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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ELAINE FLORES, an individual;

Plaintiff,

vs.

SHOGUN RESTAURANT INC., a California
Corporation; SHIN NIHON KOSAN INC., a
California Corporation; SHOGUN
RESTAURANT, LLC, an Alaska Limited
Liability Company; CELIANY ARAKAKI, an
individual; MANDO DOE, an individual; and
DOES 1 through 50, inclusive;

Defendants.

) Case No. **23AHC02809**

) **COMPLAINT FOR:**

-) 1. **Violation of Labor Code § 226, 432, and**
) **1198.5 (Failure to Provide Employment**
) **Records)**
) 2. **Violation of California Labor Code § 510**
) **and the applicable Wage Orders (Failure**
) **to Pay Overtime, Double Time);**
) 3. **Violation of California Labor Code §**
) **226.7, 512(a) and the applicable Wage**
) **Orders (Failure to Provide Meal and Rest**
) **Breaks);**
) 4. **Violation of Labor Code § 1182.12, 1194,**
) **1197, 1197.1, and the applicable Wage**
) **Orders (Failure to Pay Minimum Wage);**
) 5. **Violation of California Labor Code §**
) **226(a), 1174(d), and 1198 (Failure to Keep**
) **Accurate and Provide Itemized Wage**
) **Statements);**
) 6. **Violation of California Code of**
) **Regulations Title 8, § 11050(5)(A) (Failure**
) **to Pay Reporting Time Pay);**
) 7. **Violation of California Code of**
) **Regulations Title 8, § 11050(4)(C) (Failure**
) **to Pay Split Shift Wages);**
) 8. **Violation of California Labor Code § 204**
) **(Failure to Pay All Wages Owed);**
) 9. **Violation of California Labor Code § 201,**
) **202, and 203 (Failure to Pay Wages Upon**
) **Termination);**
) 10. **Violation of California Labor Code §**
) **2810.5(a)(1)(A)-(C) (Wage Theft**
) **Prevention Act)**
) 11. **Violation of California Labor Code § 2800**
) **and 2802 et. Seq. (Failure to Reimburse);**
) 12. **Violation of California Labor Code § 246**
) **(Failure to Provide Notice of Paid Sick**

1 2. PLAINTIFF is informed, believes, and thereupon alleges that at all times mentioned
2 herein, SHOGUN RESTAURANT INC. was and is a California Corporation existing under the
3 laws of the State of California and doing business in the State of California.

4 3. PLAINTIFF is informed, believes, and thereupon alleges that at all times mentioned
5 herein, SHIN NIHON KOSAN INC. was and is a California Corporation existing under the laws of
6 the State of California and doing business in the State of California.

7 4. PLAINTIFF is informed, believes, and thereupon alleges that at all times mentioned
8 herein, SHOGUN RESTAURANT, LLC was and is an Alaska Limited Liability Company existing
9 under the laws of the State of California and doing business in the State of California.

10 5. PLAINTIFF is unaware of the true names and capacities, whether corporate,
11 associate, individual, or otherwise, of DEFENDANTS named as DOES 1 through 50, inclusive.
12 Pursuant to California Code of Civil Procedure section 474, PLAINTIFF will seek leave of court to
13 amend this complaint to state said DEFENDANTS true names and capacities once they are
14 ascertained. PLAINTIFF is informed, believes, and thereupon alleges that each of the
15 DEFENDANTS designated as a DOE are legally responsible for the events and happenings
16 referred to in this Complaint, and unlawfully caused damages to PLAINTIFF as alleged in this
17 Complaint.

18 6. SHOGUN RESTAURANT INC., SHIN NIHON KOSAN INC., SHOGUN
19 RESTAURANT, LLC, CELIANY ARAKAKI, MANDO DOE, and DOES 1 through 50, inclusive,
20 will be hereinafter collectively referred to as “DEFENDANTS.”

21 7. The term “DEFENDANTS” used throughout this Complaint includes all named
22 DEFENDANTS whether corporate, individual, or otherwise, and all unnamed DEFENDANTS
23 whether corporate, individual, or otherwise, that are now unknown but are referred to throughout
24 this Complaint as DOES 1 through 50, inclusive.

25 8. At all times herein mentioned, DEFENDANTS ratified each and every act or
26 omission complained herein.

27 9. PLAINTIFF further alleges that DEFENDANTS controlled or affected
28 PLAINTIFF’s working conditions, wages, working hours, and employment conditions so as to

1 make each of said DEFENDANT employers liable under the statutory provisions alleged herein.

2 **VENUE AND JURISDICTION**

3 10. Venue as to each DEFENDANT is proper in this judicial district pursuant to
4 California Code of Civil Procedure section 395 and under California Government Code section
5 12965(b), in that DEFENDANTS conduct business within the County of Los Angeles and each
6 DEFENDANT is within the jurisdiction of this Court for service of process, PLAINTIFF's injuries
7 were incurred within the County of Los Angeles, the actions giving rise to PLAINTIFF's
8 Complaint arose within the County of Los Angeles, DEFENDANTS employ numerous employees
9 in the County of Los Angeles and DEFENDANTS are located in the County of Los Angeles.

10 11. Under the plain meaning of the relevant venue statutes, DEFENDANT's "liability"
11 (§ 395.5), and "some part of the cause" (§ 393), arose in Los Angeles County because Labor Code
12 violations allegedly occurred there. (See *Black Diamond Asphalt, Inc. v. Superior Court* (2003)
13 109 Cal.App.4th 166, 172, 134 Cal.Rptr.2d 510 [under § 395.5, liability arises where a breach of
14 legal rights occurs]; *Dow AgroSciences LLC v. Superior Court, supra*, 16 Cal.App.5th at pp. 1074-
15 1077, 224 Cal.Rptr.3d 761 [under § 393, subd. (a), in an action against a corporation for breach of
16 statutory duty to warn residents about toxic fumigant, the cause "arose" where the residents were
17 exposed to the fumigants].) See *Crestwood Behavioral Health, Inc. v. Superior Court of Alameda*
18 *County* (2021) 60 Cal.App.5th 1069 [275 Cal.Rptr.3d 316, 60 Cal.App.5th 1069].

19 12. This court has personal jurisdiction over DEFENDANTS because, upon information
20 and belief, DEFENDANTS are citizens of California, have sufficient minimum contacts in
21 California, or otherwise intentionally avail themselves of the California market so as to render the
22 exercise over it by the California courts consistent with traditional notions of fair play and
23 substantial justice.

24 **STATEMENT OF FACTS**

25 13. At all relevant times set forth, herein, DEFENDANTS employed PLAINTIFF as a
26 non-exempt, hourly-paid employee within the State of California, including the County of Los
27 Angeles.

28 14. DEFENDANTS, jointly and severally, employed PLAINTIFF as an hourly-paid,

1 non-exempt employee since on or about June 1, 2021 until on or about September 21, 2023 when
2 PLAINTIFF's employment was terminated by DEFENDANTS.

3 15. DEFENDANTS are a restaurant chain that operates out of the County of Los
4 Angeles, California.

5 16. While employed with DEFENDANTS, PLAINTIFF was required to work off-the-
6 clock, and/or during PLAINTIFF's rest and/or meal periods.

7 17. California Labor Code Section 226 provides, "An employer who receives a written
8 or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or
9 former employee [records of hours worked and wages paid]...shall comply with the request as
10 soon as practicable, but no later than 21 calendar days from the date of the request."

11 18. California Labor Code Section 432 provides, "If an employee signs any instrument
12 relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon
13 request."

14 19. California Labor Code Section 1198.5 provides that every employee shall be
15 permitted to inspect and obtain a copy of their personnel records upon request.

16 20. In accordance with the process set out in Labor Code Section 226, PLAINTIFF
17 requested, in writing by letter via certified first-class mail to DEFENDANTS and regular first-class
18 mail to DEFENDANTS, that DEFENDANTS provide PLAINTIFF with wage and payroll history,
19 all documents signed by PLAINTIFF pursuant to Labor Code Section 432, and a copy of
20 PLAINTIFF's personnel records pursuant to Labor Code Section 1198.5.

21 21. The time periods provided to DEFENDANTS by Labor Code Sections 226, 432,
22 1198.5 and any other relevant statutes have elapsed since DEFENDANTS received PLAINTIFF's
23 correspondence requesting documents pursuant to Labor Code Sections 226, 432, and 1198.5, and
24 a copy of PLAINTIFF's personnel records pursuant to Labor Code Section 1198.5.

25 22. However, DEFENDANTS failed to provide PLAINTIFF with all of the
26 employment documents to which PLAINTIFF is entitled.

27 23. PLAINTIFF is informed and believes, and based thereon alleges, that
28 DEFENDANTS failed to provide records in compliance with Labor Code Sections 226, 432, and

1 1198.5 to PLAINTIFF in response to PLAINTIFF's requests.

2 24. California Labor Code sections 510 and the applicable Wage Orders require
3 employers to pay employees working more than eight (8) hours in a day or more than 40 hours in a
4 week at the rate of at least time-and-one-half (1.5) times their regular rate of pay ("overtime") for
5 time such worked, and two (2) times their regular rate of pay ("double time") for such hours
6 worked in excess of 12 hours in a day. "Regular rate" includes all remuneration, including non-
7 discretionary bonuses and incentives.

8 25. During the relevant time period, PLAINTIFF regularly worked in excess of eight
9 (8), and in excess of 12, hours in a workday and/or 40 hours in a workweek.

10 26. DEFENDANTS routinely required PLAINTIFF to perform work tasks before
11 and/or after PLAINTIFF's scheduled shifts, and/or during off-the-clock meal breaks, and/or during
12 rest breaks. As a consequence, DEFENDANTS willfully failed to pay PLAINTIFF all of the wages
13 to which they were entitled.

14 27. California Labor Code sections 226.7, 512(a), and the applicable Wage Orders
15 require employers to pay employees one (1) additional hour of pay at the employees' regular rate
16 for each work day that a legally compliant meal and/or rest break was not provided. Employers
17 cannot require, cause, or permit an employee to work more than five (5) hours per day without
18 providing an uninterrupted meal break. If an employee works over ten (10) hours in a workday,
19 employers are required to either provide a second, uninterrupted 30-minute meal break or pay
20 employees an additional one (1) hour of pay at the employees' regular rate. If the employer fails to
21 properly record a valid meal period, it is presumed that no meal period was provided. Furthermore,
22 no employer shall require an employee to work during any rest period. Rest periods requirements
23 are based on the total hours worked; employees are legally entitled to ten (10) minutes per four (4)
24 hours, or major fraction thereof, that employee worked.

25 28. DEFENDANTS failed to provide PLAINTIFF with the required rest and meal break
26 periods. PLAINTIFF was routinely required to work through these periods instead, because of
27 understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other
28 actions, inactions, or decisions made by and within the sole control and discretion of

1 DEFENDANTS.

2 29. PLAINTIFF worked shifts in excess of five (5) hours without a meal break, and
3 worked shifts of ten (10) hours or more without a second meal break, due to understaffing,
4 inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions,
5 or decisions made by and within the sole control and discretion of DEFENDANTS.

6 30. PLAINTIFF is informed and believes, and based thereon alleges, that any purported
7 appearance of meal and rest break compliance is because DEFENDANTS systematically and
8 routinely clocked out for and/or otherwise altered the timekeeping records of PLAINTIFF in an
9 attempt to hide the aforementioned infractions.

10 31. DEFENDANTS, knowingly and contrary to law and public policy, employed a
11 tactic of clocking-out employees for rest and/or meal periods that were never taken and/or were
12 legally non-compliant, and/or otherwise falsified or altered timekeeping records.

13 32. DEFENDANTS knew, or should have known, that their behavior caused
14 PLAINTIFF to work through the above-described meal and/or rest periods.

15 33. As a company-wide policy, DEFENDANTS still chose not to pay meal and rest
16 period premiums required by law.

17 34. California Labor Code sections 1182.12, 1194, 1197, and 1197.1 require employers
18 to pay the minimum wage as set by the IWC. California Labor Code section 1182.12, as amended
19 by Senate Bill 3, Chapter 4, Section 3, defines the minimum wage as;

20 (1) For any employer who employs 26 or more employees:

21 (A) From January 1, 2017, to December 31, 2017, \$10.50 per hour.

22 (B) From January 1, 2018, to December 31, 2018, \$11 per hour.

23 (C) From January 1, 2019, to December 31, 2019, \$12 per hour.

24 (D) From January 1, 2020, to December 31, 2020, \$13 per hour.

25 (E) From January 1, 2021, to December 31, 2021, \$14 per hour.

26 (F) From January 1, 2022, and until adjusted by subdivision (c) \$15 per hour.

27 (2) For any employer who employs 25 or fewer employees:

28 (A) From January 1, 2018, to December 31, 2018, \$10.50 per hour.

(B) From January 1, 2019, to December 31, 2019, \$11 per hour.

(C) From January 1, 2020, to December 31, 2020, \$12 per hour.

(D) From January 1, 2021, to December 31, 2021, \$13 per hour.

(E) From January 1, 2022, to December 31, 2022, \$14 per hour.

(F) From January 1, 2023, and until adjusted by subdivision (c) \$15 per hour.

35. The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage.

36. As alleged throughout this Complaint, due to the company-wide failures of DEFENDANTS, PLAINTIFF was forced to work off-the-clock before and/or after her scheduled work shifts, and/or during rest breaks, and/or during meal breaks. DEFENDANTS failed to pay PLAINTIFF minimum wages for this time and/or falsified timekeeping records to hide this fact.

37. California Labor Code 226(a) requires employers to create and provide to employees true and accurate employment records. California Labor Code section 226(e) provides that if an employer fails to furnish an employee with same, the employee is entitled to recover the greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per employee for each subsequent violation in any pay period. California Labor Code 226.3 imposes civil penalties on any employer in violation of section 226(a) at \$250 per employee violation in an initial citation, and \$1,000 per employee for each subsequent violation.

38. California Labor Code 1174(d) requires employers to keep payroll records showing hours worked, and wages paid to and/or number of piece-rate units earned, for all employees. California Labor Code section 1174.5 subjects employers to a \$500 penalty for failing to maintain same.

39. California Labor Code section 1198 provides that maximum hours and standard conditions of labor are fixed by the Labor Commissioner in the applicable Wage Orders. Pursuant to the applicable Wage Order, employers must keep accurate records of when employees begin and end each work period and each meal period.

1 40. DEFENDANTS knowingly provided employees with records that do not meet the
2 statutory requirements of truth and accuracy, because DEFENDANTS failed to truthfully and
3 accurately document, among other things, employees off-the-clock work. As a result,
4 DEFENDANTS failed to accurately list the correct amount of gross and/or net wages earned by
5 PLAINTIFF.

6 41. The statements in question are deficient in many other ways, including, but not
7 limited to: failure to list total hours worked, failing to list applicable hourly rates and the numbers
8 of hours worked at each rate, failure to list piece-rate units earned and the applicable piece-rate,
9 failure to list deductions, failure to track sick leave, failure to list the employee and SSN/EID
10 properly, failure to list the full legal name and address of the employer, failure to list inclusive
11 dates for which employees are paid, failure to provide employees with the ability to easily access
12 wage statements and get hard copies at no expense to the employee, and/or failure to state all hours
13 worked as a result of off-the-clock work.

14 42. DEFENDANTS willfully failed to maintain accurate payroll records for
15 PLAINTIFF as a result of DEFENDANTS failure to accurately record employees rest breaks,
16 and/or meal breaks, and/or off-the-clock work. DEFENDANTS failure makes it impossible for
17 PLAINTIFF to accurately determine the extent of her underpayment, thereby causing further
18 injuries to PLAINTIFF.

19 43. California Code of Regulations, Title 8, section 11050(5)(A) provides that for each
20 workday when an employee is required to and does in fact report to work, but is either not put to
21 work or is furnished less than half of said employee's usual scheduled day's work, that employee
22 should be paid for no less than half, and in no event less than two (2) hours, of the employees'
23 regular rate of pay.

24 44. PLAINTIFF was frequently told by DEFENDANTS to report to work and was
25 either not put to work or was furnished less than half of PLAINTIFF's usual scheduled day's work.
26 DEFENDANTS routinely failed to pay the required reporting time wages to PLAINTIFF for each
27 of these instances.

28 45. California Code of Regulations 11050(4)(C) provides that when an employee works

1 a “split shift”, one (1) hour’s pay at the State or local minimum wage (whichever is greater) must
2 be paid in addition to the minimum wage for that workday. A “split shift” is defined as a work
3 schedule which is interrupted by non-paid, non-working periods established by the employer, other
4 than *bona fide* rest or meal periods.

5 46. DEFENDANTS routinely scheduled PLAINTIFF for multiple different shifts
6 throughout the same workday, separated by periods other than *bona fide* rest or meal breaks.
7 DEFENDANTS failed to pay PLAINTIFF one (1) hour’s pay at the applicable minimum wage,
8 which resulted in PLAINTIFF being paid less than the applicable minimum wage for that day.

9 47. As a further consequence, DEFENDANTS also failed to separately list “split shift”
10 payments on PLAINTIFF’s wage statements.

11 48. California Labor Code section 204 requires that all wages earned, other than those
12 due upon termination, be paid on time as defined by the statute.

13 49. As a result of the numerous company-wide failures of DEFENDANTS as described
14 throughout this Complaint, DEFENDANTS failed to pay PLAINTIFF all wages due to them,
15 including, but not limited to: minimum wages, overtime wages, double time wages, split shift pay
16 and/or reporting time pay within the statutorily required time period.

17 50. California Labor Code sections 201, 202, and 203 provide that employees who are
18 terminated are due all wages earned immediately. Employees who resign their employment without
19 giving 72-hours’ notice are due all wages earned within 72 hours of their resignation. Employees
20 who resign their employment giving 72-hours’ notice are entitled to all wages earned at the time
21 their resignation becomes effective.

22 51. DEFENDANTS terminated their employment relationship with PLAINTIFF on or
23 about September 21, 2023. Accordingly, PLAINTIFF was due all wages earned immediately.

24 52. When PLAINTIFF finally received PLAINTIFF’s final paycheck, that final
25 paycheck was legally deficient in that it did not account for all wages earned despite
26 DEFENDANTS knowing that such wages were due to PLAINTIFF.

27 53. Codified in California Labor Code section 2810.5, California’s Wage Theft
28 Protection Act requires employers to provide employees with basic information at the time of

1 hiring and when changes occur to their employment. The Wage Theft Protection Act provides that
2 an employee must be furnished with written notice of, at the time of hiring; rate of pay (including
3 overtime), whether paid by hour, salary, piece-rate, shift, day, week, commission, or otherwise, and
4 allowances claimed such as meal or lodging. This notice must include a statement that the
5 employee can accrue and use sick leave, has the right to request and use paid sick leave, may not
6 be terminated or retaliated against for requesting or using paid sick leave, and has the right to file a
7 complaint against any employer who does so retaliate.

8 54. DEFENDANTS hired PLAINTIFF on or about June 1, 2021, and PLAINTIFF
9 continued to work for DEFENDANTS until on or about September 21, 2023. During that time,
10 changes, including, but not limited to, raises, promotions, title changes, relocations, and new and
11 additional assignments were earned by and/or assigned to PLAINTIFF. As a result of each of these,
12 changes occurred to PLAINTIFF's employment as defined by Labor Code 2810.5(a)(1)(A)-(C) and
13 the Wage Theft Prevention Act.

14 55. When hired and each time such changes to PLAINTIFF's employment occurred,
15 DEFENDANTS were required to furnish documents to PLAINTIFF with such basic information
16 and written notice of, among other things, her rate of pay (including overtime), her right to accrue
17 and request paid sick leave, and her right to file a complaint against DEFENDANTS should they
18 infringe upon such rights. DEFENDANTS failed to furnish PLAINTIFF with such written notices
19 as required.

20 56. California Labor Code Sections 2800 and 2802 require that an employer indemnify
21 employees for all necessary expenditures or losses incurred by the employee in direct consequence
22 of the discharge of their duties.

23 57. PLAINTIFF was directed and expected to incur personal expenses on behalf of
24 DEFENDANTS while performing her job duties. Such personal expenses include, but are not
25 limited to: use of personal cell phone, travel expenses, and parking expenses). PLAINTIFF would
26 not have been able to successfully accomplish her job duties absent incurring these personal
27 expenses. DEFENDANTS failed to indemnify PLAINTIFF for all necessary expenditures or losses
28 accordingly.

1 58. California Labor Code section 246 provides that an employee who works for the
2 same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue at a
3 rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the
4 commencement of employment. Employers must provide employees with written notice setting the
5 amount of sick leave available (or paid time off in lieu thereof) for use on either itemized wage
6 statements (as described in Labor Code section 226) or in a separate writing accompanying such
7 wage statements.

8 59. PLAINTIFF was hired by DEFENDANTS on or about June 1, 2021 and worked for
9 DEFENDANTS until on or about September 21, 2023. As a result, PLAINTIFF worked for
10 DEFENDANTS for more than 30 days, triggering the protections of Labor Code section 246 as
11 described above.

12 60. Nevertheless, DEFENDANTS failed to furnish upon PLAINTIFF, either on
13 itemized wage statements or in a separate writing accompanying such wage statements, the amount
14 of sick leave available to PLAINTIFF.

15 61. As such, DEFENDANTS unlawfully retained and continue to retain paid sick leave
16 that should have been paid to PLAINTIFF but for DEFENDANTS failure to properly institute
17 and/or adhere to a legally compliant paid sick leave program.

18 62. PLAINTIFF is informed and believes, and based thereon alleges, that at all material
19 times set forth herein, DEFENDANTS were advised by skilled lawyers and other professionals,
20 employees, and advisors knowledgeable about California and federal labor and wage law and
21 employment and personnel practices, and about the requirements of California and federal law.

22 63. PLAINTIFF is informed and believes, and based thereon alleges, that
23 DEFENDANTS knew or should have known that PLAINTIFF was entitled to receive certain
24 wages for overtime compensation and that he was not receiving wages for overtime compensation.

25 64. PLAINTIFF is informed and believes, and based thereon alleges, that
26 DEFENDANTS knew or should have known the PLAINTIFF was entitled to receive all meal
27 periods or payments of one (1) additional hour of pay at PLAINTIFF's regular rate of pay when a
28 meal period was missed, and that he did not receive all meal periods or payment of one (1)

1 additional hour of pay at PLAINTIFF's regular rate of pay when a meal period was missed.

2 65. PLAINTIFF is informed and believes, and based thereon alleges, that
3 DEFENDANTS knew or should have known that PLAINTIFF was entitled to receive all rest
4 periods or payment of one (1) additional hour of pay at PLAINTIFF's regular rate of pay when a
5 rest period was missed, and that he did not receive all rest periods or payment of one (1) additional
6 hour of pay at PLAINTIFF's regular rate of pay when a rest period was missed.

7 66. PLAINTIFF is informed and believes, and based thereon alleges, that
8 DEFENDANTS knew or should have known that PLAINTIFF was entitled to receive payment of
9 at least minimum wage for all hours of work performed while under the control of
10 DEFENDANTS, and that PLAINTIFF did not, in fact, receive payment of at least minimum wage
11 for all hours of work performed while under control of DEFENDANTS.

12 67. PLAINTIFF is informed and believes, and based thereon alleges, that
13 DEFENDANTS knew or should have known that PLAINTIFF was entitled to receive complete
14 and accurate wage statements in accordance with California law, and that he did not receive
15 complete and accurate wage statements from DEFENDANTS. The deficiencies included, *inter*
16 *alia*, the failure to include the total number of hours worked by PLAINTIFF.

17 68. PLAINTIFF is informed and believes, and based thereon alleges, that
18 DEFENDANTS knew or should have known that DEFENDANTS had to keep complete and
19 accurate payroll records for PLAINTIFF in accordance with California law, but, in fact, did not
20 keep complete and accurate payroll records.

21 69. PLAINTIFF is informed and believes, and based thereon alleges, that
22 DEFENDANTS knew or should have known that PLAINTIFF was entitled to reimbursement for
23 necessary business-related expenses, and that PLAINTIFF did not, in fact, receive reimbursement
24 for necessary business-related expenses, including, but not limited to, personal cell phone use,
25 travel expenses, and parking expenses.

26 70. PLAINTIFF is informed and believes, and based thereon alleges, that
27 DEFENDANTS knew or should have known that PLAINTIFF was entitled to receive all wages
28 owed to him during his employment, and that PLAINTIFF did not receive payment of all wages,

1 including, but not limited to, straight time, overtime, double time, minimum wages, and meal and
2 rest period premiums, within any time permissible under California Labor Code section 204.

3 71. PLAINTIFF is informed and believes, and based thereon alleges, that
4 DEFENDANTS knew or should have known that PLAINTIFF was entitled to receive all wages
5 owed to him upon discharge or resignation, including overtime, minimum wages, meal and rest
6 period premiums, and that he did not, in fact, receive all such wages owed to him at the time of his
7 discharge or resignation.

8 72. PLAINTIFF is informed and believes, and based thereon alleges, that
9 DEFENDANTS knew or should have known that they had a duty to compensate PLAINTIFF
10 pursuant to California law, and that DEFENDANTS had the financial ability to pay such
11 compensation, but willfully, knowingly and intentionally failed to do so, and falsely represented to
12 PLAINTIFF that he was properly denied wages, all in order to increase DEFENDANTS profits.

13 73. California Labor Code section 218 states that nothing in Article 1 of the Labor Code
14 shall limit the right of any wage claimant to “sue directly...for any wages or penalty due to him [or
15 her] under this article.”

16 74. At all relevant times, PLAINTIFF was a member of a protected class by virtue of
17 PLAINTIFF’s gender and sex. PLAINTIFF is a women who was discriminated, harassed, and
18 retaliated against for being a woman.

19 75. At all times, PLAINTIFF performed her duties as a hostess in a professional and
20 competent manner.

21 76. At all times, PLAINTIFF discharged the duties of her employment to the
22 satisfaction of DEFENDANTS.

23 77. On or about May 2023, PLAINTIFF informed DEFENDANTS that she was
24 pregnant, therefore DEFENDANTS were aware of PLAINTIFF’s pregnancy. Specifically,
25 PLAINTIFF informed DEFENDANT MANDO DOE and DEFENDANT CELIANY ARAKAKI,
26 PLAINTIFF’s managers.

27 78. Ever since DEFENDANTS became aware of PLAINTIFF’s pregnancy,
28 PLAINTIFF was mistreated by DEFENDANTS.

1 79. On or about June 2023, PLAINTIFF requested to be accommodated with a chair
2 because she was experiencing cramps, back pains, and swollen feet, as a result of her pregnancy.
3 DEFENDANTS refused to provide PLAINTIFF with a chair, despite their knowledge of
4 PLAINTIFF's pregnancy and the symptoms PLAINTIFF was experiencing as a result of her
5 pregnancy.

6 80. As a result of PLAINTIFF's membership in a protected class, DEFENDANTS
7 began to discriminate, retaliate, and harass PLAINTIFF for being pregnant.

8 81. Throughout PLAINTIFF's employment with DEFENDANTS following her notice
9 to DEFENDANTS of her pregnancy, DEFENDANTS discriminated and harassed PLAINTIFF by
10 cursing at PLAINTIFF and verbally abusing her in front of others.

11 82. On or about July 2023, DEFENDANTS, specifically DEFENDANT CELIANY
12 ARAKAKI, PLAINTIFF's manager, cursed at PLAINTIFF in front of customers and other
13 employees. Further, as a result of this incident, DEFENDANT CELIANY ARAKAKI removed
14 PLAINTIFF's chair and did not allow her to sit any longer, despite DEFENDANT CELIANY
15 ARAKAKI being aware of PLAINTIFF's pregnancy.

16 83. As a result of this treatment from DEFENDANTS, specifically DEFENDANT
17 CELIANY ARAKAKI Arakaki, PLAINTIFF complained to DEFENDANT MANDO DOE,
18 PLAINTIFF's other manager. Instead of addressing or resolving the issue, DEFENDANT
19 MANDO DOE told PLAINTIFF that she must learn to work with DEFENDANT CELIANY
20 ARAKAKI.

21 84. On or about August 10, 2023, PLAINTIFF presented DEFENDANTS with a
22 doctor's note from Dr. Nicolai Y. Foong, M.D., which specifically stated that PLAINTIFF must be
23 accommodated and must sit as much as possible. Despite this doctor's note, DEFENDANTS still
24 did not allow PLAINTIFF to sit on a chair, further discriminating and harassing PLAINTIFF due to
25 her gender and sex.

26 85. Throughout the remaining of PLAINTIFF's employment with DEFENDANTS,
27 PLAINTIFFS continued to experience discrimination and harassment from DEFENDANTS. As a
28 result, on or about September 17, 2023, filed a complaint regarding the discrimination and

1 harassment she was experiencing on DEFENDANTS' website. PLAINTIFF complained about
2 DEFENDANTS' violations of California's discrimination and harassment laws.

3 86. In response to PLAINTIFF engaging in legally protected activities, as well as
4 PLAINTIFF's membership in a protected class by virtue of her gender and sex, DEFENDANTS
5 retaliated against PLAINTIFF by terminating PLAINTIFF on or about September 20, 2023.

6 87. Prior to the initiation of this lawsuit, PLAINTIFF filed timely charges and
7 complaints with the California Department of Fair Employment and Housing ("DFEH") and has
8 received Notice of Right to Sue. PLAINTIFF has therefore exhausted administrative remedies.
9 Attached hereto and incorporated herein as "**Exhibit A**" is a copy of PLAINTIFF's Right to Sue
10 Notice and by reference hereto is made a part hereof.

11 **FIRST CAUSE OF ACTION**

12 **Violation of Labor Code § 226, 432, and 1198.5**

13 **Failure to Provide Employment Records**

14 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
15 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and DOES 1**
16 **through 50, Inclusive)**

17 88. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
18 fully set forth herein.

19 89. California Labor Code Section 226 provides, "An employer who receives a written
20 or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or
21 former employee [records of hours worked and wages paid] ... shall comply with the request as
22 soon as practicable, but no later than 21 calendar days from the date of the request."

23 90. Labor Code Section 432 provides, "If an employee signs any instrument relating to
24 the obtaining or holding of employment, he shall be given a copy of the instrument upon request."

25 91. Labor Code Section 1198.5 provides that every employee shall be permitted to
26 inspect and obtain a copy of their personnel records upon request.

27 92. PLAINTIFF requested in writing by letter via certified first-class mail to
28 DEFENDANTS and regular first-class mail to DEFENDANTS' California agent for service of

process, that DEFENDANTS provide PLAINTIFF with wage and payroll history, all documents signed by PLAINTIFF pursuant to Labor Code Section 432, and a copy of PLAINTIFF's personnel records pursuant to Labor Code Section 1198.5.

93. Receipts indicate that the correspondence was delivered to DEFENDANTS principal place of business.

94. For failure to provide PLAINTIFF with payroll records with 21 days after written request, PLAINTIFF seeks a \$750 penalty pursuant to Labor Code Section 226(f).

95. For failure to provide PLAINTIFF with her personnel file within 30 days after receiving the request, PLAINTIFF seeks a \$750 penalty pursuant to Labor Code Section 1198.5(k).

96. PLAINTIFF additionally seeks any additional remedies available to her for violations of Labor Code Sections 226, 432, and 1198.5.

SECOND CAUSE OF ACTION

Violation of California Labor Codes § 510 and the applicable Wage Orders

Failure to Pay Overtime

(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1 through 50, inclusive)

97. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

98. DEFENDANTS had a consistent policy of failing to pay overtime wages in violation of California state wage and hour laws by not paying overtime to PLAINTIFF when PLAINTIFF worked over eight (8) hours in a day and/or 40 hours in a workweek.

99. DEFENDANTS also failed to pay PLAINTIFF double time in violation of California state wage and hour laws by failing to pay PLAINTIFF double time when PLAINTIFF worked in excess of 12 hours in a day.

100. As a result of DEFENDANTS' unlawful acts, PLAINTIFF has been deprived of her full overtime and double time wages in amounts to be determined at trial, and are entitled to the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, pursuant

1 to Labor Code sections 218.5, 510, 558, 1194, and 1199.

2 **THIRD CAUSE OF ACTION**

3 **Violation of California Labor Codes § 226.7, 512(a), and the applicable Wage Orders**

4 **Failure to Provide Rest and Meal Breaks**

5 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
6 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
7 **through 50, inclusive)**

8 101. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
9 fully set forth herein.

10 102. At all times herein set forth, the California IWC Order and California Labor Code
11 sections 226.7 and 512(a) were applicable to PLAINTIFF's employment by DEFENDANTS.

12 103. California Labor Code section 226.7 provides that no employer shall require an
13 employee to work during any rest period mandated by an applicable order of the California IWC.

14 104. DEFENDANTS did not provide PLAINTIFF with meal periods consistent with the
15 requirements of Labor Code section 512.

16 105. DEFENDANTS violated Labor Code sections 226.7 and 512 by employing
17 PLAINTIFF for work periods of more than five (5) hours, without providing legally adequate meal
18 periods such as short, on-duty, late, and/or interrupted meal periods and by failing to provide
19 compensation for unprovided and/or legally inadequate meal periods, as alleged above.

20 106. PLAINTIFF also regularly worked in excess of four (4) hours, or a major fraction
21 thereof, without being afforded a 10-minute rest period during which PLAINTIFF was relieved of
22 all duties as required by Labor Code section 226.7 and the IWC Wage Orders.

23 107. As a direct and proximate result of DEFENDANTS violation of Labor Code section
24 226.7, PLAINTIFF has suffered irreparable harm and monetary damages.

25 108. PLAINTIFF seeks damages and all other permissible relief, including premium pay
26 for each work shift of four (4) hours or a major fraction thereof during which PLAINTIFF was not
27 provided a full 10-minute uninterrupted rest period, attorney's fees, and prejudgment interest,
28 pursuant to Labor Code sections 200, et seq.

109. As a further result of DEFENDANTS unlawful acts, PLAINTIFF has been deprived of premium wages in amounts to be determined at trial, and is entitled to the recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs, under Labor Code sections 226.7, 512, 558, as well as the I.W.C. Wage Orders.

110. PLAINTIFF also is entitled to one (1) hour of pay for each day for which PLAINTIFF was not provided legally compliant rest and/or meal period(s).

FOURTH CAUSE OF ACTION

Violation of Labor Code § 1182.12, 1194, 1197, 1197.1, and the applicable Wage Orders

Failure to Pay Minimum Wage

(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1 through 50, inclusive)

111. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though fully set forth herein.

112. At all relevant times, California Labor Code sections 1182.12, 1194, 1197, 1197.1, and the applicable Wage Orders provide that notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of the applicable minimum wage, including interest thereon, reasonable attorney's fees, and costs of suit.

113. During the relevant time period, DEFENDANTS failed to pay minimum wage to PLAINTIFF as required, pursuant to California Labor Code sections 1182.12, 1194, 1197, 1197.1, and the applicable Wage Orders.

114. DEFENDANTS failure to pay PLAINTIFF the minimum wage as required violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and the applicable Wage Orders.

115. Pursuant to California Labor Code 1197.1, PLAINTIFF is entitled to recover a penalty of \$100.00 for the initial failure to timely pay minimum wages, and \$250.00 for each subsequent failure to pay minimum wages.

116. Pursuant to California Labor Code section 1194.2, PLAINTIFF is entitled to recover

1 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

2 **FIFTH CAUSE OF ACTION**

3 **Violation of California Labor Code § 226(a) and 1174(d)**

4 **Failure to Keep Accurate and Provide Itemized Payroll Records**

5 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
6 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
7 **through 50, inclusive)**

8 117. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
9 fully set forth herein.

10 118. DEFENDANTS have intentionally and willfully failed to keep accurate and
11 complete payroll records showing PLAINTIFF's hours worked and the wages paid to PLAINTIFF,
12 thereby violating California Labor section 1174(d).

13 119. As a result of DEFENDANTS violation of California Labor section 1174(d),
14 PLAINTIFF has suffered injury and damage to PLAINTIFF's statutorily-protected rights.

15 120. More specifically, PLAINTIFF has been injured by DEFENDANTS intentional and
16 willful violation of California Labor Code section 1174(d) because they denied both her legal right
17 and protected interest in having available, accurate, and complete payroll records pursuant to
18 California Labor Code section 1174(d).

19 121. Therefore, PLAINTIFF is entitled to recover all actual, consequential, incidental
20 losses, damages, and statutory penalties, pursuant to California Labor Code section 1174.

21 122. Furthermore, California Labor Code Section 226(a) requires DEFENDANTS to
22 provide itemized wage statements at the time of payment of wages, which includes, but is not
23 limited to the following: gross wages earned, the correct total hours worked by the employee, the
24 correct net wages earned, the inclusive dates of the period for which the employee is paid, the
25 name and address of the correct legal entity that is the employer, all applicable hourly rates in
26 effect during the pay period, and the corresponding number of hours worked at each hourly rate by
27 the employee.

28 123. PLAINTIFF contends that they have been injured by DEFENDANTS failure to

1 provide all of the requisite information on its itemized wage statements in that such failure, inter
2 alia: (1) masks possible and actual underpayments to PLAINTIFF; and (2) makes it difficult for
3 PLAINTIFF to verify that they have in fact been paid the proper amounts owing for all hours
4 worked. DEFENDANTS conduct was done knowingly, intentionally, and with the design to harm
5 PLAINTIFF, as DEFENDANTS are aware of California law.

6 124. As a result of DEFENDANTS violation of California Labor Code section 226(a),
7 PLAINTIFF has suffered injury and damage to her statutorily-protected rights.

8 125. More specifically, PLAINTIFF has been injured by DEFENDANTS intentional and
9 willful violation of California Labor Code section 226(a) because they have been denied both her
10 legal right to receive, and her protected interest in receiving, accurate and itemized wage
11 statements pursuant to California Labor Code section 226(a).

12 126. Pursuant to the foregoing, PLAINTIFF is entitled to recover from DEFENDANTS
13 the greater of her actual damages caused by DEFENDANTS failure to comply with California
14 Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars.

15 **SIXTH CAUSE OF ACTION**

16 **Violation of California Code of Regulations Title 8, § 11050(5)(A)**

17 **Failure to Pay Reporting Time Pay**

18 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
19 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
20 **through 50, inclusive)**

21 127. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
22 fully set forth herein.

23 128. California Code of Regulations, Title 8, section 11050(5)(A) provides that for each
24 workday when an employee is required to and does in fact report to work, but is either not put to
25 work or is furnished less than half of said employee's usual scheduled day's work, that employee
26 should be paid for no less than half, and in no event less than two (2) hours, of the employees'
27 regular rate of pay.

28 129. Throughout PLAINTIFF's employment, PLAINTIFF was told by DEFENDANTS

1 to report to work and was either not put to work or was furnished less than half of PLAINTIFF's
2 usual scheduled day's work.

3 130. DEFENDANTS routinely failed to pay the required reporting time wages to
4 PLAINTIFF for each of these instances.

5 131. Pursuant to the foregoing, PLAINTIFF is entitled to all wages wrongfully withheld,
6 civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1
7 and/or any and all other applicable law.

8 **SEVENTH CAUSE OF ACTION**

9 **Violation of California Code of Regulations Title 8, § 11050(4)(C)**

10 **Failure to Pay Split Shift Wages**

11 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
12 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
13 **through 50, inclusive)**

14 132. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
15 fully set forth herein.

16 133. California Code of Regulations 11050(4)(C) provides that when an employee works
17 a "split shift", one (1) hour's pay at the State or local minimum wage (whichever is greater) must
18 be paid in addition to the minimum wage for that workday.

19 134. A "split shift" is defined as a work schedule which is interrupted by non-paid, non-
20 working periods established by the employer, other than *bona fide* rest or meal periods.

21 135. DEFENDANTS routinely scheduled PLAINTIFF for multiple different shifts
22 throughout the same workday, separated by periods other than *bona fide* rest or meal breaks.

23 136. DEFENDANTS failed to pay PLAINTIFF one (1) hour's pay at the applicable
24 minimum wage, which resulted in PLAINTIFF being paid less than the applicable minimum wage.

25 137. As a further consequence, DEFENDANTS also failed to separately list "split shift"
26 payments on PLAINTIFF's wage statements.

27 138. Pursuant to the foregoing, PLAINTIFF is entitled to recover all wages wrongfully
28 withheld, civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code

1 sections 1197.1 and/or any and all other applicable law.

2 **EIGHTH CAUSE OF ACTION**

3 **Violation of California Labor Code § 204**

4 **Failure to Pay All Wages Owed**

5 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
6 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
7 **through 50, inclusive)**

8 139. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
9 fully set forth herein.

10 140. At all times relevant during the liability period, PLAINTIFF was an employee of
11 DEFENDANTS covered by Labor Code sections 204 and 223.

12 141. Pursuant to Labor Code sections 204 and 223, PLAINTIFF was entitled to receive,
13 on regular paydays, all wages earned and at the correct rate of pay for the pay period corresponding
14 to the payday.

15 142. DEFENDANTS failed to pay PLAINTIFF all wages earned in each pay period.
16 PLAINTIFF is informed, believes, and thereon alleges, that at all times relevant during the liability
17 period, DEFENDANTS maintained a policy and practice of not paying PLAINTIFF: (i) all straight
18 time, overtime, and double time wages for hours worked, and (ii) premium wages for all
19 unprovided meal and rest periods.

20 143. As a result of DEFENDANTS unlawful conduct, PLAINTIFF has suffered damages
21 in an amount, subject to proof, to the extent they were not paid all wages due each pay period.

22 144. The precise amount of unpaid wages is not presently known to PLAINTIFF but can
23 be determined directly from DEFENDANTS records or indirectly based on information from
24 DEFENDANTS records.

25 145. Pursuant to Labor Code sections 218.5 and 218.6, PLAINTIFF is entitled to recover
26 the full amount of her unpaid wages, interest thereon, reasonable attorneys' fees and costs of suit.

27 ///

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1 **NINTH CAUSE OF ACTION**

2 **Violation of California Labor Code § 201, 202, 203**

3 **Failure to Pay Wages Upon Termination**

4 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
5 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
6 **through 50, inclusive)**

7 146. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
8 fully set forth herein.

9 147. During the relevant time period, DEFENDANTS intentionally and willfully failed
10 to pay PLAINTIFF, who is no longer employed by DEFENDANTS, wages, earned and unpaid, at
11 the time DEFENDANTS terminated PLAINTIFF's employment.

12 148. DEFENDANTS failure to pay PLAINTIFF, who is no longer employed by
13 DEFENDANTS, wages, earned and unpaid, at the time of her separation, is in violation of
14 California Labor Code section 201 and 202.

15 149. California Labor Code section 203 provides that if an employer willfully fails to pay
16 wages owed, in accordance with section 201, then the employee's wages shall continue as a
17 penalty from the due date thereof at the same rate until paid or until an action is commenced; but
18 the wages shall not continue for more than thirty (30) days.

19 150. PLAINTIFF is entitled to recover from DEFENDANTS the statutory penalty wages
20 for each day PLAINTIFF was not paid, up to a thirty (30) day maximum, pursuant to California
21 Labor Code section 203.

22 **TENTH CAUSE OF ACTION**

23 **Violation of California Labor Code § 2810.5(a)(l)(A)-(C)**

24 **Wage Theft Prevention Act**

25 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
26 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
27 **through 50, inclusive)**

28 151. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though

1 fully set forth herein.

2 152. Codified in California Labor Code section 2810.5, California's Wage Theft
3 Protection Act requires employers to provide employees with basic information at the time of
4 hiring and when changes occur to their employment.

5 153. The Wage Theft Protection Act provides that an employee must be furnished with
6 written notice of, at the time of hiring; rate of pay (including overtime), whether paid by hour,
7 salary, piece-rate, shift, day, week, commission, or otherwise, and allowances claimed such as meal
8 or lodging.

9 154. This notice must also include a statement that the employee can accrue and use sick
10 leave, has the right to request and use paid sick leave, may not be terminated or retaliated against
11 for requesting or using paid sick leave, and has the right to file a complaint against any employer
12 who does so retaliate.

13 155. DEFENDANTS hired PLAINTIFF on or about June 1, 2021, and PLAINTIFF
14 continued to work for DEFENDANTS until on or about September 21, 2023.

15 156. During that time, changes, including, but not limited to, raises, promotions, title
16 changes, relocations, and new and additional assignments were earned by and/or assigned to
17 PLAINTIFF.

18 157. As a result of each of these, changes occurred to PLAINTIFF's employment as
19 defined by Labor Code 2810.5(a)(1)(A)-(C) and the Wage Theft Prevention Act.

20 158. When hired and each time such changes to PLAINTIFF's employment occurred,
21 DEFENDANTS were required to furnish documents to PLAINTIFF with such basic information
22 and written notice of, among other things, PLAINTIFF's rate of pay (including overtime), right to
23 accrue and request paid sick leave, and their right to file a complaint against DEFENDANTS
24 should they infringe upon such rights.

25 159. DEFENDANTS failed to furnish PLAINTIFF such written notices as required.

26 160. Pursuant to the foregoing, DEFENDANTS are in violation of California Labor Code
27 Section 2810.5(a)(1)(A)-(C). PLAINTIFF is entitled to civil penalties, attorney's fees, costs, and
28 interest thereon, pursuant to any and all applicable law.

1 **ELEVENTH CAUSE OF ACTION**

2 **Violation of California Labor Code § 2800 and 2802 et seq.**

3 **Failure to Reimburse**

4 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
5 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
6 **through 50, inclusive)**

7 161. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
8 fully set forth herein.

9 162. PLAINTIFF incurred necessary and business-related expenses and costs that
10 DEFENDANTS did not reimburse PLAINTIFF for, including, but not limited to, personal cell
11 phone use, travel expenses, and parking expenses throughout the duration of her employment with
12 DEFENDANTS.

13 163. DEFENDANTS knew that PLAINTIFF was incurring such costs throughout the
14 duration of her employment with DEFENDANTS.

15 164. Despite their knowledge, DEFENDANTS intentionally and willfully failed to
16 reimburse PLAINTIFF for all necessary and business-related expenses and costs.

17 165. PLAINTIFF is entitled to recover from DEFENDANTS her business-related
18 expenses and costs incurred during the course and scope of her employment, plus interest accrued
19 from the date on which PLAINTIFF incurred the necessary expenditures at the same rate as
20 judgements in civil actions in the State of California pursuant to California Labor Code 2800,
21 2802, and any and all other applicable law.

22 **TWELFTH CAUSE OF ACTION**

23 **Violation of California Labor Code § 246**

24 **Failure to Provide Notice of Paid Sick Time and Accrual**

25 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
26 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
27 **through 50, inclusive)**

28 166. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though

1 fully set forth herein.

2 167. California Labor Code section 246 provides that an employee who works for the
3 same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue at a
4 rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the
5 commencement of employment.

6 168. Employers must provide employees with written notice setting the amount of sick
7 leave available (or paid time off in lieu thereof) for use on either itemized wage statements (as
8 described in Labor Code section 226) or in a separate writing accompanying such wage statements.

9 169. PLAINTIFF was hired by DEFENDANTS on or about June 1, 2021 and worked for
10 DEFENDANTS until on or about September 21, 2023. Accordingly, PLAINTIFF worked for
11 DEFENDANTS for more than 30 days, triggering the protections of California Labor Code Section
12 246.

13 170. Nevertheless, DEFENDANTS failed to furnish upon PLAINTIFF, either on
14 itemized wage statements or in a separate writing accompanying such wage statements, the amount
15 of sick leave available to PLAINTIFF.

16 171. As such, DEFENDANTS unlawfully retained and continue to retain paid sick leave
17 that should have been paid to PLAINTIFF, but for DEFENDANTS' failure to properly institute
18 and/or adhere to a legally compliant paid sick leave program.

19 172. Pursuant to the foregoing, DEFENDANTS are in violation of California Labor Code
20 Section 246. PLAINTIFF is entitled to recover all wages wrongfully withheld, civil penalties,
21 attorney's fees, costs, and interest thereon, pursuant to California Labor Code section 246 and/or
22 any and all other applicable law.

23 **THIRTEENTH CAUSE OF ACTION**

24 **(By PLAINTIFF for Gender and/or Sex Discrimination in Violation of California**
25 **Government Code Section 12940, *Et seq.* against DEFENDANT SHOGUN RESTAURANT**
26 **INC., DEFENDANT SHIN NIHON KOSAN INC., DEFENDANT SHOGUN**
27 **RESTAURANT, LLC, and Does 1 through 50, Inclusive)**

28 173. PLAINTIFF re-alleges and incorporates by reference all preceding paragraphs as if

1 fully set forth herein.

2 174. PLAINTIFF was a member of a protected class by virtue of PLAINTIFF's gender
3 and sex. PLAINTIFF is a woman who was discriminated, harassed, and retaliated against for being
4 a woman.

5 175. At all times relevant herein, PLAINTIFF was a member of a protected class within
6 the meaning of California Government Code § 12926.1(r) et seq., because PLAINTIFF is a
7 woman.

8 176. At all times relevant herein, PLAINTIFF was a member of a protected class within
9 the meaning of California Government Code § 12926.1(r) et seq., because PLAINTIFF is a
10 woman.

11 177. As a result of PLAINTIFF's being a woman, PLAINTIFF was subjected to
12 disparate working terms and conditions in comparison to PLAINTIFF's male counterparts.

13 178. PLAINTIFF was qualified for and competently performed the position PLAINTIFF
14 held throughout PLAINTIFF's employment with DEFENDANTS. PLAINTIFF was able to
15 perform the essential functions of PLAINTIFF's job.

16 179. Notwithstanding, DEFENDANTS made the decision to terminate PLAINTIFF after
17 PLAINTIFF's complaints about being mistreated by DEFENDANTS for being a woman.

18 180. At all relevant herein, PLAINTIFF alleges that DEFENDANTS and their agents
19 failed to timely, properly, and completely investigate the discrimination PLAINTIFF was subjected
20 to. As such, DEFENDANTS ratified and condoned the unlawful conduct.

21 181. The acts and conduct of DEFENDANTS were in violation of California
22 Government Code § 12940 et seq., which impose certain duties upon DEFENDANTS concerning
23 discrimination against persons, such as PLAINTIFF, on the basis of her gender and sex. These
24 statutes were intended to prevent the type of injury and damage herein set forth.

25 182. By the acts and conduct described above, DEFENDANTS, and each of them, in
26 violation of said statutes, knew about, and/or should have known about, and failed to investigate
27 and/or properly investigate, prevent, or remedy the discrimination.

28 183. The acts of discrimination described herein were sufficiently pervasive so as to alter

1 the conditions of employment, and created an abusive working environment. When PLAINTIFF
2 was discriminated against, PLAINTIFF's gender and sex were motivating reasons and/or factors in
3 DEFENDANTS' conduct.

4 184. As a result of the acts and omissions of DEFENDANTS, PLAINTIFF suffered
5 numerous injuries, including, but not limited to severe emotional and mental distress and anguish,
6 humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety.

7 185. PLAINTIFF suffered actual damages pursuant to Cal. Civil Code § 3333, including
8 loss of earnings and future earning capacity, past and/or future medical and related expenses,
9 attorneys' fees, and other pecuniary loss not yet ascertained, for which PLAINTIFF will pray leave
10 of court to show the exact amount of said expenses at the time of trial.

11 186. As a further result of the acts and conduct of DEFENDANTS, PLAINTIFF suffered
12 and continues to suffer severe emotional and mental distress and anguish, humiliation,
13 embarrassment, fright, shock, pain, discomfort, and anxiety. PLAINTIFF will seek leave of court
14 to amend the exact nature and extent of said damages when ascertained.

15 187. As a result of the discriminatory acts of DEFENDANTS, PLAINTIFF is entitled to
16 reasonable attorneys' fees and costs of suit as specifically provided in California Government Code
17 § 12965(b).

18 188. PLAINTIFF is also entitled to both declaratory and injunctive relief as a result of
19 Defendants' unlawful conduct under the FEHA. PLAINTIFF has been damaged in an amount
20 within the jurisdictional limits of this Court.

21 189. DEFENDANTS committed the acts stated herein maliciously and oppressively, with
22 the wrongful intention of injuring PLAINTIFF, thereby entitling PLAINTIFF to punitive damages.

23 **FOURTEENTH CAUSE OF ACTION**

24 **(By PLAINTIFF for Gender and/or Sex Retaliation in Violation of California Government**
25 **Code Section 12940, *Et seq.* against DEFENDANT SHOGUN RESTAURANT INC.,**
26 **DEFENDANT SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC,**
27 **and Does 1 through 50, Inclusive)**

28 190. PLAINTIFF re-alleges and incorporates by reference all preceding paragraphs as if

1 fully set forth herein.

2 191. PLAINTIFF engaged in legally protected activity by notifying DEFENDANTS of
3 the mistreatment PLAINTIFF was experiencing as a result of her gender and/or sex.

4 192. However, as a result of PLAINTIFF engaging in the aforesaid protected activities,
5 DEFENDANTS retaliated against PLAINTIFF by terminating PLAINTIFF.

6 193. At all times relevant herein, PLAINTIFF believes and further alleges that
7 DEFENDANTS and their agents and employees failed to timely, properly, and/or completely
8 investigate the harassment, discrimination, and retaliation PLAINTIFF was subjected to. As such,
9 DEFENDANTS ratified and condoned the unlawful conduct.

10 194. The acts and conduct of DEFENDANTS were in violation of California
11 Government Code § 12940 et seq. which imposes duties upon DEFENDANTS concerning
12 retaliation against persons, such as PLAINTIFF, on the basis of PLAINTIFF's gender and/or sex
13 and the prohibition of gender and/or sex retaliation. The statutes were intended to prevent the type
14 of injury and damage set forth herein.

15 195. By virtue of PLAINTIFF's gender and/or sex, PLAINTIFF was a member of a
16 protected class covered by California Government Code § 12940, prohibiting gender and/or sex
17 retaliation at work.

18 196. By the acts and conduct described above, DEFENDANTS knew or should have
19 known about, and yet failed to properly investigate, prevent, or remedy the gender and/or sex
20 retaliation.

21 197. The acts of retaliation described herein altered the conditions of employment, and
22 created an abusive working environment. When PLAINTIFF was retaliated against, PLAINTIFF's
23 gender and/or sex, as well as complaints and protests were motivating reasons and/or factors in
24 DEFENDANTS' decision to terminate PLAINTIFF.

25 198. As a result of the acts and omissions of DEFENDANTS, PLAINTIFF suffered
26 numerous injuries, including severe emotional and mental distress and anguish, humiliation,
27 embarrassment, fright, shock, pain, discomfort, and anxiety.

28 199. PLAINTIFF has suffered and will suffer monetary damages, including but not

1 limited to a loss of earnings and benefits. PLAINTIFF will pray leave of court to show the total
2 amount of monetary damages when ascertained and/or at the time of trial.

3 200. As a further result of the acts and conduct of DEFENDANTS, PLAINTIFF has been
4 caused, and did suffer, and continues to suffer numerous injuries. The exact nature and extent of
5 said injuries is presently unknown to PLAINTIFF, who will pray leave of court to assert the same
6 when they are ascertained.

7 201. PLAINTIFF suffered actual damages pursuant to Cal. Civil Code § 3333, including
8 loss of earnings and future earning capacity, past and/or future medical and related expenses,
9 attorneys' fees, and other pecuniary loss not yet ascertained, for which PLAINTIFF will seek leave
10 of court to amend when ascertained.

11 202. As a result of the retaliatory acts of DEFENDANTS, as alleged herein, PLAINTIFF
12 is entitled to reasonable attorneys' fees and costs of said suit as provided in California Government
13 Code § 12965(b).

14 203. As such, PLAINTIFF is entitled to both declaratory and injunctive relief as a result
15 of DEFENDANTS' unlawful conduct under the FEHA. PLAINTIFF has been damaged in an
16 amount within the jurisdictional limits of this Court.

17 204. DEFENDANTS committed the acts stated herein maliciously and oppressively, with
18 the wrongful intention of injuring PLAINTIFF, thereby entitling PLAINTIFF to punitive damages.

19 **FIFTEENTH CAUSE OF ACTION**

20 **(By PLAINTIFF for Failure to Engage in the Good Faith, Interactive Process in Violation of**
21 **California Government Code Section 12940, *Et seq* against DEFENDANT SHOGUN**
22 **RESTAURANT INC., DEFENDANT SHIN NIHON KOSAN INC., DEFENDANT SHOGUN**
23 **RESTAURANT, LLC, and Does 1 through 50, Inclusive)**

24 205. PLAINTIFF re-alleges and incorporates by reference all preceding paragraphs as if
25 fully set forth herein.

26 206. Even though DEFENDANTS had notice of the mistreatment PLAINTIFF was
27 experiencing as a result of her gender and/or sex, DEFENDANTS knowingly failed and refused to
28 engage in a good-faith interactive process with PLAINTIFF to determine whether it would be

possible to implement effective reasonable accommodations as required by Cal. Gov. Code § 12940(a).

207. California Gov. Code § 12940(a) generally provides that it is an unlawful employment practice for an employer “to discharge the person from employment” because of an employee’s gender and/or sex.

208. PLAINTIFF was a member of a protected class within the meaning of Cal. Gov. Code § 12926.1(r) et seq., because PLAINTIFF was a woman.

209. DEFENDANTS were PLAINTIFF’s “employer” pursuant to the FEHA and therefore covered entities, and PLAINTIFF was an employee of DEFENDANTS.

210. During PLAINTIFF’s employment, PLAINTIFF was willing to participate in an interactive process to determine whether reasonable accommodations could be made.

211. As a result of the conduct of DEFENDANTS, PLAINTIFF has been caused, and did suffer, and continues to suffer numerous injuries, including severe emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature and extent of said injuries is presently unknown to PLAINTIFF, who will pray leave of court to assert the same when they are ascertained.

212. PLAINTIFF suffered actual damages pursuant to Cal. Civil Code § 3333, including loss of earnings and future earning capacity and benefits, past and/or future medical and related expenses, attorneys’ fees, and other pecuniary loss not yet ascertained, for which PLAINTIFF will seek leave of court to amend when ascertained.

213. As a result of DEFENDANTS failure to initiate and participate in the good-faith interactive process, as alleged herein, PLAINTIFF is entitled to reasonable attorneys’ fees and costs of said suit as specifically provided in California Government Code § 12965(b).

214. PLAINTIFF is entitled to both declaratory and injunctive relief as a result of DEFENDANTS’ unlawful conduct under the FEHA.

215. PLAINTIFF has been damaged in an amount within the jurisdictional limits of this Court.

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1 **SIXTEENTH CAUSE OF ACTION**

2 **(By PLAINTIFF for Failure to Prevent Discrimination in Violation of California Government**
3 **Code Section 12940, *Et Seq.* against DEFENDANT SHOGUN RESTAURANT INC.,**
4 **DEFENDANT SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC,**
5 **and Does 1 through 50, Inclusive)**

6 216. PLAINTIFF re-alleges and incorporates by reference all preceding paragraphs as if
7 fully set forth herein.

8 217. At all times herein mentioned Government Code § 12940, et seq., including, but not
9 limited to, Section 12940(k), was in full force and effect and was binding on DEFENDANTS and
10 each of them.

11 218. This statute states that it is an unlawful employment practice in California for an
12 employer “to fail to take all reasonable steps necessary to prevent discrimination and harassment
13 from occurring.” These subsections impose on an employer a duty to take immediate and
14 appropriate corrective action to end harassment and retaliation and take all reasonable steps
15 necessary to prevent discrimination and harassment from occurring, among other things.

16 219. DEFENDANTS failed to take immediate and appropriate corrective action to end
17 the harassment and retaliation. DEFENDANTS also failed to take all reasonable steps necessary to
18 prevent harassment and retaliation from occurring.

19 220. In failing and/or refusing to take immediate and appropriate corrective action to end
20 the discrimination and retaliation, and in failing and/or refusing to take and or all reasonable steps
21 necessary to prevent discrimination and retaliation from occurring, DEFENDANTS violated
22 Government Code § 12940(k), causing PLAINTIFF to suffer damages as set forth below.

23 221. PLAINTIFF believes, and on that basis alleges, that PLAINTIFF’s gender and/or
24 sex was a substantial motivating factors in DEFENDANTS decision to discriminate against and
25 terminate PLAINTIFF.

26 222. As a proximate result of DEFENDANTS’ willful, knowing, and intentional
27 misconduct, PLAINTIFF has sustained and continues to sustain substantial losses of earnings and
28 other employment benefits.

1 223. As a proximate result of the acts of DEFENDANTS, PLAINTIFF has suffered
2 actual, consequential, and incidental financial losses, including without limitation, loss of salary
3 and benefits, and the intangible loss of employment related opportunities in PLAINTIFF's field
4 and damage to PLAINTIFF's professional reputation, all in an amount subject to proof at the time
5 of trial. PLAINTIFF claims such amounts as damages pursuant to Civil Code § 3287 and/or section
6 3288 and/or any other provision of law providing for prejudgment interest.

7 224. As a proximate result of the wrongful acts of DEFENDANTS, PLAINTIFF has
8 suffered and continues to suffer severe emotional and mental distress and anguish, humiliation,
9 embarrassment, fright, shock, pain, discomfort, and anxiety, as well as physical manifestation of
10 said conditions. PLAINTIFF is informed and believes, and based thereon alleges, that PLAINTIFF
11 will continue to experience said physical and emotional suffering for a period in the future not
12 presently ascertainable, all in an amount subject to proof at the time of trial.

13 225. As a proximate result of the wrongful acts of DEFENDANTS, PLAINTIFF has
14 incurred and continues to incur legal expenses and attorneys' fees. Pursuant to Government Code §
15 12965(b), PLAINTIFF is entitled to recover reasonable attorneys' fees and costs (including expert
16 costs) in an amount according to proof.

17 226. DEFENDANTS' misconduct was committed intentionally, in a malicious,
18 despicable, pressive fraudulent manner, entitled PLAINTIFF to punitive damages against
19 DEFENDANTS.

20 **SEVENTEENTH CAUSE OF ACTION**

21 **(By PLAINTIFF for Intentional Infliction of Emotional Distress against DEFENDANTS and**
22 **Does 1 through 50, Inclusive)**

23 227. PLAINTIFF re-alleges and incorporates by reference all preceding paragraphs as if
24 fully set forth herein.

25 228. The conduct of DEFENDANTS' as set forth above was so extreme and outrageous
26 that it exceeded the bounds of human decency and was beyond a pale of conduct tolerated in a
27 civilized society. This conduct was intended to cause severe emotional distress, or was done in a
28 reckless disregard of the probability of causing severe emotional distress.

1 229. As an actual and proximate result of DEFENDANTS' wrongful conduct,
2 PLAINTIFF has suffered and continues to suffer severe and continuous humiliation, emotional
3 distress, and physical and mental pain and anguish, all to PLAINTIFF's damage in an amount
4 according to proof at the time of trial.

5 230. DEFENDANTS committed the acts stated herein maliciously and oppressively, with
6 the wrongful intention of injuring PLAINTIFF, thereby entitling PLAINTIFF to punitive damages.

7 **EIGHTEENTH CAUSE OF ACTION**

8 **(By PLAINTIFF for Wrongful Termination Based on PLAINTIFF's Gender and/or Sex in**
9 **Violation of Public Policy Against DEFENDANT SHOGUN RESTAURANT INC.,**
10 **DEFENDANT SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC,**
11 **and Does 1 through 50, Inclusive)**

12 231. PLAINTIFF re-alleges and incorporates by reference all preceding paragraphs as if
13 fully set forth herein.

14 232. An employer's right to terminate an employee at-will is subject to limits imposed by
15 public policy. Whenever employers' decision to discharge an employee is based on employees'
16 membership in a protected class, that contravenes a fundamental public policy. Such public policy
17 must inure to the benefit of the public at large and must be grounded in some statutory, regulatory,
18 or constitutional provision.

19 233. At all times during PLAINTIFF's employment with DEFENDANTS, a fundamental
20 public policy against discrimination in the workplace was, and is, set forth by the California
21 Government Code Section 12920 which provides: "It is hereby declared as the public policy of this
22 state that it is necessary to protect and safeguard the right and opportunity of all persons to seek,
23 obtain, and hold employment without discrimination or abridgment on account of...sex [or]
24 gender."

25 234. At all times during PLAINTIFF's employment with DEFENDANTS, the policy
26 against discrimination in employment on the basis of prohibited characteristics "inures to the
27 benefit of the public" because any type of "invidious discrimination foments strife and unrest."
28 *City of Moorpark v. Sup. Ct. (Dillion)*, 18 Cal. 4th 1143, 1160 (1909) (internal quotes omitted).

1 235. DEFENDANTS violated these fundamental public policies by causing the wrongful
2 termination of PLAINTIFF's employment on or about September 28, 2023, because PLAINTIFF's
3 gender and/or sex.

4 236. The actions of DEFENDANTS constituted a wrongful discharge of PLAINTFF
5 and/or wrongful adverse actions against PLAINTIFF in violation of these fundamental public
6 policies and were a substantial factor in causing damages and injuries to PLAINTFF, as set forth
7 below.

8 237. As a direct and proximate result of the aforesaid unlawful acts of DEFENDANTS,
9 PLAINTIFF has lost income and benefits in an amount to be proven at the time of trial.
10 PLAINTIFF claims such amount as damages together with prejudgment interest pursuant to
11 California Civil Code section 3287 and/or any other provision providing for prejudgment interest.

12 238. As a direct and proximate result of the aforesaid unlawful acts of DEFENDANTS,
13 PLAINTIFF was personally humiliated and has become mentally upset, distressed and aggravated.
14 PLAINTIFF claims general damages for such emotional distress, and physical and mental pain and
15 aggravation in an amount to be proven at trial.

16 239. The unlawful acts of DEFENDANTS, as alleged above, were intentional, willful,
17 and malicious and were done in conscious disregard of PLAINTIFF's rights, safety, and well-
18 being, and with the intent to vex, injure, and annoy him.

19 240. The unlawful acts of DEFENDANTS, as alleged hereinabove, were carried out by
20 supervisors, managers, officers, and/or directors of DEFENDANTS, and were directed and/or
21 ratified by DEFENDANTS, and each of them, with a conscious disregard of PLAINTIFF's rights
22 such as to constitute oppression, fraud, or malice under California Civil Code § 3294 entitled
23 PLAINTFF to exemplary and punitive damages against DEFENDANTS in an amount appropriate
24 to punish DEFENDANTS and deter others from engaging in similar conduct by setting an example
25 of DEFENDANTS.

26 ///

27 ///

28 ///

1 **NINETEENTH CAUSE OF ACTION**

2 **(By PLAINTIFF for Wrongful Termination in Violation of California Labor Code § 1102.5,**
3 **against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT SHIN NIHON**
4 **KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1 through 50,**
5 **Inclusive)**

6 241. PLAINTIFF re-alleges and incorporates by reference all preceding paragraphs as if
7 fully set forth herein.

8 242. At all relevant times, Labor Code § 1102.5 was in full force and effect, and was
9 binding on DEFENDANTS.

10 243. This statute prohibits an employer, or any person acting on behalf of the employers,
11 from discharging an employee or in any manner discriminating or retaliating against, or taking any
12 adverse action against, an employee because, among other things, the employee disclosed
13 information to a government or law enforcement agency, or to a person with authority over the
14 employee or another employee who has the authority to investigate, discover, or correct the
15 violation or noncompliance, if the employee has reasonable cause to believe that the information
16 discloses a violation of state or federal statute, or violation of or noncompliance with a local, state,
17 or federal rule or regulation, regardless of whether disclosing the information is part of the
18 employee's job duties.

19 244. PLAINTIFF disclosed to DEFENDANTS of the violations of the laws.

20 245. The information PLAINTIFF provided disclosed a violation of federal and state
21 statutes, rules, and regulations, including, but not limited to, California's discrimination,
22 harassment, and retaliation laws.

23 246. PLAINTIFF reasonably believed that the information PLAINTIFF provided
24 disclosed a violation of federal and state statutes, rules, and regulations, including, but not limited
25 to, California's discrimination, harassment, and retaliation laws.

26 247. In response to these complaints, DEFENDANTS terminated PLAINTIFF on or
27 about September 28, 2023. PLAINTIFF's assertion of his rights under Labor Code section 1102.5
28 was a substantial motivating reason for DEFENDANTS' decision to discharge PLAINTIFF.

248. As a result of the conduct of DEFENDANTS, PLAINTIFF has been caused, and did suffer, and continues to suffer numerous injuries, including severe emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort, and anxiety. The exact nature and extent of said injuries is presently unknown to PLAINTIFF, who will pray leave of court to assert the same when they are ascertained.

249. PLAINTIFF is informed and believes and thereon alleges that DEFENDANTS' actions were taken with malice, oppression, fraud, and/or willful and conscious disregard of PLAINTIFF's rights, and were carried out by DEFENDANTS' agents and/or ratified by DEFENDANTS. PLAINTIFF is therefore entitled to punitive damages in an amount to be determined at trial.

250. Pursuant to Labor Code § 1102.5(f), in addition to other penalties, an employer that is a corporation or limited liability company is liable for a civil penalty not exceeding ten thousand dollars (\$10,000) for each violation of this section.

251. As a proximate results of the wrongful acts of DEFENDANTS, PLAINTIFF has incurred and continues to incur legal expenses and attorneys' fees. Pursuant to Labor Code § 1102.5(j), PLAINTIFF is entitled to recover reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

TWENTIETH CAUSE OF ACTION

**(By PLAINTIFF for Wrongful Termination for Whistleblowing in Violation of Public Policy
Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT SHIN NIHON
KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1 through 50,
Inclusive)**

252. PLAINTIFF re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

253. An employer's right to terminate an employee at-will is subject to limits imposed by public policy. Whenever employers' decision to discharge an employee is based on employees' membership in a protected class, that contravenes a fundamental public policy. Such public policy must inure to the benefit of the public at large and must be grounded in some statutory, regulatory,

1 or constitutional provision.

2 254. At all times during PLAINTIFF's employment with DEFENDANTS, a fundamental
3 policy against retaliation was, and is, set forth by California Labor Code § 1102.5 which provides:
4 "An employer, or any person acting on behalf of the employer, shall not retaliate against an
5 employee for disclosing information...to a person with authority over the employee or another
6 employee who has the authority to investigate, discover, or correct the violation or
7 noncompliance."

8 255. DEFENDANTS violated these fundamental public policies by causing the wrongful
9 termination of PLAINTIFF's employment on or about September 28, 2023, because PLAINTIFF
10 engaged in a legally protected activity when PLAINTIFF made complaints and/or disclosed to
11 DEFENDANTS regarding violations of California Labor Code sections, including, but not limited
12 to, California's discrimination, harassment, and retaliation laws.

13 256. The actions of DEFENDANTS constituted a wrongful discharge of PLAINTIFF
14 and/or wrongful adverse actions against PLAINTIFF in violation of these fundamental public
15 policies and were a substantial factor in causing damages and injuries to PLAINTIFF, as set forth
16 below.

17 257. As a direct and proximate result of the aforesaid unlawful acts of DEFENDANTS,
18 PLAINTIFF has lost income and benefits in an amount to be proven at the time of trial.
19 PLAINTIFF claims such amount as damages together with prejudgment interest pursuant to
20 California Civil Code section 3287 and/or any other provision providing for prejudgment interest.

21 258. As a direct and proximate result of the aforesaid unlawful acts of DEFENDANTS,
22 PLAINTIFF was personally humiliated and has become mentally upset, distressed and aggravated.
23 PLAINTIFF claims general damages for such emotional distress, and physical and mental pain and
24 aggravation in an amount to be proven at trial.

25 259. The unlawful acts of DEFENDANTS, as alleged above, were intentional, willful,
26 and malicious and were done in conscious disregard of PLAINTIFF's rights, safety, and well-
27 being, and with the intent to vex, injure, and annoy him.

28 The unlawful acts of DEFENDANTS, as alleged hereinabove, were carried out by supervisors,

1 managers, officers, and/or directors of DEFENDANTS, specifically, but not limited to, Erick Leon,
2 and were directed and/or ratified by DEFENDANTS, and each of them, with a conscious disregard
3 of PLAINTIFF's rights such as to constitute oppression, fraud, or malice under California Civil
4 Code § 3294 entitled PLAINTIFF to exemplary and punitive damages against DEFENDANTS in an
5 amount appropriate to punish DEFENDANTS and deter others from engaging in similar conduct
6 by setting an example of DEFENDANTS.

7 **TWENTY-FIRST CAUSE OF ACTION**

8 **Violation of California Business and Professions Code § 17200, et seq.**

9 **(By PLAINTIFF Against DEFENDANT SHOGUN RESTAURANT INC., DEFENDANT**
10 **SHIN NIHON KOSAN INC., DEFENDANT SHOGUN RESTAURANT, LLC, and Does 1**
11 **through 50, inclusive)**

12 260. PLAINTIFF hereby re-alleges and incorporates all preceding paragraphs as though
13 fully set forth herein.

14 261. DEFENDANTS failure to correctly pay wages, failure to provide meal period and
15 rest periods, failure to pay wages during employment, failure to pay wage upon termination, failure
16 to keep accurate requisite payroll records, failure to keep compliant wage statements, and failure to
17 reimburse necessary business expenses of PLAINTIFF as described throughout this Complaint
18 constitute unlawful activity prohibited by Business and Professions Code section 17200, et seq.,
19 including, but not limited to, Sections 17200, 17202, and 17203.

20 262. DEFENDANTS failure to pay PLAINTIFF in a lawful manner, as alleged herein,
21 constitutes false, unfair, fraudulent and/or deceptive business practices, within the meaning of
22 Business and Professions Code section 17200, et seq.

23 263. As a result of DEFENDANTS unlawful acts, DEFENDANTS have reaped and
24 continue to reap unfair benefits at PLAINTIFF's expense.

25 264. DEFENDANTS should be enjoined from this activity and made to disgorge these
26 ill-gotten gains and restore to PLAINTIFF the wrongfully withheld wages, pursuant to Business
27 and Professions Code section 17203.

28 265. PLAINTIFF is informed and believes, and thereon alleges that DEFENDANTS are

1 unjustly enriched through its failure to pay all earned wages and compensation for unprovided meal
2 and rest periods to PLAINTIFF.

3 266. PLAINTIFF is informed and believes, and thereon alleges, that PLAINTIFF was
4 and is prejudiced by DEFENDANTS unfair practices.

5 267. As a direct and proximate result of DEFENDANTS unfair business practices,
6 PLAINTIFF is entitled to equitable and injunctive relief, including full restitution and/or
7 disgorgement of all wages, which have been unlawfully withheld from PLAINTIFF, as a result of
8 the business acts and practices described therein and enjoin DEFENDANTS to cease and desist
9 from engaging in the practices described therein.

10 THEREFORE, PLAINTIFF requests relief as described below:

11 **PRAYER**

12 THEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and Does 1
13 through 50, and each of them, as follows:

- 14 1. For compensatory damages in a sum according to proof;
- 15 2. For wages pursuant to the California Labor Code;
- 16 3. For damages and/or penalties, an award of costs, and reasonable attorney's fees
17 pursuant to the California Labor Code;
- 18 4. That DEFENDANTS be found to have engaged in unfair competition in violation of
19 California Business and Professions Code section 17200, *et seq.*;
- 20 5. That DEFENDANTS be ordered and enjoined to make restitution to PLAINTIFF
21 due to their unfair competition, pursuant to California Business and Professions
22 Code sections 17203 and 17204;
- 23 6. That DEFENDANTS further be enjoined to cease and desist from unfair
24 competition in violation of California Business and Professions Code section 17200,
25 *et seq.*;
- 26 7. For prejudgment interest pursuant to California Civil Code section 3287 and/or
27 section 3288;
- 28 8. For attorneys' fees, interests and costs of suit pursuant to Code of Civil Procedure

1 section 1021.5; and

2 9. For such other and further relief as the Court deems just and proper.

3
4 DATED: December 5, 2023

HAIG B. KAZANDJIAN LAWYERS, APC

5
6 */s/ Haig B. Kazandjian*

7 Haig B. Kazandjian, Esq.
8 Raffi Tapanian, Esq.
9 Attorneys for Plaintiff

1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFF hereby demands trial by jury on all issues triable of right by jury.

3
4 DATED: December 5, 2023

HAIG B. KAZANDJIAN LAWYERS, APC

5
6 */s/ Haig B. Kazandjian*

7 Haig B. Kazandjian, Esq.
8 Raffi Tapanian, Esq.
9 Attorneys for Plaintiff

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EXHIBIT “A”



Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

December 5, 2023

Haig Kazandjian
801 North Brand Boulevard Suite 970
Glendale, CA 91203

RE: **Notice to Complainant's Attorney**
CRD Matter Number: 202312-22859805
Right to Sue: Flores / SHOGUN RESTAURANT INC. et al.

Dear Haig Kazandjian:

Attached is a copy of your complaint of discrimination filed with the Civil Rights Department (CRD) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, CRD will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the CRD does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Civil Rights Department



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

December 5, 2023

RE: Notice of Filing of Discrimination Complaint

CRD Matter Number: 202312-22859805

Right to Sue: Flores / SHOGUN RESTAURANT INC. et al.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Civil Rights Department (CRD) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to CRD is requested or required.

Sincerely,

Civil Rights Department



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

December 5, 2023

Elaine Flores

RE: **Notice of Case Closure and Right to Sue**
CRD Matter Number: 202312-22859805
Right to Sue: Flores / SHOGUN RESTAURANT INC. et al.

Dear Elaine Flores:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective December 5, 2023 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for CRD's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in CRD's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in CRD's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact CRD's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the CRD matter number indicated on the Right to Sue notice.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days



Civil Rights Department

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Elaine Flores

CRD No. 202312-22859805

Complainant,

vs.

SHOGUN RESTAURANT INC.
695 S. RANCHO SANTA FE RD.
SAN MARCOS, CA 92078

SHIN NIHON KOSAN INC.
470 N HALSTEAD ST
PASADENA, CA 91107

SHOGUN RESTAURANT, LLC
695 S RANCHO SANTA FE RD
SAN MARCOS, CA 92078

CELIANY ARAKAKI

,

MANDO Unknown

,

Respondents

1. Respondent **SHOGUN RESTAURANT INC.** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **SHIN NIHON KOSAN INC.** business as Co-Respondent(s).
Complainant is naming **SHOGUN RESTAURANT, LLC** business as Co-Respondent(s).
Complainant is naming **CELIANY ARAKAKI** individual as Co-Respondent(s).
Complainant is naming **MANDO Unknown** individual as Co-Respondent(s).

3. Complainant **Elaine Flores**, resides in the City of , State of .

1 4. Complainant alleges that on or about **September 21, 2023**, respondent took the
2 following adverse actions:

3 **Complainant was harassed** because of complainant's sex/gender, gender identity or
4 expression, sexual orientation, medical condition (cancer or genetic characteristic), sexual
5 harassment- hostile environment, sexual harassment- quid pro quo, pregnancy, childbirth,
6 breast feeding, and/or related medical conditions, family care and medical leave (cfra)
7 related to serious health condition of employee or family member, child bonding, or military
8 exigencies, reproductive health decisionmaking.

9 **Complainant was discriminated against** because of complainant's sex/gender, gender
10 identity or expression, sexual orientation, medical condition (cancer or genetic
11 characteristic), pregnancy, childbirth, breast feeding, and/or related medical conditions,
12 sexual harassment- hostile environment, sexual harassment- quid pro quo, family care and
13 medical leave (cfra) related to serious health condition of employee or family member, child
14 bonding, or military exigencies, reproductive health decisionmaking and as a result of the
15 discrimination was terminated, reprimanded, denied accommodation for pregnancy.

16 **Complainant experienced retaliation** because complainant reported or resisted any form
17 of discrimination or harassment, requested or used a pregnancy-disability-related
18 accommodation and as a result was terminated, reprimanded, denied accommodation for
19 pregnancy.

20 **Additional Complaint Details:** At all relevant times, COMPLAINANT was a member of a
21 protected class by virtue of COMPLAINANT's gender and sex. COMPLAINANT is a women
22 who was discriminated, harassed, and retaliated against for being a woman.
23 At all times, COMPLAINANT performed her duties as a hostess in a professional and
24 competent manner.

25 At all times, COMPLAINANT discharged the duties of her employment to the satisfaction of
26 RESPONDENTS.

27 On or about May 2023, COMPLAINANT informed RESPONDENTS that she was pregnant,
28 therefore RESPONDENTS were aware of COMPLAINANT's pregnancy. Specifically,
COMPLAINANT informed RESPONDENT MANDO DOE and RESPONDENT CELIANY
ARAKAKI, COMPLAINANT's managers.

Ever since RESPONDENTS became aware of COMPLAINANT's pregnancy,
COMPLAINANT was mistreated by RESPONDENTS.

On or about June 2023, COMPLAINANT requested to be accommodated with a chair
because she was experiencing cramps, back pains, and swollen feet, as a result of her
pregnancy. RESPONDENTS refused to provide COMPLAINANT with a chair, despite their
knowledge of COMPLAINANT's pregnancy and the symptoms COMPLAINANT was
experiencing as a result of her pregnancy.

As a result of COMPLAINANT's membership in a protected class, RESPONDENTS began
to discriminate, retaliate, and harass COMPLAINANT for being pregnant.

1 Throughout COMPLAINANT's employment with RESPONDENTS following her notice to
2 RESPONDENTS of her pregnancy, RESPONDENTS discriminated and harassed
3 COMPLAINANT by cursing at COMPLAINANT and verbally abusing her in front of others.
4 On or about July 2023, RESPONDENTS, specifically RESPONDENT CELIANY ARAKAKI,
5 COMPLAINANT's manager, cursed at COMPLAINANT in front of customers and other
6 employees. Further, as a result of this incident, RESPONDENT CELIANY ARAKAKI
7 removed COMPLAINANT's chair and did not allow her to sit any longer, despite
8 RESPONDENT CELIANY ARAKAKI being aware of COMPLAINANT's pregnancy.
9 As a result of this treatment from RESPONDENTS, specifically RESPONDENT CELIANY
10 ARAKAKI Arakaki, COMPLAINANT complained to RESPONDENT MANDO DOE,
11 COMPLAINANT's other manager. Instead of addressing or resolving the issue,
12 RESPONDENT MANDO DOE told COMPLAINANT that she must learn to work with
13 RESPONDENT CELIANY ARAKAKI.
14 On or about August 10, 2023, COMPLAINANT presented RESPONDENTS with a doctor's
15 note from Dr. Nicolai Y. Foong, M.D., which specifically stated that COMPLAINANT must be
16 accommodated and must sit as much as possible. Despite this doctor's note,
17 RESPONDENTS still did not allow COMPLAINANT to sit on a chair, further discriminating
18 and harassing COMPLAINANT due to her gender and sex.
19 Throughout the remaining of COMPLAINANT's employment with RESPONDENTS,
20 COMPLAINANT continued to experience discrimination and harassment from
21 RESPONDENTS. As a result, on or about September 17, 2023, filed a complaint regarding
22 the discrimination and harassment she was experiencing on RESPONDENTS' website.
23 COMPLAINANT complained about RESPONDENTS' violations of California's discrimination
24 and harassment laws.
25 In response to COMPLAINANT engaging in legally protected activities, as well as
26 COMPLAINANT's membership in a protected class by virtue of her gender and sex,
27 RESPONDENTS retaliated against COMPLAINANT by terminating COMPLAINANT on or
28 about September 20, 2023.

1 VERIFICATION

2 I, **Haig B. Kazandjian**, am the **Attorney** in the above-entitled complaint. I have read
3 the foregoing complaint and know the contents thereof. The matters alleged are
4 based on information and belief, which I believe to be true.

5 On December 5, 2023, I declare under penalty of perjury under the laws of the State
6 of California that the foregoing is true and correct.

7 **Glendale, California**
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