benefits and protections of California
19 Labor Code §§ 226.7, 1198, and the Wage Order.

20 37. Labor Code § 1198 states,

21 “The maximum hours of work and the standard conditions of labor
22 fixed by the commission shall be the maximum hours of work and the
23 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful.”

24 38. In relevant part, Section 12 of the Wage Order states:

25 Rest Periods:

26 (A) Every employer shall authorize and permit all employees
27 to take rest periods, which insofar as practicable shall be in the
28 middle of each work period. The authorized rest period time
shall be based on the total hours worked daily at the rate often
(10) minutes net rest time per four (4) hours or major fraction

thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this Order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each work day that the rest period is not provided.

39. In addition, Labor Code Section 226.7 states

(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

40. Pursuant to the Wage Order, Plaintiff was entitled to be provided with net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

41. Defendants failed to authorize and permit Plaintiff to take compliant rest periods and failed to pay one hour of correctly-calculated premium pay for each day such a rest period was not provided.

42. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount subject to proof to the extent she was not paid additional wages owed for all rest breaks not provided to her.

43. By reason of the above, Plaintiff is entitled to premium wages for workdays in which one or more rest breaks were not provided to her pursuant to California Labor Code § 226.7, plus interest and costs.

employee's regular rate of compensation for each workday that the meal period is not provided.

49. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff was entitled to be provided with uninterrupted meal periods of at least 30 minutes for each day she worked five or more hours. Pursuant to California Labor Code § 512, Plaintiff was also entitled to a second 30-minute meal period when she worked more than ten (10) hours in a workday.

50. During the relevant time period, Defendants failed to provide Plaintiff with compliant meal periods before the fifth hour of work and failed to pay one hour of correctly-calculated premium pay for each day such a meal period was not provided.

51. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount subject to proof to the extent she was not paid additional wages owed for all meal periods not provided to her.

52. By reason of the above, Plaintiff is entitled to premium wages for workdays in which one or more meal periods were not provided to her pursuant to California Labor Code § 226.7, plus interest and costs.

FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code §§ 1198 & 2802)

(By Plaintiff against all Defendants)

53. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

54. At all relevant times, Plaintiff was a non-exempt employee of Defendants and entitled to the benefits and protections of the California Labor Code §§ 1198 and 2802, and the Wage Order.

55. In pertinent part, California Labor Code § 2802(a) states:
An employer shall indemnify his or her employee[s] for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her duties.

56. California Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

1 57. SHRI LAKSHMIJI failed to reimburse Plaintiff for business expenses she
2 incurred in direct consequence of the discharge of her duties. SHRI LAKSHMIJI required
3 Plaintiff to use her own personal cell phone to communicate with management concerning
4 work matters using a platform/app. SHRI LAKSMIJI management, including supervisor Carlos
5 Mendez, would text Plaintiff on her personal phone on a regular basis, to ask her how many
6 rooms she had cleaned, inform her of rooms that needed service, and send her work schedule.
7 However, SHRI LAKSHMIJI did not provide Plaintiff with a mobile phone and did not
8 reimburse Plaintiff for these mobile phone expenses. Accordingly, SHRI LAKSHMIJI was in
9 violation of California Labor Code sections 2800 and 2802.

10 58. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
11 Defendants have maintained a policy, practice, or a lack of a policy which resulted in
12 Defendants' failure to indemnify Plaintiff for the reasonable expenses she incurred in the course
13 of performing her duties.

14 59. By reason of the above, Plaintiff is entitled to reimbursement for all necessary
15 expenditures and losses and interest due and owing to within three years (3) of the date of the
16 filing of the Complaint until the date of entry of judgment pursuant to California Labor Code §
17 2802(b). Further, Plaintiff seeks reasonable attorney's fees pursuant to Labor Code § 2802(c).

18 **FIFTH CAUSE OF ACTION**

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

20 **(California Labor Code Section 226)**

21 **(By Plaintiff against all Defendants)**

22 60. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

23 61. Pursuant to California Labor Code Section 226, every employer must furnish
24 each employee an itemized statement of wages and deductions at the time of payment of wages.

25 62. Defendants knowingly and intentionally did not furnish Plaintiff with pay stubs
26 that accurately reflected all information required by Labor Code Section 226, including but not
27 limited to, all hours worked, gross wages earned, including overtime, minimum wages, and
28 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the

1 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed
2 to maintain and provide accurate itemized wage statements to Plaintiff in accordance with
3 California Labor Code Section 226(a).

4 63. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover
5 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
6 violation occurs and one hundred dollars (\$100) per employee for each violation in a
7 subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000),
8 plus costs and reasonable attorney's fees. Plaintiff only claims damages under this cause of
9 action pursuant to the 1-year period immediately preceding the date this lawsuit was filed.

10 64. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
11 sustained damages, including loss of earnings, in an amount to be established at trial. As a
12 further direct and proximate result of Defendants' unlawful conduct, as set forth herein,
13 Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs
14 and attorney's fees pursuant to statute.

15 65. Under this cause of action, Plaintiff prays for penalties due under the statutes
16 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
17 proof at trial.

18 **SIXTH CAUSE OF ACTION**

19 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

20 **(California Labor Code Sections 201-203)**

21 **(By Plaintiff against all Defendants)**

22 66. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

23 67. Pursuant to California Labor Code Section 201(a), an employer who discharges
24 an employee must immediately pay for all compensation due and owing.

25 68. Pursuant to California Labor Code Section 202, when an employee resigns, the
26 employer must pay all compensation due and owing within 72 hours of resignation, or on the
27 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

28 69. Pursuant to California Labor Code Section 203, if an employer willfully fails to

1 pay, without abatement or reduction, any wages of an employee whose employment ends, the
2 wages of the employee shall continue as a penalty from the due date at the same rate until paid
3 or until an action is commenced; however, the wages shall not continue for more than 30 days
4 for failure to pay an employee owed wages.

5 70. After Plaintiff's employment with Defendants ended, Defendants willfully
6 refused and continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

7 71. Under this cause of action, Plaintiff prays for penalties due under the statutes
8 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
9 proof at trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years
10 immediately preceding the filing of this lawsuit.

11 72. Under this cause of action, Plaintiff also prays for attorney's fees and costs
12 under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages
13 as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

14 73. Under this cause of action, Plaintiff prays for penalties due under the statutes
15 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
16 proof at trial.

17 **SEVENTH CAUSE OF ACTION**

18 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

19 **(California Labor Code Section 204)**

20 **(By Plaintiff against all Defendants)**

21 74. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

22 75. California Labor Code Section 204 establishes the fundamental right of all
23 employees in the State of California to be paid wages in a timely fashion for their work.

24 76. At all times relevant during the liability period, Defendants failed to pay
25 Plaintiff the full amount of all owed wages when due as required by California Labor Code
26 Section 204.

27 77. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
28 informed, believes, and thereon alleges, that all times relevant during the applicable limitations

1 period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours
2 worked, including the minimum wage, overtime hours, double time hours, and premium pay
3 for missed meal and rest breaks.

4 78. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in
5 an amount, subject to proof, to the extent she was not paid all wages each pay period. The
6 precise amount of unpaid wages is not presently known to Plaintiff but can be determined
7 directly from Defendants' records or indirectly based on information from Defendants' records.

8 79. Under this cause of action, Plaintiff prays for penalties due under the statutes
9 alleged along with any allowable interest, penalties, attorney's fees, and costs according to
10 proof at trial.

11 **EIGHTH CAUSE OF ACTION**

12 **FAILURE TO PROVIDE PERSONNEL RECORDS**

13 **(Plaintiff against Defendants)**

14 80. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

15 81. Labor Code section 1198.5 dictates "every current and former employee, or his
16 or her representative, has the right to inspect and receive a copy of the personnel records that
17 the employer maintains relating to the employee's performance or to any grievance concerning
18 the employee."

19 82. Moreover, pursuant to sub-part (b)(1) of Labor Code section 1198.5, "the
20 employer shall make the contents of those personnel records available for inspection to the
21 current or former employee, or his or her representative, at reasonable intervals and at
22 reasonable times..." On information and belief, Defendants intentionally failed to provide
23 Plaintiff with personnel records when requested by Plaintiff via letter on July 22, 2023, as
24 required by law. Plaintiff requested her personnel records in accordance with California Labor
25 Code section 1198.5(k) on July 22, 2023 via certified U.S. mail.

26 83. Defendants failed to provide Plaintiff with an opportunity to inspect or copy her
27 records within 30 days. As a direct result of Defendants' violations alleged herein, Plaintiff has
28 suffered and continues to suffer substantial losses related to Defendants' failure to provide

1 personnel records.

2 84. Plaintiff seeks all available remedies for Defendants' violations including, but
3 not limited to penalties, and costs to the extent permitted by law and according to proof at trial.
4 Pursuant to Labor Code section 1198.5, Plaintiff prays for judgment against Defendants in the
5 amount of \$750.00, along with costs and attorney's fees.

6 **NINTH CAUSE OF ACTION**

7 **FAILURE TO PROVIDE PAY RECORDS**

8 **(Plaintiff against all Defendants)**

9 85. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

10 86. Labor Code section 226 sub-section (b) dictates "an employer...shall afford
11 current and former employees the right to inspect or copy records pertaining to their
12 employment, upon reasonable request to the employer..."

13 87. Moreover, pursuant to sub-section (c) of Labor Code section 226, "an employer
14 who receives a written or oral request to inspect or copy records pursuant to subdivision (b)
15 pertaining to a current or former employee shall comply with the request as soon as practicable,
16 but no later than 21 calendar days from the date of the request." On information and belief,
17 Defendants intentionally failed to provide Plaintiff with pay records when requested by
18 Plaintiff via letter, on July 22, 2023, and as required by law. Plaintiff requested her pay records
19 in accordance with California Labor Code section 226 on July 22, 2023, via U.S. certified mail.
20 Defendants failed to provide Plaintiff with an opportunity to inspect or copy her pay records
21 within 21 days.

22 88. As a direct result of Defendants' violations alleged herein, Plaintiff has suffered
23 and continues to suffer substantial losses related to Defendants' failure to provide pay records.
24 Pursuant to Labor Code section 226, Plaintiff prays for judgment against Defendants in the
25 amount of \$750.00, along with costs and attorney's fees.

26 89. Plaintiff seeks all available remedies for Defendants' violations including, but
27 not limited to, penalties and costs to the extent permitted by law and according to proof at trial.

28 ///

1 C. For violations of California Labor Code §§ 510 and 512, fifty dollars
2 (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars (\$100.00)
3 for each Aggrieved Employee for each subsequent violation (penalty amounts established by
4 California Labor Code § 558).

5 D. For violations of California Labor Code § 1174, five hundred dollars
6 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
7 California Labor Code § 1174.5).

8 E. For violations of California Labor Code § 1197, one hundred dollars
9 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
10 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation,
11 per pay period (regardless of whether the initial violations were intentionally committed)
12 (penalty amounts established by California Labor Code § 1197.1).

13 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 1194,
14 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per pay period
15 for each initial violation and two hundred dollars (\$200.00) for each Aggrieved Employee per
16 pay period for each subsequent violation (penalty amounts established by California Labor
17 Code § 2699(f)(2)).

18 95. Plaintiff has complied with the procedures for bringing suit specified in
19 California Labor Code § 2699.3. By letter dated July 22, 2023, Plaintiff filed written notice
20 online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice
21 by certified mail to Defendants of the specific provisions of the California Labor Code alleged
22 to have been violated, including the facts and theories to support the alleged violations. Plaintiff
23 accompanied her LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to
24 take action in response within 65 calendar days of the date of Plaintiff’s notice.

25 96. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
26 Employees are entitled to an award of civil penalties and reasonable attorney’s fees and costs in
27 connection with their claims for civil penalties.

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1 **ELEVENTH CAUSE OF ACTION**

2 **DISABILITY DISCRIMINATION**

3 **(Gov. Code, §§ 12926(m), 12940(a))**

4 **(By Plaintiff against all Defendants)**

5 97. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

6 98. Defendants and DOES 1 to 25, inclusive, are covered employers under
7 California's Fair Employment and Housing Act ("FEHA").

8 99. According to Government Code section 12940(a), it is an unlawful employment
9 practice for an employer to discharge a person from employment because of a physical
10 disability. (*Id.* § 12926(m)).

11 100. At all times, Plaintiff performed her work with the utmost diligence and
12 competence and she never engaged in misconduct. Defendants had no complaints about
13 Plaintiff's work performance or behavior.

14 101. Plaintiff's heart condition, which was debilitating, and which limited a major
15 life activity, qualifies as a disability under FEHA, and Plaintiff was entitled to its protection.

16 102. Defendants knew of Plaintiff's disability and violated California Government
17 Code section 12940 et. seq. by discriminating against Plaintiff on the basis of her physical
18 disability by suspending her from work twice and insisting that she clean 11+ rooms and
19 continue using a cart that weighs about 100 pounds despite her limitations. Such discrimination
20 constituted unlawful discrimination in violation of California Government Code sections
21 12926(m) and 12940(a).

22 103. As a proximate result of the conduct of the Defendants, Plaintiff has suffered
23 and will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other
24 pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer
25 physical and emotional injuries, including nervousness, humiliation, depression, anguish,
26 embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's
27 damages will be ascertained at trial.

28 104. In committing the foregoing acts, Defendants have been guilty of oppression,

1 fraud, and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to
2 punitive damages in a sum appropriate to punish and make an example out of the foregoing
3 Defendants.

4 105. The acts of oppression, fraud, and/or malice, were engaged in by employees of
5 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
6 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
7 wrongful conduct for which an award of punitive damages is sought, and/or was personally
8 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
9 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
10 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
11 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with
12 California Civil Code section 3294 in a sum appropriate to punish and make an example of
13 each Defendant.

14 106. FEHA provides for an award of reasonable attorneys' fees and costs incurred by
15 a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
16 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
17 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
18 award of attorneys' fees and costs.

19 **TWELFTH CAUSE OF ACTION**

20 **FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS**

21 **(Gov. Code, §12940(n))**

22 **(By Plaintiff against all Defendants)**

23 107. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

24 108. Defendants and DOES 1 to 25, inclusive, are covered employers under
25 California's Fair Employment and Housing Act ("FEHA").

26 109. At all relevant times, Plaintiff was an employee of Defendants with a physical
27 disability – a heart condition – which is a disability that is protected under FEHA.

28 110. Under California Government Code section 12940(n), the employer must engage

1 in a timely, good faith interactive process in response to a request for reasonable
2 accommodation by an employee with a known physical or mental disability or known medical
3 condition. The employer must initiate this process if the employee's disability is known or
4 apparent by making known to the employee other suitable job opportunities. Absent evidence of
5 undue hardship to the employer, the employer should give preference to the employee's
6 requested accommodation during this process.

7 111. As set forth in the allegations above, Defendants, and each of them, were aware
8 of Plaintiff's disability and failed to engage in the interactive process with Plaintiff to determine
9 effective reasonable accommodations as required by California Government Code section
10 12940(n) and 12926.1(e).

11 112. Had Defendants, and each of them, engaged in a timely good faith interactive
12 process, there were reasonable accommodations that would have accommodated Plaintiff's
13 disability.

14 113. As a direct and proximate result of the conduct of Defendants, and each of them,
15 Plaintiff has been harmed in that Plaintiff has suffered the loss of wages, salary, benefits, and
16 additional amounts of money Plaintiff would have received if Plaintiff had been afforded a good
17 faith interactive process. As a result, Plaintiff has suffered such damages in an amount
18 according to proof.

19 114. As a further direct and proximate result of the conduct of Defendants, and each
20 of them, Plaintiff has been harmed in that Plaintiff has suffered the intangible loss of
21 employment-related opportunities. As a result, Plaintiff has suffered such damages in an amount
22 according to proof.

23 115. As a further direct and proximate result of the conduct of Defendants, and each
24 of them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish,
25 and emotional distress, and has been harmed in mind and body. As a result, Plaintiff has
26 suffered such damages in an amount according to proof.

27 116. The above-recited actions of Defendants, and each of them, were done with
28 malice, fraud, oppression, and in reckless disregard of Plaintiff's rights under the FEHA.

1 Accordingly, Plaintiff is entitled to an award of punitive damages.

2 **THIRTEENTH CAUSE OF ACTION**
3 **FAILURE TO ACCOMMODATE DISABILITY**
4 **(Gov. Code, § 12940(m))**
5 **(By Plaintiff against all Defendants)**

6 117. Plaintiff incorporates all paragraphs of this Complaint as if fully set forth herein.

7 118. Defendants and DOES 1 to 25, inclusive, are covered employers under
8 California's Fair Employment and Housing Act ("FEHA").

9 119. At all relevant times, Plaintiff was an employee of Defendants with a physical
10 disability – a heart condition – which is a disability that is protected under FEHA.

11 120. California Government Code section 12940(m) makes it unlawful "[f]or an
12 employer or other entity...to fail to make reasonable accommodation for the known physical or
13 mental disability of an applicant or employee."

14 121. As set forth above, Plaintiff provided Defendants with a work restriction letter
15 from her physician based on her physical disability, but rather than accommodating Plaintiff's
16 physical disability, Defendants insisted that she clean 11+ rooms, made her go up and down all
17 day and to continue using a cart that weighs about 100 pounds despite her limitations.

18 122. As a proximate result of the conduct of the Defendants, Plaintiff has suffered and
19 will continue to suffer damages in terms of lost wages, lost bonuses, lost benefits, and other
20 pecuniary loss according to proof. Plaintiff has also suffered and will continue to suffer physical
21 and emotional injuries, including nervousness, humiliation, depression, anguish,
22 embarrassment, fright, shock, pain, discomfort, fatigue, and anxiety. The amount of Plaintiff's
23 damages will be ascertained at trial.

24 123. In committing the foregoing acts, Defendants have been guilty of oppression,
25 fraud, and/or malice under California Civil Code section 3294, thereby entitling Plaintiff to
26 punitive damages in a sum appropriate to punish and make an example out of the foregoing
27 Defendants.

28 124. The acts of oppression, fraud, and/or malice, were engaged in by employees of

1 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
2 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
3 wrongful conduct for which an award of punitive damages is sought, and/or was personally
4 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
5 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
6 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
7 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance with
8 California Civil Code section 3294 in a sum appropriate to punish and make an example of each
9 Defendant.

10 125. FEHA provides for an award of reasonable attorneys' fees and costs incurred by
11 a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and will
12 continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
13 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
14 award of attorneys' fees and costs.

15 **FOURTEENTH CAUSE OF ACTION**
16 **RETALIATION IN VIOLATION OF THE FEHA**

17 **(Gov. Code, § 12940(h))**

18 **(By Plaintiff against all Defendants)**

19 126. Plaintiff incorporates by reference each and every paragraph of this Complaint
20 as if fully alleged herein.

21 127. Defendants and DOES 1 to 25, inclusive, are covered employers under
22 California's Fair Employment and Housing Act ("FEHA").

23 128. At all relevant times, Plaintiff was an employee of Defendants with a physical
24 disability – a heart condition – which is a disability that is protected under FEHA.

25 129. The California Fair Employment and Housing Act (FEHA), Government Code
26 section 12900 et seq., provides that it is illegal for an employer to retaliate against an
27 employee who has opposed any practices that violated the FEHA. (*Id.* § 12940(h).)

28 130. As alleged above, Defendants retaliated against Plaintiff and suspended her

1 twice as a result of her physical disability and made her go up and down all day and continue
2 using a cart that weighs about 100 pounds despite her limitations.

3 131. As a direct and proximate result of Defendants' conduct, Plaintiff has been
4 harmed in that Plaintiff has suffered the loss of wages, salary, and benefits, among other
5 things. As a result, Plaintiff has suffered such damages in an amount according to proof.

6 132. As a further direct and proximate result of the conduct of Defendants, and each
7 of them, Plaintiff has been harmed in that Plaintiff has suffered humiliation, mental anguish
8 and emotional distress, and has been harmed in mind and body. As a result, Plaintiff has
9 suffered such damages in an amount according to proof.

10 133. The acts of oppression, fraud, and/or malice, were engaged in by employees of
11 Defendants. Each of the foregoing Defendants had advance knowledge of the unfitness of each
12 employee who acted with oppression, fraud, and/or malice, and/or authorized or ratified the
13 wrongful conduct for which an award of punitive damages is sought, and/or was personally
14 guilty of oppression, fraud, and/or malice. The advance knowledge and conscious disregard,
15 authorization, ratification, or act of oppression, fraud, and/or malice was committed by or on
16 part of an officer, director, or managing agent of each of the Defendants, thereby entitling
17 Plaintiff to punitive and exemplary damages against each of the Defendants in accordance
18 with California Civil Code section 3294 in a sum appropriate to punish and make an example
19 of each Defendant.

20 134. FEHA provides for an award of reasonable attorneys' fees and costs incurred
21 by a prevailing Plaintiff in an action brought under its provisions. Plaintiff has employed and
22 will continue to employ attorneys for the initiation and prosecution of this action. Plaintiff has
23 incurred and will continue to incur attorneys' fees and costs herein. Plaintiff is entitled to an
24 award of attorneys' fees and costs.

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FIFTEENTH CAUSE OF ACTION
FAILURE TO PREVENT DISCRIMINATION AND RETALIATION
IN VIOLATION OF THE FEHA
(Gov. Code, §§ 12940(k))
(By Plaintiff against all Defendants)

135. Plaintiff incorporates by reference each and every paragraph of this Complaint as if fully alleged herein.

136. Plaintiff was and is at all times relevant hereto an employee covered by Government Code § 12926(c).

137. Defendants were at all times relevant hereto employers who employed five or more persons within the meaning of Government Code § 12926(d), and California Government Code §§ 12940, et seq., was in full force and effect and was binding on Defendants.

138. The Fair Employment and Housing Act (“FEHA”) prohibits an employer to fail to take all reasonable steps necessary to prevent discrimination from occurring. Cal. Gov. Code §12940(k).

139. During the course of Plaintiff’s employment, Defendants failed to prevent their employees, including management, from engaging in intentional actions that resulted in Plaintiff being treated less favorably and eventually being forced to quit because of Plaintiff’s protected status (i.e. her physical disability). During the course of Plaintiff’s employment, Defendants failed to prevent their employees from engaging in unjustified employment practices against employees in such protected classes. During the course of Plaintiff’s employment, Defendants failed to prevent a pattern and practice by its employees of intentional discrimination and retaliation on the basis of physical disability, and/or other protected status and/or protected activity.

140. Defendants subjected Plaintiff to unlawful discrimination by suspending her twice due to her physical disability and pressuring Plaintiff to keep up with her workload despite her limitations in violation of Cal. Gov. Code § 12940(a).

141. As a proximate result of the wrongful acts of Defendants, Plaintiff has been harmed in that Plaintiff has suffered actual, consequential and incidental financial losses, including without limitation, loss of salary and benefits, and the intangible loss of employment-related opportunities and damage to her professional reputation, all in an amount subject to proof at the time of trial. Plaintiff claims such amounts as damages together with prejudgment interest pursuant to Civil Code Sections 3287 and/or § 3288 and/or any other provision of law providing for prejudgment interest.

142. As a proximate result of the wrongful acts of Defendants, Plaintiff has suffered and continues to suffer anxiety, worry, embarrassment, humiliation, mental anguish, and emotional distress. Plaintiff is informed and believes and thereon alleges that she will continue to experience said emotional suffering for a period in the future she cannot presently ascertain, all in an amount subject to proof at the time of trial.

143. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agent employees of Defendants acting in a despicable, oppressive, fraudulent, malicious, deliberate, egregious, and inexcusable manner in order to injure and damage Plaintiff, thereby justifying an award to her of punitive damages in a sum appropriate to punish and make an example of Defendants.

SIXTEENTH CAUSE OF ACTION

RETALIATION IN VIOLATION OF LABOR CODE SECTION 6310

(Plaintiff against all named Defendants and all DOE Defendants)

144. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

145. At all times material to this Complaint, California Labor Code § 6310 was in effect and binding on Defendants. California Labor Code section 6310 prohibits employers from firing or discriminating against any employee because the employee has informed their employer about unsafe working conditions.

146. As discussed fully above, Plaintiff complained to Defendants about unsafe working conditions at the workplace.

147. Defendants willfully and/or with reckless indifference violated California Labor

1 Code section 6310 by discriminating and retaliating against Plaintiff for complaining of unsafe
2 working conditions.

3 148. As a direct and proximate result of the aforementioned acts and omissions of
4 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
5 loss of income (past and future), loss of employment benefits (past and future), general and
6 compensatory damages (past and future), mental pain and anguish and emotional distress (past
7 and future), and will continue to suffer in the future, in an amount to be proved at trial.

8 149. Pursuant to Labor Code Section 6310, Defendants are liable for statutory
9 damages, including reimbursement for lost wages and work benefits.

10 150. Defendants' conduct described herein was undertaken, authorized and/or ratified
11 by Defendants' officers, directors and/or managing agents. The aforementioned conduct of said
12 officers, directors and/or managing agents and individuals was therefore undertaken on behalf
13 of Defendants.

14 151. Defendants committed the acts herein alleged maliciously, fraudulently, and
15 oppressively in conscious disregard for Plaintiff's rights, and Plaintiff is entitled to recover
16 punitive damages from Defendants in an amount according to proof.

17 152. As a result of the conduct of Defendants and each of them, Plaintiff was forced
18 to retain an attorney in order to protect her rights.

19 153. Pursuant to Labor Code Sections 2699(a) and (f), Plaintiff is entitled to recover
20 civil penalties for Defendants' violations of Labor Code section 6310.

21 154. Plaintiff further demands reasonable attorney's fees and costs pursuant to Labor
22 Code section 2699, subdivision (g)(1).

23 **SEVENTEENTH CAUSE OF ACTION**

24 **WRONGFUL CONSTRUCTIVE DISCHARGE IN VIOLATION OF PUBLIC POLICY**

25 **(By Plaintiff against all Defendants)**

26 155. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

27 156. At all times during her employment with Defendants, Plaintiff performed her
28 duties with the utmost diligence and competence.

1 157. Defendants intentionally created an illegal work environment and atmosphere
2 by discriminating and retaliating against Plaintiff based on her physical disability, thereby not
3 giving Plaintiff an opportunity to work in an environment free of disability discrimination and
4 retaliation. This situation became intolerable for Plaintiff and Plaintiff had no alternative but to
5 quit her job.

6 158. The employment of Plaintiff was constructively wrongfully terminated on or
7 around July 7, 2023 in violation of the fundamental public policy of the State of California
8 with respect to discriminating against an employee on account of her physical disability and
9 retaliating against an employee based on physical disability and reporting an unsafe work
10 environment. Moreover, Plaintiff was forced to hire an attorney to assist her to end these
11 illegal activities. Said conduct violated statutory and constitutional expressions of public
12 policy including, FEHA, the California Labor Code and the California Constitution, Article 1
13 section 8.

14 159. As set forth above, said actions by Defendants were wrongful and in violation
15 of the fundamental principles of the public policy of the State of California as reflected in its
16 laws, objectives and policies. Said statutes and constitutional expressions of public policy
17 include, but are not limited to, the Fair Employment and Housing Act (the “FEHA”). These
18 laws inure to the benefit of the public at large, and not just the private interests of the
19 employers and employees whom they govern or protect.

20 160. As a direct and proximate result of the aforementioned acts and omissions of
21 Defendants, Plaintiff suffered general and compensatory damages, including but not limited
22 to, loss of income (past and future), loss of employment benefits (past and future), general and
23 compensatory damages (past and future), mental pain and anguish and emotional distress (past
24 and future), and will continue to suffer in the future, in an amount to be proved at trial.

25 161. The foregoing conduct engaged in by Defendants and each of their directors,
26 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
27 ratified, and carried on with a conscious and willful disregard of their workers’ right to work
28 in an environment free of retaliation, so as to justify the imposition of punitive damages to

1 punish and set an example of said Defendants.

2 **EIGHTEENTH CAUSE OF ACTION**

3 **UNFAIR COMPETITION**

4 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

5 **(By Plaintiff against all Defendants)**

6 162. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

7 163. At all relevant times during the applicable limitations period, Plaintiff has been
8 an employee of Defendants and entitled to the benefits and protections of the Business and
9 Professions Code §§ 17200, *et seq.*

10 164. Defendants engaged in unfair competition by failing to 1) pay Plaintiff for all
11 hours worked at the correct rates of pay and 2) pay Plaintiff premium wages for workdays
12 during which one or more meal or rest periods were not provided, and 3) reimburse Plaintiff
13 for necessary business expenses incurred in the course of performing her duties.

14 165. The unlawful conduct of Defendants alleged herein amounts to and constitutes
15 unfair competition within the meaning of California Business & Professions Code §§ 17200,
16 *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have
17 unfairly gained a competitive advantage over other comparable companies doing business in
18 California that comply with their legal obligations to, among other things, refrain from
19 discriminatory and retaliatory practices and prevent discrimination and retaliation, pay their
20 employees premium wages for workdays in which they did not provide employees with one or
21 more meal and rest periods, indemnify them for all business expenses incurred during the
22 course of performing their duties, including, but not limited to, mobile phone expenses, and
23 pay them all wages earned.

24 166. As a result of Defendants' unfair competition as alleged herein, Plaintiff has
25 suffered injuries in fact and lost money or property. Defendants failed to pay Plaintiff for all
26 hours worked, failed to provide her with premium wages for missed meal and rest periods, and
27 failed to reimburse Plaintiff for all expenses she incurred in the course of performing her
28 duties.

167. Pursuant to California Business & Professions Code § 17203, Plaintiff is entitled to restitution of all monies rightfully belonging to her that Defendants did not pay her or otherwise retained by means of their unlawful and unfair business practices.

168. Plaintiff is entitled to reasonable attorneys' fees in connection with her unfair competition claims pursuant to California Code of Civil Procedure § 1021.5, the substantial benefit doctrine and/or the common fund doctrine.

169. Accordingly, with respect to this cause of action, Plaintiff prays for the herein stated relief, and an award of all reasonable costs and attorneys' fees, including interest thereon, as permitted by law, all in amounts subject to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment against Defendants as follows:

1. For compensatory damages including lost past and future wages, commissions, and all other sums of money, including employment benefits, together with interest on said amounts, and any other economic injury to Plaintiff, according to proof;
2. For general damages according to proof;
3. For special and consequential damages to the extent allowed by law;
4. For punitive and exemplary damages against corporate Defendant in an amount subject to proof;
5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
7. proof at trial;
8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
10. For maximum civil penalties available under the Labor Code and applicable Wage Order against Defendants as described more particularly in the Complaint;

- 1 11. For restitution and disgorgement for all unfair business practices by corporate
2 Defendants against Plaintiff in an amount according to proof;
3 12. For an order enjoining corporate Defendants from further unfair and unlawful business
4 practices in violation of Business and Professions Code Sections 17200, et seq.;
5 13. For all remedies available to Plaintiff under the applicable Wage Order and the Labor
6 Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated
7 damages, damages, penalties, and waiting time penalties according to proof to the
8 extent permitted by law;
9 14. For the imposition of civil penalties and/or statutory penalties;
10 15. For all interest as allowed by law;
11 16. For all costs and disbursements incurred in this suit;
12 17. Reasonable attorney's fees where available by law, including but not limited to,
13 pursuant to, Labor Code section 2698 *et seq.*, the FEHA, Code of Civil Procedure
14 section 1021.5, and/or other applicable laws; and
15 18. For such other and further relief as this Court may deem proper.

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby demands, as a matter of right, a trial by jury in this case.
18

19 Dated: November 21, 2023

MM LAW, APC

20 By Maralle Messreliah
21 Maralle Messreliah, Esq.
22 Attorney for Plaintiff,
23 FLORISEL RAMIREZ
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