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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

Darryl Hall, individually and on behalf of all
similarly situated individuals,

Plaintiff,

vs.

Cepheid, a California Corporation; **Vitor
Rocha**, an individual; **Deborah Gonyea**; and
Does 1-100;

Defendants.

CASE NO.

CLASS ACTION COMPLAINT FOR:

- 1) Failure to Pay Minimum Wages;
- 2) Failure to Pay Overtime Wages;
- 3) Failure to Provide Meal Periods or Premium Pay in Lieu Thereof;
- 4) Failure to Provide Rest Periods or Premium Pay in Lieu Thereof;
- 5) Failure to Reimburse Necessary Business Expenses;
- 6) Failure to Provide and Maintain Accurate Records;
- 7) Failure to Pay Wages When Due;
- 8) PAGA Penalties; and
- 9) Violation of California's Unfair Competition Law

INDIVIDUAL COMPLAINT FOR:

- 10) Discrimination in Violation of FEHA;
- 11) Harassment in Violation of FEHA;
- 12) Failure to Prevent Discrimination and Harassment in Violation of FEHA;
- 13) Wrongful Termination in Violation of Public Policy;

Jury Trial Requested

1 Plaintiff Darryl Hall, on behalf of himself and all other similarly situated current and former em-
2 ployees (“Class Members”), by and through is counsel of record, alleges as follows against Cepheid Inc.:

3 **PARTIES**

4 1. Plaintiff Darryl Hall (“Plaintiff”) is a resident of Sunnyvale, Santa Clara County, California.
5 Plaintiff worked for Cepheid as a non-exempt employee from approximately 2021 to 2023. Plaintiff was
6 subject to the policies and practices described in this complaint at all times during his employment at Ce-
7 pheid.

8 2. Defendant Cepheid Inc. (“Cepheid” or “Defendant”) is a domestic stock corporation reg-
9 istered and organized under the laws of California. Cepheid’s principal place of business in California is 904
10 Caribbean Drive, Sunnyvale, CA 94089. It is an American molecular diagnostics company that develops
11 and sells automated nucleic acid tests.

12 3. Defendant Vitor Rocha is an individual resident of California. Based on Cepheid’s most
13 recently filed statement of information with the California Secretary of State, he is the Chief Executive
14 Officer of Cepheid. Since Guzman is a managing agent, director, and/or officer of Cepheid and because,
15 on information and belief, he caused or directed the acts described herein, he is personally liable for the
16 Labor Code violations and PAGA penalties complained of herein per Labor Code section 558.1.

17 4. Defendant Deborah Gonyea is an individual resident of California. Based on Cepheid’s
18 most recently filed statement of information with the California Secretary of State, she is the Chief Finan-
19 cial Officer of Cepheid, and on information and belief is a resident of the County of Ventura. Since Guzman
20 is a managing agent, director, and/or officer of Cepheid and because, on information and belief, she caused
21 or directed the acts described herein, she is personally liable for the Labor Code violations and PAGA
22 penalties complained of herein per Labor Code section 558.1.

23 5. Plaintiff is not currently aware of the names and true identities of Defendants Does 1-100.
24 Plaintiff reserves the right to amend this complaint to allege their true names and capacities when this in-
25 formation is available. Each Doe defendant is responsible for the damages alleged pursuant to each of the
26 causes of action asserted, either through its own conduct, or vicariously through the conduct of others.
27 Further references in this complaint to any named Defendants includes the fictitiously named defendants.

28 6. At all times alleged herein, each Defendant was an agent, servant, joint employer,

1 employee, partner, and/or joint venture of every other Defendant and was acting within the scope of the
2 Defendants' relationship. Moreover, the conduct of every Defendant was ratified by each other Defend-
3 ant.

4 **VENUE AND JURISDICTION**

5 7. The court has jurisdiction over all causes of action in this complaint pursuant to Article VI,
6 § 10 of the California Constitution. No federal question is at issue; Plaintiff relies solely on California stat-
7 utes and law, including the Labor Code, Government Code, and Business & Professions Code. Because
8 Defendant conducts substantial business in Santa Clara County, Defendant is within the jurisdiction of
9 the court for service of process. Moreover, Business & Professions Code § 17204 provides that any person
10 acting on their own behalf may bring an action in any court of competent jurisdiction.

11 8. Venue as to Defendant is proper in this Superior Court pursuant to California Code of Civil
12 Procedure § 395. Defendants' headquarters in Sunnyvale, California in the County of Santa Clara. The
13 unlawful acts alleged have directly affected Plaintiff, and similarly situated employees, in Santa Clara
14 County, where they were employed by Defendant and earned the wages at issue in this action. Accord-
15 ingly, this Court maintains appropriate jurisdiction over this dispute.

16 **CLASS ACTION ALLEGATIONS**

17 9. At all times relevant to this Complaint, Cepheid has implemented a uniform time clock
18 rounding policy and practice that results in Class Members being denied minimum wages and overtime
19 compensation for all hours worked. Upon information and belief, rather than paying wages based on time
20 actually worked, Cepheid rounds each clock-in and clock-out to a pre-determined interval, resulting in un-
21 derpayment when, for example, an employee clocks in a minute early or clocks out a minute late, or both.
22 Upon information and belief, this rounding policy results in the systemic underpayment of employee wages
23 over time and in the aggregate.

24 10. Further, as a matter of uniform policy and practice, Cepheid failed to authorize and/or per-
25 mit non-exempt employees to take bona fide meal and rest breaks pursuant to Labor Code § 226.7 by in-
26 terrupting employees on their meal and/or rest periods, providing meal and rest periods late, or not at all,
27 and by providing meal and rest periods that are not a net-30 minutes or net-10 minutes in length.

28 11. Additionally, upon information and belief, Defendants' rounding policy results in the

provision of meal periods that are frequently less than 30 minutes; by rounding time, a meal period of less than 30 minutes is recorded in Defendants' time keeping system as 30 minutes for payroll purposes—resulting in the failure to pay employees for time all time worked and/or a failure to provide a fully compliant 30 minute meal period. *Donahue v. Amn Servs.*, 11 Cal.5th 58, 69 (Cal. 2021) (“Small rounding errors can amount to a significant infringement on an employee’s right to a 30-minute meal period.”).

12. In failing to authorize and/or permit timely and/or uninterrupted meal and rest periods, Cepheid has also implemented a uniform policy and practice of denying compensation in lieu of meal and rest periods to its non-exempt employees, notwithstanding its actual knowledge that such employees were denied compliant meal and rest periods.

13. Accordingly, Plaintiff brings this action on behalf of himself and as a class action on behalf of the following defined Class:

14. **Non-Exempt Employee Class:**

All persons who worked at least one 3.5-hour shift as a non-exempt employee in the State of California from the period four years prior to the filing of the Action and the date of trial (“Class”).

15. Common methods of proof exist for determining these issues on a class-wide basis, including but not limited to, Defendants' employment records, payroll records, timesheets, policies, and disciplinary records.

16. **Numerosity.** Plaintiff is informed and believes that, during the class period, between 100 and 1,000 Class Members have been employed as non-exempt employees by Defendants within the State of California. The number of Class Members is sufficiently numerous such that joinder of all members is impossible or impracticable.

17. **Typicality.** Plaintiff's claims are typical of all Class Members. Plaintiff, like all other Class Members, was subjected to the policies and practices set forth above. Plaintiff's job duties were typical of Class Members in all relevant respects.

18. **Adequacy.** There are no material conflicts between the claims of the representative Plaintiff and Class Members that would make class certification inappropriate. Plaintiff understands his obligation to inform the Court of any relationship, conflicts, or differences with any Class Member. Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff is invested in redressing

Defendants' illegal practices on behalf of all Class Members. Moreover, Plaintiff has retained competent counsel experienced in both class action and employment litigation. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement, and will vigorously assert the claims of all Class Members. Plaintiff has incurred, and will continue to incur, costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each Class Member.

19. **Existence and Predominance of Common Issues.** Common questions of law and fact exist as to all Class Members and predominate over issues affecting individual Class Members, including, but not limited to:

- a. Whether Defendants have a common policy and/or practice of rounding non-exempt employees' time records to the detriment of those employees;
- b. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members at a minimum wage for all hours worked as a result of its rounding policies;
- c. Whether Defendants unlawfully and/or willfully failed to compensate Plaintiff and Class Members required overtime wages as a result of its rounding policies;
- d. Whether Defendants have a common policy and/or practice by which they implemented an "auto-deduct" of 30 minutes for employees for meal periods regardless of whether employees took a meal period or its actual length;
- e. Whether Defendants' auto-deduct policy and practice unlawfully deprives employees of wages earned;
- f. Whether Defendants have a common policy and/or practice of depriving Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;
- g. Whether Defendants unlawfully and/or willfully deprived Plaintiff and Class Members of compliant, off-duty meal and/or rest periods;
- h. Whether Defendants paid Plaintiff and Class Members all required premium wages for non-compliant meal and/or rest periods;
- i. Whether Defendants have a common policy and/or practice of failing to maintain

- accurate payroll records in the State of California;
- j. Whether Defendants unlawfully and/or willfully failed to maintain accurate payroll records in the State of California;
- k. Whether Defendants have a policy and/or practice of failing to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- l. Whether Defendants unlawfully and/or willfully failed to provide accurate wage statements reflecting hours worked and wages earned to Plaintiff and Class Members;
- m. Whether Defendants have a policy and/or practice of failing to timely pay wages during employment in violation of Labor Code §§ 204, 210.
- n. Whether Defendants have a policy and/or practice of failing to pay Plaintiff and Class Members final wages owed upon termination;
- o. Whether Defendants unlawfully and/or willfully failed to promptly pay compensation due to Plaintiff and Class Members upon termination of employment in violation of Labor Code §§ 201, 202, and 203;
- p. Whether Plaintiff and Class Members sustained damages as a result of any of the aforementioned violations, and, if so, the proper measure of those damages, including interest, penalties, costs, attorneys' fees, and equitable relief;
- q. Whether Defendants violated the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*, by treating Plaintiff and Class Members unfairly by depriving them of rest and/or meal periods, failing to provide them with compensation in lieu of meal and/or rest periods, failing to pay wages upon termination, failing to furnish accurate and timely itemized wage statements upon payment of wages, and failing to pay all compensation due upon discharge.

20. **Superiority.** A class action is superior to other available means for the fair and efficient adjudication of this dispute. The damages suffered by individual Class Members, while substantial, are small compared to the burden and expense of individual prosecution of the complex and expensive litigation necessary to address Defendants' conduct. Even if Class Members themselves could afford individual litigation, the court system would be overwhelmed by individual lawsuits if all Class Members sought

1 redress. In addition, individualized litigation increases the delay and expense to all parties and to the court
2 system resulting from the complex legal and factual issues of this case. Individualized litigation also pre-
3 sents a potential for inconsistent or contradictory judgments. By contrast, the class action device presents
4 far fewer management difficulties; it allows the hearing of claims which might otherwise go unaddressed
5 because of the relative expense of bringing individual lawsuits, and it provides the benefits of single adju-
6 dication, economies of scale, and comprehensive supervision by a single court. Plaintiff contemplates
7 providing individual notice to members of the Class through Defendants' records.

8 **CAUSES OF ACTION**

9 **FIRST CAUSE OF ACTION**

10 ***California Labor Code §§ 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198***

11 ***Failure to Pay Minimum Wages for All Hours Worked***

12 **(Plaintiff and Class Against Defendants)**

13 21. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
14 paragraphs as if fully set forth herein.

15 22. California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 provide that payment
16 of a wage less than the minimum wage as set by statute, commission, or by the general prevailing rate is
17 unlawful. Compensable work time is defined in Wage Orders as "the time during which an employee is
18 subject to the control of an employer, and includes all the time the employee is suffered or permitted to
19 work, whether or not required to do so." Code. Regs. tit. 8, § 11050(2)(K) (defining "Hours Worked").

20 23. Under applicable California law, rounding of time is only allowed when the policy is "fair
21 and neutral on its face and it is used in such a manner that it will not result, over a period of time, in failure
22 to compensate the employees properly for all the time they have actually worked." *See's Candy Shops, Inc.*
23 *v. Superior Court*, 210 Cal. App. 4th 889, 907 (2012); *see also* 29 C.F.R. § 785.48 ("For enforcement pur-
24 poses this practice of computing working time will be accepted, provided that it is used in such a manner
25 that it will not result, over a period of time, in failure to compensate the employees properly for all the
26 time they have actually worked.").

27 24. Defendant employed a timeclock rounding policy that consistently and as a matter of com-
28 mon policy and practice, over a period of time, failed to pay Class Members at least minimum wages for

1 all hours worked.

2 25. Class Members were also required to take short and/or interrupted meal periods but were
3 deprived of hours worked through Defendants' rounding, which underpaid them by rounding off their
4 meal periods for payroll purposes and treating them as 30 minutes even when Class Members's meal pe-
5 riods were shorter than the required 30 minutes and employees were suffered or permitted to work during
6 some of that that time.

7 26. Defendants further failed to pay Plaintiff and Class Members any wages for time engaged
8 in this off-the-clock work.

9 27. Defendants' failure to pay Plaintiff and Class Members minimum wages for all hours
10 worked violates California Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198.

11 28. Pursuant to California Labor Code section 1194.2, Plaintiff and Class Members are entitled
12 to recover the amount of underpaid wages, plus liquidated damages in an amount equal to the wages un-
13 lawfully unpaid and interest thereon, along with other applicable penalties.¹

14 **SECOND CAUSE OF ACTION**

15 ***California Labor Code §§ 510 and 1198***

16 ***Failure to Pay Overtime Wages***

17 ***(Class Against Defendants)***

18 29. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
19 paragraphs as if fully set forth herein.

20 30. California Labor Code §§ 510 and 1198 provide that it is unlawful to employ persons with-
21 out compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of
22 pay, depending on the number of hours worked by the person on a daily or weekly basis.

23 31. Plaintiff and Class Members who work more than eight hours in a day or more than forty
24 hours in a workweek are to be paid at the rate of time and one-half (1½) for all hours worked in excess of
25 eight hours in a day or more than forty hours in a workweek. An employee's regular rate of pay includes
26

27 ¹ Defendants are liable for civil penalties in the amount of \$100 per initial violation and \$250 for each
28 subsequent pay period, plus injunctive relief and reasonable attorney's fees and costs. Lab. Code §
1197.1.

all remuneration for employment paid to, or on behalf of, the employee, including commissions, non-discretionary bonuses and incentive pay. *Alvarado v. Dart Container Corp. of California*, 4 Cal. 5th 542, 573 (2018), as modified (Apr. 25, 2018).

32. Throughout the Class Period, Class Members were not paid overtime premiums for all of the hours they worked in excess of eight hours in a day, in excess of twelve hours in a day, in excess of eight hours on the seventh consecutive day of work in a workweek, and/or in excess of forty hours in a week, because all hours worked were not recorded as compensable time as a direct consequence of Defendants' policies and practices, including without limitation its rounding policies and practices.

33. Defendants knew or should have known that its rounding policy resulted in Plaintiff and Class Members working unpaid overtime. Because Plaintiff and Class Members sometimes worked shifts of more than eight hours a day or forty hours a week, some of the time lost pursuant to Defendants' rounding policy should have been compensated at the appropriate overtime rate of pay. Accordingly, Defendants' time clock rounding policy resulted in Plaintiff and Class Members being deprived of earned overtime wages.

34. Pursuant to Labor Code section 1194, Class Members are entitled to recover their unpaid overtime compensation, as well as interest, costs, and attorneys' fees, and applicable civil penalties.

THIRD CAUSE OF ACTION

California Labor Code §§ 226.7, 512(a), and 1198

Failure to Provide Meal Periods or Premium Pay in Lieu Thereof

(Plaintiff and Class Against Defendants)

35. Plaintiff repeats and incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

36. Labor Code section 512(a) provides that an employer may not require, cause, or permit an employee to work for a period of more than five hours per day without providing the employee with a meal period of not less than thirty minutes, except that if the total work period per day of the employee is not more than six hours, the meal period may be waived by mutual consent of both the employer and the employee. Under California law, first meal periods must start after no more than five hours. *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1041-104 (2012). An employee is also entitled to a second meal

1 period for shifts in which the employee works in excess of ten hours.

2 37. Labor Code section 226.7, 512(a), and 1198 provide that no employer shall require an em-
3 ployee to work during any meal period mandated by an applicable order of the IWC. “An off-duty meal
4 period, therefore, is one in which the employee is relieved of all duty during the 30-minute meal period . .
5 . an employer’s obligation is to provide an off-duty meal period: an uninterrupted 30-minute period during
6 which the employee is relieved of all duty.” *Brinker Rest. Corp. v. Superior Court*, 53 Cal. 4th 1004, 1035
7 (2012). The employee must also be “free to leave the premises.” *Id.* at 1036.

8 38. Upon information and belief, Defendant’s rounding policy applied to meal period clock-in
9 and clock-outs and illegally resulted in automatic adjustments to time records for meal periods that were
10 less than 30-minutes but characterized for payroll purposes as having lasted for 30-minutes. *See Donohue*
11 *v. Amn Servs.*, 11 Cal.5th 58, 69 (Cal. 2021) (“By requiring premium pay for any violation, no matter how
12 minor, the structure makes clear that employers must provide compliant meal periods whenever such a
13 period is triggered. This corroborates the conclusion that rounding is improper []. A premium pay scheme
14 that discourages employers from infringing on meal periods by even a few minutes cannot be reconciled
15 with a policy that counts those minutes as negligible rounding errors.”).

16 39. Additionally, on information and belief, numerous Class Members, including Plaintiff,
17 were required take late meal periods, interrupt them, have them shortened, or remain on duty, or were
18 simply denied the opportunity to take compliant meal periods due to the combination of Defendants’
19 scheduling practices and policies.

20 40. Defendants did not pay Plaintiff and Class Members all meal period premium wages when
21 meal periods were missed, interrupted by work, and taken late, in violation of Wage Orders and Labor
22 Code sections 226.7 and 512(a).

23 41. Defendants were aware that their actions were a violation of applicable law but consistently
24 refused to pay premium pay as required by law.

25 42. Defendants’ conduct violates Wage Orders and Labor Code sections 512(a), 226.7, and
26 1198. Plaintiff and Class Members are entitled to one additional hour of pay at their regular rate of com-
27 pensation for each workday that a compliant meal period was not provided, and interest thereon, along
28 with applicable civil penalties.

1 **FOURTH CAUSE OF ACTION**

2 ***California Labor Code §§ 226.7 and 1198***

3 ***Failure to Provide Rest Periods or Premium Pay in Lieu Thereof***

4 **(Plaintiff and Class Against Defendants)**

5 43. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
6 paragraphs as if fully set forth herein.

7 44. At all times relevant to this complaint, Defendant knew it was obligated to provide compli-
8 ant rest breaks to its non-exempt employees pursuant to Labor Code § 226.7.

9 45. Labor Code § 226.7 provides:

10 (a) No employer shall require any employee to work during any meal or rest
11 period mandated by an applicable order of the Industrial Welfare Commission.

12 (b) If any employer fails to provide an employee a meal period or rest period
13 in accordance with an applicable order of the Industrial Welfare Commission,
14 the employer shall pay the employee one additional hour of pay at the em-
15 ployee's regular rate of compensation for each work day that the meal or rest pe-
16 riod is not provided.

17 46. Labor Code § 226.7, 512(a), and 1198 provide that no employer shall require an employee
18 to work during any rest or meal period mandated by an applicable order of the IWC. Employers must
19 authorize and permit employees to be relieved of all duty during their rest and meal periods: "A rest pe-
20 riod, in short, must be a period of rest."² *Augustus v. ABM Sec. Servs., Inc.*, 385 P.3d 823, 834 (2016).

21 47. Employees must also be free to leave the employer's premises during their rest period. *See*
22 *id.* at 270 ("In the context of a 10-minute break that employers must provide during the work period, a
23 broad and intrusive degree of control exists when an employer requires employees to remain on call and
24 respond during breaks. An employee on call cannot take a brief walk—five minutes out, five minutes

25 _____
26 ² Employees must also be free to leave the premises. *Augustus*, 2 Cal. 5th at 270; *see also* Department of
27 Industrial Relations, "Rest Periods/Lactation Accommodations," *available at*
28 https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm ("Q. Can my employer require that I stay on the work
premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the
rest period requirement itself.")

back—if at the farthest extent of the walk he or she is not in a position to respond. Employees similarly cannot use their 10 minutes to take care of other personal matters that require truly uninterrupted time.”); *see also* Department of Industrial Relations, “Rest Periods,” *available at* https://www.dir.ca.gov/dlse/FAQ_RestPeriods.htm (“Q. Can my employer require that I stay on the work premises during my rest period? A. No, your employer cannot impose any restraints not inherent in the rest period requirement itself.”).

48. On information and belief, Defendants also failed to authorize or permit all required compliant paid rest periods for shifts in excess of 3.5 hours by requiring Class Members, including Plaintiff, to work through, interrupt, or remain on duty during their rest periods.

49. Defendants were aware that their actions were a violation of applicable law but consistently refused to pay premium pay as required by law.

50. As a direct and proximate result of Defendants’ willful and unlawful conduct, Plaintiff and Class Members have sustained damages, including lost compensation resulting from missed or non-compliant rest periods, in an amount to be established at trial.

51. Pursuant to Labor Code § 226.7(b), Plaintiff and Class Members are entitled to recover from Defendants an additional hour of pay at their regular rates of pay for each shift that a compliant rest period was not provided.

FIFTH CAUSE OF ACTION

California Labor Code § 2802

Failure to Reimburse Necessary Business Expenses

(Plaintiff and Class Against Defendants)

52. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully set forth herein.

53. Labor Code section 2802 provides that “[a]n employer shall indemnify his or his employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or his duties, or of his or his obedience to the directions of the employer.” Lab. Code § 2802.

54. Defendant failed to reimburse Plaintiff and Class Members for all business-related expenses that were necessary to perform their job, including requiring Plaintiff and the Class to use of their

1 personal cell phones for Defendants' business. *See Cochran v. Schwan's Home Services, Inc.*, 228 Cal. App.
2 4th 1137 (2014).

3 55. By unlawfully failing to pay Plaintiff and Class Members, Defendant is liable for the costs
4 Plaintiff and Class Members incurred plus attorneys' fees and costs. Lab. Code § 2802.

5 **SIXTH CAUSE OF ACTION**

6 ***California Labor Code §§ 226(a)/(f)/(h), 226.3, and 1174(d)***

7 ***Failure to Provide and Maintain Accurate Records***

8 **(Plaintiff and Class Against Defendants)**

9 56. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
10 paragraphs as if fully set forth herein.

11 57. Labor Code § 226 requires employers to furnish employees with an accurate, itemized
12 statement in writing showing, among other things, (1) gross wages earned; (2) total hours worked by the
13 employee (for hourly-paid, non-exempt employees); (3) net wages earned; *and* (4) all applicable hourly
14 rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by
15 the employee.

16 58. At all times relevant to this complaint, Defendants' failure to pay premium wages for
17 missed rest periods and minimum and/or overtime wages for work-off-the-clock rendered Class Mem-
18 bers' wage statements inaccurate by failing to accurately reflect gross and net wages earned, as well as the
19 total time worked.

20 59. Injury. Defendants knowingly and intentionally failed to comply with Labor Code § 226,
21 causing injury and damages to Plaintiff and Class Members. Plaintiff and all those similarly situated were
22 injured by these failures because, among other things, they were confused about whether they were paid
23 properly and/or they were misinformed about how much compensation was owed. These damages in-
24 clude, but are not limited to, costs incurred calculating the correct net wages for each pay period and the
25 amount of employment taxes that were not paid to state and federal tax authorities.

26 60. Relief. Labor Code § 226(e)(1) provides that an employee suffering injury as a result of not
27 being provided with an accurate itemized wage statement is entitled to recover the greater of all actual
28 damages suffered or fifty (\$50) dollars for the initial violation and one hundred (\$100) dollars for each

subsequent violation, up to \$4,000. Pursuant to Labor Code §§ 226(e) and (g), Plaintiff and all others similarly situated are entitled to injunctive relief to ensure Defendants' compliance with Labor Code § 226, as well as attorney's fees and costs of suit.

SEVENTH CAUSE OF ACTION

California Labor Code §§ 201, 202, 203, and 204

Failure to Pay Wages When Due

(Plaintiff and Class Against Defendants)

61. Plaintiff incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

62. Labor Code § 201 provides, in relevant part, that:

If an employee not having a written contract for a definite period quits his or his employment, his or his wages³ shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or his intention to quit, in which case the employee is entitled to his or his wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of quitting.

63. Defendant does not include definite periods of service in their contracts of employment for Class Members and Plaintiff's contract of employment did not include a definite term.

64. Labor Code § 203 provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance with § 201, 201.5, 202, and 205.5, any wages of an employee who is discharged or

³ Labor Code § 200 defines "wages" as "all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation." "Labor" is defined as "labor, work, or service . . . if the labor to be paid for is performed personally by the person demanding payment."

1 who quits, the wages of the employee shall continue as a penalty from the due date
2 thereof at the same rate until paid or until an action therefor is commenced; but
3 the wages shall not continue for more than 30 days.

4 65. Labor Code § 204 provides that all wages, other than those mentioned in Section 201 and
5 202, are due and payable twice during each calendar month, on days designated in advance by the employer
6 as regular paydays.

7 66. Failure to Timely Pay Wages Due. As set forth above, Defendant failed to timely pay the
8 minimum wages, overtime wages, and meal and rest period premiums resulting from its deficient time-
9 keeping and meal and rest period policies upon its regularly scheduled pay days.

10 67. Failure to Pay Upon Termination. Plaintiff and many Class Members have left Defendant's
11 employ during the Class Period. As discussed above, Defendant knowingly failed to pay Plaintiff and Class
12 Members all earned wages upon termination. Instead, Defendant willfully and intentionally refused to pay
13 the earned rest and/or meal period premiums and earned minimum wages as alleged herein to Plaintiff
14 and Class Members in violation of Labor Code §§ 201 and 202.

15 68. Relief. Defendant's failure to pay Plaintiff and those Class Members who are no longer
16 employed by Defendant their wages earned and unpaid at the time of discharge, or within seventy-two (72)
17 hours of their leaving Defendant's employment, violates Labor Code §§ 201 and 202. Plaintiff and Class
18 Members are therefore entitled to recover from Defendant the statutory penalty wages for each day they
19 were not paid, at their regular rate of pay, up to a 30-day maximum penalty under Labor Code § 203.

20 **EIGHTH CAUSE OF ACTION**

21 ***California Labor Code §§ 558, 2698, et seq.***

22 ***Private Attorneys General Act ("PAGA") Penalties***

23 ***(Plaintiff and Aggrieved Employees Against Defendants)***

24 69. Plaintiff incorporates by reference all the allegations of this Complaint as though fully set
25 forth herein.

26 70. Entitlement to Penalties. Under the California Private Attorneys General Act ("PAGA"),
27 Labor Code § 2698, *et seq.*, an aggrieved employee may bring a representative action as a private attorney
28 general, on behalf of himself and other current or former employees as well as the general public, to recover

penalties for an employer's violations of the Labor Code and IWC Wage Orders. These penalties are in addition to any other relief available under the Labor Code and are allocated seventy-five percent to the Labor and Workforce Development Agency and twenty-five percent to the affected employees.

71. These penalties may be "stacked" separately for each of Defendants' violations of the Labor Code. *See, e.g., Hernandez v. Towne Park, Ltd.*, No. CV 12-02972, 2012 WL 2373372, at *17 n.77 (C.D. Cal. June 22, 2012) ("[F]ederal courts applying California law have concluded that stacking is appropriate."); *see also O'Connor v. Uber Techs., Inc.*, No. 13-CV-03826-EMC, 2016 WL 3548370, at *7 (N.D. Cal. June 30, 2016) ("Finally, Plaintiff ignore the potential for stacking of PAGA penalties related to wage-and-hour claims other than the gratuities and expense reimbursement claim, i.e., meal and rest breaks, minimum wage and overtime, and workers' compensation.").

72. Plaintiff is an "aggrieved employee" under PAGA, as he was employed by Defendant during the applicable statutory period and suffered the Labor Code violations alleged herein. Accordingly, he seeks to recover, on behalf of himself and all other current and former aggrieved employees of Defendant, the civil penalties provided by PAGA, including civil penalties for Defendants' violations of Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 233, 246, 248, 248.2, 248.5, 510, 512, 558, 1174, 1182.12, 1401, 1194, 1197, 1197.1, 1198, and 2802, plus reasonable attorneys' fees and costs.

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

74. Labor Code § 2699(a), which is part of PAGA, provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of themselves or themselves and other current or former employees pursuant to the procedures specified in § 2699(a).

75. Penalties. Labor Code § 2699(f), which is part of PAGA, provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

76. Based on the foregoing, Plaintiff and aggrieved employees are entitled to civil penalties, to be paid by Defendant and allocated as required by PAGA in the following formula: (a) in an amount set forth as a civil penalty in the underlying statute; or (b) \$100 per initial violation per employee per pay period, and \$200 for each subsequent violation per employee per pay period.

77. Labor Code sections 1194.2 and 1197.1 authorize employees to recover liquidated damages in an amount equal to the wages unlawfully withheld and interest thereon. Labor Code 1197.1 also authorized civil penalties as follows: \$100 for any initial violation intentional committed per employee per pay period in which a violation occurs, and \$250 per subsequent violation per employee per pay period in which a violation occurs, regardless of whether the first violation was intentional.

78. Plaintiff is also entitled to recover for himself, other aggrieved employees, and the State of California, civil penalties pursuant to Labor Code § 210 (entirely independent and apart from, any other penalty provided in this article) in the amount of \$100 per employee per initial violation of the timely payment requirements of Labor Code § 240 (semimonthly payments) and \$200 per employee for each subsequent violation, plus 25% of the amount unlawfully withheld.

79. Plaintiff is also entitled to recover for himself, other aggrieved employees, and the State of California, civil penalties pursuant Labor Code § 558 in the amount \$50 per underpaid employee for each pay period for which the employee was underpaid and for each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid.

80. Plaintiff, the aggrieved employees, and the State of California are entitled to recover the maximum civil penalties allowed by law for the violations of the Labor Code and IWC Wage Orders as alleged in this Complaint.

81. Procedural Requirements Met. On October 26, 2023, Plaintiff electronically filed a notice of claims with the LWDA and sent a copy to Defendant by certified mail. Plaintiff has not received notice from the LWDA that it was exercising jurisdiction over the allegations set forth in the notice. As of 65 days from date of electronic filing, all requirements for administrative exhaustion for bringing these PAGA claims will have been met. Labor Code § 2699.3. A true and correct copy of Plaintiff's PAGA Notice is attached herein as **Exhibit A**.

NINTH CAUSE OF ACTION

California Business and Professions Code §§ 17200, et seq.

Violation of California's Unfair Competition Law

(Plaintiff and Class Against Defendants)

82. Plaintiff repeats and incorporates by reference every allegation in this complaint as if fully set forth herein.

83. Defendants Cepheid, Rocha, and Gonyea each are a “person” as defined by California Business & Professions Code § 17201, as they are each a natural person, corporation, firm, partnership, joint stock company, and/or association.

84. Unlawful Business Practices. Defendants' knowing violations of the laws set forth above constitutes an unlawful business practice as set forth in Business & Professions Code § 17200, *et seq.*

85. Defendants' failure to abide by the laws discussed herein provides Defendant an unfair advantage over their competitors at the expense of their workers. Instead, Defendant cuts corners in the name of higher profits and at the expense of employee well-being. Defendants' action thereby constitutes an unfair, fraudulent, or unlawful business practice under Business & Professions Code § 17200, *et seq.*

86. Relief. Plaintiff brings this cause of action seeking equitable and injunctive relief to stop Defendants' willful and ongoing misconduct, and to seek restitution of the amounts Defendant acquired through the unfair, unlawful, and fraudulent business practices described herein. In addition, Plaintiff seeks an award of costs and attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.

1 **TENTH CAUSE OF ACTION**

2 ***Discrimination in Violation of FEHA***

3 ***Gov. Code §§ 12940, et seq.***

4 **(Plaintiff Against Defendant Cepheid)**

5 87. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
6 paragraphs as if fully set forth herein.

7 88. Defendant Cepheid is an employer in the State of California, within the meaning of the Fair
8 Employment and Housing Act ("FEHA"), Gov't Code § 12926.

9 89. At all relevant times herein, Plaintiff was an employee of Defendants within the meaning
10 of Gov't Code § 12926, and at all times during his employment performed his essential job duties in a
11 competent, satisfactory manner.

12 90. The California Fair Employment and Housing Act provides that it is unlawful for an em-
13 ployer to discharge a person from employment, or to discriminate against a person in compensation or in
14 terms, conditions, or privileges of employment on the basis of race or color or disability. Government Code
15 § 12940(a).

16 91. Mr. Hall was a Black employee working for Cepheid at their Sunnyvale headquarters.

17 92. He was at all times protected from discrimination based on his race, color, and/or disability.

18 93. Defendants discriminated against Mr. Hall because of his race, color, and/or disability in
19 violation of Government Code § 12940(a) by denying him professional opportunities and promotions, sub-
20 jecting him to invidious race-based discriminatory conduct, including referring to him in coded and pejor-
21 ative racial terms, treating him disparately from his non-Black and non-disabled coworkers, belittling him
22 when he attempted to use his medical accommodation, and creating a hostile and intolerable workplace by
23 among other things allowing non-Black employees to freely use the N-word in conversation.

24 94. The discriminatory conduct and hostile work environment such that any reasonable person
25 would have considered a hostile and intolerable workplace. The discriminatory conduct and hostile work
26 environment so severe and pervasive that it resulted in Mr. Hall's constructive termination.

27 95. Mr. Hall's race, color, national origin, and disability were the sole or motivating factor in
28 Defendants' decision to take these or other adverse employment actions.

1 96. As a direct and proximate result of Defendant's conduct, Mr. Hall has suffered special
2 damages in the form of lost earnings, benefits, and/or out-of-pocket expenses in an amount subject to proof
3 at trial. As a further direct and proximate result of Defendant's conduct, Mr. Hall continues to suffer
4 damages in the form of lost future earnings, benefits, and/or other prospective damages in an amount to
5 be proven at trial.

6 97. Defendant's conduct has further caused Mr. Hall to lose financial stability, peace of mind,
7 and future security. Defendant's conduct has caused him severe embarrassment, humiliation, and mental
8 and emotional distress and discomfort in an amount not fully ascertained but subject to proof at trial.

9 98. Because of the conduct alleged herein, Mr. Hall hired attorneys to prosecute his claims
10 under FEHA. Accordingly, Mr. Hall is entitled to recover attorneys' fees and costs pursuant to Govern-
11 ment Code § 12965(b), in addition to other damages as provided by law.

12 99. Defendant's conduct has been intentional, deliberate, willful, malicious, reckless, and in
13 callous disregard for Mr. Hall's rights, entitling him to punitive damages.

14 **ELEVENTH CAUSE OF ACTION**

15 ***Harassment in Violation of FEHA***

16 ***Gov. Code §§ 12940, et seq.***

17 **(Plaintiff Against Defendants Cepheid)**

18 100. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
19 paragraphs as if fully set forth herein.

20 101. Defendant Cepheid is an employer in the State of California, within the meaning of the Fair
21 Employment and Housing Act ("FEHA"), Gov't Code § 12926.

22 102. At all relevant times herein, Plaintiff was an employee of Defendants within the meaning
23 of Gov't Code § 12926, and at all times during his employment performed his essential job duties in a
24 competent, satisfactory manner.

25 103. Mr. Hall was a Black employee working for Cepheid at their Sunnyvale headquarters.

26 104. He was at all times protected from discrimination based on his race, color, and/or disability.

27 105. Defendant subjected Mr. Hall to harassment because of his race, color, and/or disability in
28 violation of Government Code § 12940(a) by denying him professional opportunities and promotions,

1 subjecting him to invidious race-based discriminatory conduct, including referring to him in coded and
2 pejorative racial terms, treating him disparately from his non-Black and non-disabled coworkers, belittling
3 him when he attempted to use his medical accommodation, and creating a hostile and intolerable work-
4 place by among other things allowing non-Black employees to freely use the N-word in conversation. De-
5 fendant was also aware of the harassing conduct by Plaintiff's co-workers yet failed to take immediate and
6 appropriate corrective action.

7 106. The harassing conduct was so severe, widespread, or persistent that a reasonable person in
8 Plaintiff's circumstances would have considered the work environment to be hostile, intimidating, offen-
9 sive, oppressive, or abusive.

10 107. Plaintiff considered the work environment to be hostile, intimidating, offensive, oppres-
11 sive, or abusive.

12 108. Mr. Hall's race, color, national origin, and disability were the sole or motivating factor in
13 Defendants' decision to take these or other adverse employment actions.

14 109. As a direct and proximate result of Defendant's conduct, Mr. Hall has suffered special
15 damages in the form of lost earnings, benefits, and/or out-of-pocket expenses in an amount subject to proof
16 at trial. As a further direct and proximate result of Defendant's conduct, Mr. Hall continues to suffer
17 damages in the form of lost future earnings, benefits, and/or other prospective damages in an amount to
18 be proven at trial.

19 110. Defendant's conduct has further caused Mr. Hall to lose financial stability, peace of mind,
20 and future security. Defendant's conduct has caused him severe embarrassment, humiliation, and mental
21 and emotional distress and discomfort in an amount not fully ascertained but subject to proof at trial.

22 111. Because of the conduct alleged herein, Mr. Hall hired attorneys to prosecute his claims
23 under FEHA. Accordingly, Mr. Hall is entitled to recover attorneys' fees and costs pursuant to Govern-
24 ment Code § 12965(b), in addition to other damages as provided by law.

25 112. Defendant's conduct has been intentional, deliberate, willful, malicious, reckless, and in
26 callous disregard for Mr. Hall's rights, entitling him to punitive damages.

1 **TWELFTH CAUSE OF ACTION**

2 ***Failure to Prevent Discrimination and Harassment in Violation of FEHA***

3 ***Gov. Code §§ 12940, et seq.***

4 **(Plaintiff Against Defendant Cepheid)**

5 113. Plaintiff repeats and incorporates by reference all allegations contained in the preceding
6 paragraphs as if fully set forth herein.

7 114. Defendant Cepheid is an employer in the State of California, within the meaning of the Fair
8 Employment and Housing Act ("FEHA"), Gov't Code § 12926.

9 115. At all relevant times herein, Plaintiff was an employee of Defendants within the meaning
10 of Gov't Code § 12926, and at all times during his employment performed his essential job duties in a
11 competent, satisfactory manner.

12 116. Plaintiff was subjected to discrimination and/or harassment in violation of FEHA, Gov't
13 Code § 12940 et seq.

14 117. Section 12940(k) of FEHA separately provides for liability against an employer if it "fail[s]
15 to take all reasonable steps necessary to prevent discrimination and harassment from occurring."

16 118. Defendants, through their managing agents and supervisors, should have but did not take
17 all reasonable steps to prevent discrimination and/or harassment.

18 119. As a direct and proximate result of Defendant's conduct, Mr. Hall has suffered special
19 damages in the form of lost earnings, benefits, and/or out-of-pocket expenses in an amount subject to proof
20 at trial. As a further direct and proximate result of Defendant's conduct, Mr. Hall continues to suffer
21 damages in the form of lost future earnings, benefits, and/or other prospective damages in an amount to
22 be proven at trial.

23 120. Defendant's conduct has further caused Mr. Hall to lose financial stability, peace of mind,
24 and future security. Defendant's conduct has caused him severe embarrassment, humiliation, and mental
25 and emotional distress and discomfort in an amount not fully ascertained but subject to proof at trial.

26 121. Because of the conduct alleged herein, Mr. Hall hired attorneys to prosecute his claims
27 under FEHA. Accordingly, Mr. Hall is entitled to recover attorneys' fees and costs pursuant to Govern-
28 ment Code § 12965(b), in addition to other damages as provided by law.

122. Defendant's conduct has been intentional, deliberate, willful, malicious, reckless, and in callous disregard for Mr. Hall's rights, entitling him to punitive damages.

THIRTEENTH CAUSE OF ACTION

Wrongful Termination in Violation of Public Policy

(Plaintiff Against Defendant Cepheid)

123. Plaintiff repeats and incorporates by reference all allegations contained in the preceding paragraphs as if fully set forth herein.

124. It is against public policy in California to discriminate in the terms and conditions of employment based on disability, sex, and race. See, e.g., Cal. Const., Art. 1, § 8. As set forth herein, Defendant wrongfully terminated Plaintiff's employment in violation of various fundamental public policies of the United States and the State of California. These fundamental public policies are embodied in the FEHA, the Labor Code, and the Civil Code, among others.

125. As a direct and proximate result of the acts and conduct of Defendants, Plaintiff has suffered and will continue to suffer general damages in amounts to be proven at trial. Defendants' conduct was a substantial factor in causing those damages.

126. As a further, direct and proximate result of the acts and conduct of Defendants, Plaintiff has suffered and will continue to suffer financial losses, including a loss of earnings and other employment benefits and job opportunities. Plaintiff is thereby entitled to special damages in amounts to be proven at trial. Defendants' conduct was a substantial factor in causing those damages.

127. Plaintiff is informed and believes and based thereon alleges that the outrageous conduct of Defendant described above was done with malice, fraud, and oppression and with conscious disregard for her rights and with the intent, design, and purpose of injuring her. By reasons thereof, Plaintiff is entitled to punitive or exemplary damages from Defendants in a sum according to proof at trial.

DEMAND FOR JURY TRIAL

Pursuant to California Code of Civil Procedure § 631, Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays judgment as follows:

A. For an Order:

- 1 a. Certifying the Class;
2 b. Appointing Plaintiff as representative of the Class;
3 c. Appointing Plaintiff's counsel as Class Counsel;
4 B. For actual and liquidated damages according to proof at trial;
5 C. For statutory and civil penalties and special damages, according to proof at trial;
6 D. For pre- and post-judgment interest on monetary damages;
7 E. For preliminary and permanent injunctive relief;
8 F. For reasonable attorney's fees and costs and expert fees and costs as allowed by law; and
9 G. For such other relief as this Court deems just and proper.

10 Dated: October 26, 2023

Respectfully submitted,

KING & SIEGEL LLP

13 By: 
14 Elliot J. Siegel
15 Julian Burns King
16 Attorneys for Plaintiffs

Exhibit A

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October 26, 2023

Original filed online via the LWDA's PAGA Claim Notice Portal

Labor & Workforce Development Agency

1515 Clay Street, Ste. 801
Oakland, CA 94612

Copy Sent via certified mail to:

CEPHEID INC.
904 Caribbean Drive
Sunnyvale, California 94089

CEPHEID INC.
c/o 1505 Corporation
330 N. Brand Blvd
Glendale, California 91203

Re: Darryl Hall v. Cepheid; California Labor Code § 2699.3 Notice of Intent to File Suit

To Whom it May Concern:

We represent **Darryl Hall** ("Plaintiff") a former employee of **Cepheid Inc.**, **Vitor Rocha**, and **Deborah Gonyea** (collectively, "Defendant") in a lawsuit filed against Defendants in Santa Clara County Superior Court. A copy of the Complaint filed in the Action is enclosed as **Exhibit A**.

This letter serves as notice pursuant to California Labor Code § 2699.3 that we intend to prosecute representative claims for civil penalties under the Private Attorney's General Act ("PAGA") on behalf of those of Defendant's employees employed from one year prior to filing of this Notice through trial on the Complaint (the "Aggrieved Employees").

Los Angeles
724 S. Spring St., Ste. 201
Los Angeles, California 90014

1

Sacramento
555 University Ave., Ste. 220
Sacramento, California 95825

As set forth in the Complaint, Defendants violated their obligations under California law to (1) pay minimum wage for all hours worked; (2) pay overtime wages in violation; (3) provide meal periods; (4) provide rest periods; (5) provide and maintain complete and accurate wage statements; (6) timely pay wages when due; and (7) reimburse necessary business expenses.

Together with this correspondence, the enclosed complaint serves as notice pursuant to Labor Code § 2699.3, *et seq.* that we intend to prosecute representative claims for civil penalties under the Private Attorney's General Act ("PAGA") on behalf the Aggrieved Employees.

Please feel free to contact us with any questions.

Sincerely,



Elliot J. Siegel
KING & SIEGEL LLP