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FILED
Superior Court of California
County of Los Angeles
01/03/2024
David W. Slayton, Executive Officer / Clerk of Court
By: V. Alcala Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LUIS ROMERO, an individual,

PLAINTIFF,

v.

M PLASTICS, INC., a California Corporation, and DOES 1 thru 50, inclusive,

DEFENDANTS.

CASE NO.: 23STCV26291

FIRST AMENDED COMPLAINT FOR DAMAGES FOR:

1. Retaliation in Violation of FEHA
2. Disability Discrimination in Violation of the Fair Employment and Housing Act
3. Retaliation in Violation of Labor Code § 1102.5
4. Violations of Labor Code § 233
5. Violations of the California Family Rights Act
6. Wrongful Termination In Violation of Public Policy
7. Failure to Pay Minimum Wages
8. Failure to Provide Accurate Itemized Wage Statements In Violation of Labor Code § 226
9. Waiting Time Penalties Pursuant to Labor Code § 203
10. Violations of Bus. & Prof. Code § 17200
11. Penalties Pursuant to Labor Code § 2698, et seq. ("PAGA") for Violations of Labor Code §§ 98.6, 200, 201, 202, 203, 204, 210, 221, 224, 226, 226.3, 232, 233, 246, 246.5, 403, 406, 1102.5, 1194, 1197.1, 1198, and IWC Wage Order No. 1-2001

DEMAND FOR JURY TRIAL

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. Plaintiff Luis Romero ("Plaintiff" or "Luis"), an individual, complains, on the basis of personal knowledge and/or information and belief against Defendant M Plastics, Inc. and the Doe Defendants (collectively "Defendants") and each of them as follows:

2. Plaintiff brings this action against Defendants for economic, non-economic, compensatory, and punitive damages, pursuant to Civil Code section 3294, pre-judgment interest pursuant to Code of Civil Procedure section 3294, pre-judgment interest pursuant to Code of Civ. Proc. section 3291, and costs and reasonable attorneys' fees pursuant to Labor Code sections 1194, 510, 203, 226, and 1102.5, the Fair Employment and Housing Act ("FEHA"), and the California Family Rights Act.

3. Plaintiff worked for Defendants from in or around October 2021 until August 21, 2023.

4. Plaintiff sought a medical leave within one (1) year of the filing of the Complaint. M Plastic's Human Resources Manager Genevieve "Jenny" Mejia (hereafter "Jenny") and M Plastics failed to notify Plaintiff of his right to leave. By failing to advise Plaintiff of his right to a leave, M Plastics interfered with his right to such leave and also tried to pressure him to keep working during his requested leave period in violation of the FEHA.

5. When Plaintiff declined to work during the period that he sought to take a protective leave in March 2023, M Plastics wrote him up for exercising his rights under the California Family Rights Act and/or to a leave as a reasonable accommodation under the Fair Employment and Housing Act.

6. Plaintiff's employment records from M Plastics, which Jenny labeled as "Employee Write Ups", show that he received disciplinary action in the form of a write-up specifically for taking parental leave from March 20, 2023 to June 20, 2023—**see next page**:

/ / /

/ / /

/ / /

		from production
03/11/2023	Employee Discipline Notice	Write up for attendance from 01/1/23 – 03/1/23. During this period employee only arrived to work on time 11 days
Parental Leave : 03/20/23 to 06/20/23		

7. In or around the fall of 2022, M Plastic's Human Resources Manager Jenny told Plaintiff that he needed to go to the EDD office and apply for leave when it was really M Plastics' responsibility to both tell him about his rights to leave under the California Family Rights Act as well as the possibility of a leave as a reasonable accommodation for his wife's pregnancy and pregnancy related disabilities. M Plastics never told Plaintiff about his entitlement to California Family Rights Act leave nor did they engage in the interactive process with him about a reasonable accommodation under the FEHA.

8. In addition, on or about March 20, 2023, M Plastic's Human Resources Manager told Plaintiff that he was not eligible for sick leave and did not have any sick pay, even though he never received the required up-front grant in 2023 nor was he permitted to accrue any sick leave hours as required by California law, including but not limited to, pursuant to Labor Code §§ 246-248.5.

9. During part of Plaintiff's employment with M Plastics and within the past year, Plaintiff worked with a supervisory employee named Alejandro. Alejandro frequently made sexually suggestive remarks to Plaintiff about other employees, including but not limited to Mario. Alejandro also made sexual innuendos when dealing with equipment at work (such as materials, tubes, and packaging machines), made inappropriate and unwanted comments about his sex life, and made homophobic comments.

10. Several weeks after Plaintiff returned from protected family leave, on or about July 14, 2023, Plaintiff reported Alejandro's homophobic conduct and his sexually harassing behavior to M Plastics' HR department by placing a handwritten letter in their mailbox.

11. A few days after submitting this report, on or about July 17, 2023, M Plastics Human Resource Manager Jenny called Plaintiff into the Human Resource office to ask if he

knew anything about the letter. Plaintiff told them that he had written the letter, and Plaintiff was asked to elaborate on his report—specifically the homophobia that I reported.

12. During Plaintiff's conversation with Jenny in July 2023, Plaintiff reported remarks of a sexual nature that Defendants' supervisory employee Alejandro made about other employees (including Mario) and how Alejandro had discussed details of his sex life with other employees. Defendants' Human Resource Manager Jenny informed Plaintiff that he had described sexual harassment and that she would open a case. Prior to Plaintiff's report of gender discrimination, sexual harassment, and homophobic conduct occurring at M Plastics, Plaintiff's hourly base rate—not including any unlawful deductions—was $18.00 per hour:

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Earnings Statement

M Plastics Inc
1800 E 50th Street
Ste A
Los Angeles, CA 90058

Period Starting: 06/26/2023
Period Ending: 07/02/2023
Pay Date: 07/06/2023

Taxable Filing Status: Single
Exemptions/Allowances:
Federal: Std W/H Table
State: 0
Local: 0
Social Security Number:XXX-XX[redacted]

Tax Override:
Federal: 0.00 Addnl
State:
Local:

Luis A Romero
[redacted]

Earnings	rate	hours/units	this period	year to date
Regular	18.0000	29.49	530.82	7067.67
Overtime			0.00	258.66
Vacation			0.00	144.00
Holiday			0.00	864.00
Gross Pay			$530.82	$8,334.33

Other Benefits and Information	this period	year to date
Sick		
- Carry Over		0.00
- Accrued Hours	0.00	48.00
- Taken Hours	0.00	48.00
- Balance		0.00
Vacation		
- Carry Over		0.00

13. Unfortunately, rather than take Plaintiff's complaints about alleged unlawful conduct seriously, M Plastics retaliated against Plaintiff in several ways. First, M Plastics inexplicably required Plaintiff—even though he reported gender discrimination, gender identity discrimination, and homophobic conduct—to undergo sexual harassment training. Secondly, M Plastics reduced Plaintiff's hourly rate by $1.00 per hour less than two (2) weeks after he complained verbally and in writing about unlawful conditions in the workplace:

M Plastics Inc
1800 E 50th Street
Ste A
Los Angeles, CA 90058

Period Starting: 07/24/2023
Period Ending: 07/30/2023
Pay Date: 08/03/2023

Taxable Filing Status: Single
Exemptions/Allowances:
Federal: Std W/H Table
State: 0
Local: 0
Social Security Number:XXX-XX[redacted]

Tax Override:
Federal: 0.00 Addnl
State:
Local:

Luis A Romero
[redacted]

Earnings	rate	hours/units	this period	year to date
Regular	17.0000	35.97	611.49	9184.86
Overtime			0.00	258.66
Vacation			0.00	144.00
Holiday			0.00	1008.00
Gross Pay			$611.49	$10,595.52

Statutory Deductions	this period	year to date
Federal Income	0.00	0.00
Social Security	-37.91	656.92

Other Benefits and Information	this period	year to date
Sick		
- Carry Over		0.00
- Accrued Hours	0.00	48.00
- Taken Hours	0.00	48.00
- Balance		0.00
Vacation		
- Carry Over		0.00
- Accrued Hours	0.00	40.00
- Taken Hours	0.00	40.00
- Balance		0.00
Total Hours Worked	35.97	523.42

14. On or about August 14, 2023, M Plastics attempted to issued Plaintiff a written warning for "insubordination" because he had not yet watched the sexual harassment video.

15. On or about August 16, 2023, Defendants issued Plaintiff a new written warning requiring that he watch the sexual harassment training video by August 18, 2023. However, because Plaintiff was not given access to a device by M Plastics that he could use to complete the training, he was not able to complete the retaliatory training that day without incurring business expenses in the course of his employment on the employer's behalf for which no reimbursement was offered nor provided in violation of Labor Code § 2802. On August 18, 2023, Plaintiff sent a text message to Defendants' HR Manager, Genevieve Mejia ("Jenny"), to tell her that he was unable to complete the training.

16. On or about Saturday August 20, 2023, on Plaintiff's day off, he watched the sexual harassment video and received a certificate of completion.

17. On or about August 21, 2023, Plaintiff received a phone call before his shift from Jenny, informing him that his employment with Defendants had been terminated. Plaintiff was not given a reason for the termination during the call, but it is his understanding that he was terminated in retaliation for reporting conduct that violated California law and in retaliation for engaging in protected activity.

18. Labor Code § 98.6 states that "[a] person shall not discharge an employee or in any manner discriminate, retaliate, or take any adverse action against any employee…because the employee…engaged in any conduct delineated in this chapter… made a written or oral complaint that he or she is owed unpaid wages, or because the employee has initiated any action or notice pursuant to Section 2699,…or because of the exercise by the employee or applicant for employment on behalf of himself, herself, or others of any rights afforded him or her." Lab. Code § 98.6. Lab. Code § 98.6(b) also states that "[a]ny employee who is discharged, threatened with discharge, demoted, suspended, retaliated against, subjected to an adverse action, or in any other manner discriminated against in the terms and conditions of his or her employment because the employee engaged in any conduct delineated in this chapter, including the conduct described in subdivision (k) of Section 96, and Chapter 5 (commencing with Section 1101) of Part 3 of

Division 2, or because the employee has made a bona fide complaint or claim to the division pursuant to this part, or because the employee has initiated any action or notice pursuant to Section 2699 shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by those acts of the employer." Labor Code section 98.6 also authorizes a civil penalty in the amount of $10,000 per employee for each violation of this section.

19. Similarly, Labor Code § 1102.5 protects employees who complain about an alleged unlawful activity to the government or a person with authority over the employee from retaliation. Specifically, Labor Code § 1102.5 states:

> (a) An employer, or any person acting on behalf of the employer, shall not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, to a person with authority over the employee, or to another employee who has authority to investigate, discover, or correct the violation or noncompliance, or from providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties.
>
> (b) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information, to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties…
>
> (d) An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for having exercised their rights under subdivision (a), (b), or (c) in any former employment…
>
> (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.

20. Labor Code § 1102.6 provides that "the employer shall have the burden of proof to demonstrate by clear and convincing evidence that the alleged action would have occurred for legitimate, independent reasons even if the employee had not engaged in the activities protected by Section 1102."

21. On or around July 14, 2023, Plaintiff Luis Romero reported in writing that his supervisor, Alejandro, was engaging in discrimination based upon employee's sex including engaging in homophobic conduct to Defendants' Human Resources Manager.

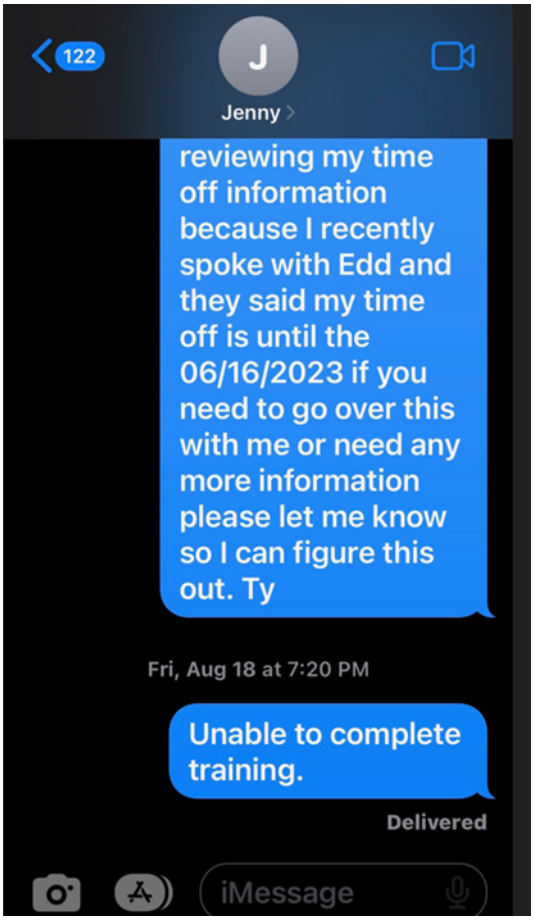
22. When Plaintiff sent Defendant a message that he was unable to complete the sexual harassment training due to a technical issue, Defendant made-up a pretextual basis to terminate him due to alleged attendance issues that had existed for years and timecard discrepancies from five (5) months prior and despite the fact that Defendant—not Plaintiff—calculated the number of hours worked by employees every day by hand:

08/15/23	Employee given write up for not completing Sexual Harassment training. Assignment first given on 07/28 to all staff.
08/18/23	Employee's last day at work
08/21/23	Office read text from employee sent on 08/18 stating "unable to complete" Sexual Harassment Training
08/21/23	Attendance Reviewed – Attendance has not improved, employee continued to arrive late to work ranging from 5 minutes to an hour.
08/21/23	Employee Terminated over the phone

2

In going over employee's Time Cards, it was discovered he had altered the times to 5 of his time cards. The employee would leave early at 4:00 am and write that he left at 7:00 am Time Cards Dated: 02/26/23, 03/05/23, 03/12/23, 03/19/23, 06/25/23

23. Despite having written Plaintiff up for attendance issues for years—including 11 prior incidents between January-March 2023 alone—it was only after Plaintiff complained about unlawful conduct occurring in the workplace and that he could not complete an assignment off-the-clock due to technical issues that Defendants fired him. Defendants' own file titled "Employee Write Ups" acknowledges that after Plaintiff's last day physically worked, but prior to his termination, he texted the company to let them know that he was unable to complete the sexual harassment training:



24. Rather than talk to Plaintiff, Defendants' supervisory and managerial employees, decided to manufacture a pretextual basis to terminate Plaintiff on August 21, 2023 and per their own written admission went back and reviewed his attendance records from up to approximately 6 months prior for no reason in August 2023. Of course, Defendants only did this after knowing that Plaintiff had texted 3 days' prior that he could not complete the sexual harassment training

while off-the-clock and not affording him either the time nor ability to complete the training while on-the-clock and without speaking to him between August 18, 2023 and August 21, 2023:

08/21/23	Office read text from employee sent on 08/18 stating "unable to complete" Sexual Harassment Training
08/21/23	Attendance Reviewed – Attendance has not improved, employee continued to arrive late to work ranging from 5 minutes to an hour.
08/21/23	Employee Terminated over the phone

25. If Defendants had spoken to Plaintiff between August 18 2023 and August 21, 2023, Defendants would have learned that Plaintiff spent at least an hour while off-the-clock completing the 1-hour sexual harassment training while at home and incidentally for which he was not compensated in violation of Labor Code § 1194. Indeed, Defendants did not have a method for Plaintiff to report this time worked due to the nature of its time clock based system that required their physical presence:

California Department of Fair Employment and Housing

Sexual Harassment and Abusive Conduct Prevention Training Completion Certificate

THIS CERTIFICATE IS A SELF-CERTIFICATION THAT

Luis Romero

HAS SUCCESSFULLY COMPLETED A ONE-HOUR COURSE IN SEXUAL HARASSMENT AND ABUSIVE CONDUCT PREVENTION ON

8/20/2023

This certificate verifies completion of online training delivered by California Department of Fair Employment and Housing on sexual harassment and abusive conduct prevention training as required by Gov. Code 12950.1 and 2 CCR 11024. Please note that the Department of Fair Employment and Housing does not track or verify attendance at such training and does not retain copies of employee certificates.

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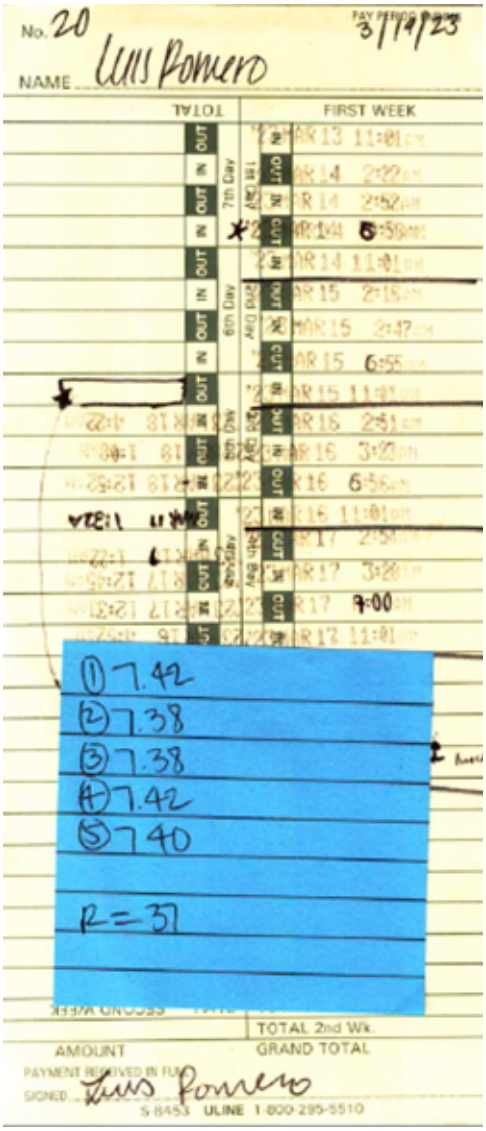
26. Plaintiff alleges that in or around August 21, 2023 that Defendants reviewed timecards from months earlier in an effort to manufacture a pretextual reason to terminate him as there was no reason to review timecards that Defendants' own managerial and supervisory employees reviewed and used to calculate his pay—not Plaintiff—back in March 2023. Exemplar timecard showing the calculations performed by M Plastics—not Plaintiff—in March 2023:



27. Plaintiff alleges that Defendants manufactured a pretextual reason to terminate Plaintiff on August 21, 2023 when it found out that it's attempts to terminate him for not completing the retaliatory sexual harassment training it assigned to him after he complained about gender discrimination, homophobic conduct, and sexual harassment in the workplace was not viable. Apparently, although Defendants could not respond to Plaintiff's text message from

August 18, 2023 that he was unable to complete the sexual harassment training that he was expected to complete off-the-clock, Defendants instead had time to note that Plaintiff texted them that he was "unable to complete" Sexual Harassment Training, write it up in a file that it calls Employee Write Ups, review his time and attendance record from up to 6 months prior, write him up for the same attendance issues he had been experiencing for years, and then terminate him for allegedly altering his time cards when Defendants regularly reviewed and calculated Plaintiff's hours. This of course, ignores the fact that Defendants reduced Plaintiff's hourly rate shortly after he initially reported unlawful conduct occurring in the workplace. Such conduct violated Labor Code §§ 98.6 and 1102.5. *Lawson v. PPG Architectural Finishes, Inc.*, 12 Cal. 5th 703, 707 (2022) ("the employer shall have the burden of proof to demonstrate by clear and convincing evidence that the alleged would have occurred for legitimate, independent reasons even if the employee had not engaged in the activities protected by Section 1102.").

28. Labor Code § 246 requires employers to provide employees with sick pay in accordance with one of the following schedules:

> (1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section.
>
> (2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.
>
> (3) An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period.
>
> (4) An employer may satisfy the accrual requirements of this section by providing not less than 24 hours or three days of paid sick leave that is available to the employee to use by the completion of the employee's 120th calendar day of employment.

Los Angeles Municipal Code § 187.04 states that:

> Employers must provide sick leave either: 1) by providing the entire 48 hours to an Employee at the beginning of each year of employment, calendar year, or 12-month

period; or 2) by providing the Employee one hour of sick leave per every 30 hours worked.

29. Defendants failed to provide Plaintiff with any sick pay and/or the amount of sick days/pay required by Labor Code § 246 and Los Angeles Municipal Code § 187.04. For instance, even though Plaintiff did not receive a single sick day in express violation of Labor Code § 246 and Los Angeles Municipal Code § 187.04, Defendants indicated that he had received and taken 48 hours the very first pay period of 2023:

Company Code	Loc/Dept	Number	Page
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M Plastics Inc
1800 E 50th Street
Ste A
Los Angeles, CA 90058

Earnings Statement

Period Starting: 12/26/2022
Period Ending: 01/01/2023
Pay Date: 01/05/2023

Taxable Filing Status: Single
Exemptions/Allowances:
Federal: Std W/H Table
State: 0
Local: 0
Social Security Number:XXX-XX-[redacted]

Tax Override:
Federal: 0.00 Addnl
State:
Local:

Luis A Romero
[redacted]

Earnings	rate	hours/units	this period	year to date
Vacation	18.0000	8.00	144.00	144.00
Holiday	18.0000	40.00	720.00	720.00
Gross Pay			**$864.00**	$864.00

Statutory Deductions	this period	year to date
Federal Income	0.00	0.00
Social Security	-53.57	53.57
Medicare	-12.53	12.53
California State Income	-22.17	22.17
California State DI	-7.78	7.78
Net Pay	**$767.95**	

Other Benefits and Information	this period	year to date
Sick		
- Carry Over		0.00
- Accrued Hours	0.00	48.00
- Taken Hours	0.00	48.00
- Balance		0.00
Vacation		
- Carry Over		0.00
- Accrued Hours	0.00	40.00
- Taken Hours	8.00	40.00
- Balance		0.00

Deposits

account number	transit/ABA	amount
XXXXXX0381	XXXXXXXXX	767.95

Important Notes

Basis of pay: Hourly
If no CA SPSL 22 is listed, you have used zero hours.

Company Code	Loc/Dept	Number	Page
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M Plastics Inc
1800 E 50th Street
Ste A
Los Angeles, CA 90058

Earnings Statement

Period Starting: 01/02/2023
Period Ending: 01/08/2023
Pay Date: 01/12/2023

Taxable Filing Status: Single
Exemptions/Allowances:
Federal: Std W/H Table
State: 0
Local: 0
Social Security Number:XXX-XX[redacted]

Tax Override:
Federal: 0.00 Addnl
State:
Local:

Luis A Romero
[redacted]

Earnings	rate	hours/units	this period	year to date
Regular	18.0000	29.98	539.64	539.64
Vacation			0.00	144.00
Holiday	18.0000	8.00	144.00	864.00
Gross Pay			**$683.64**	$1,547.64

Statutory Deductions	this period	year to date
Federal Income	0.00	0.00
Social Security	-42.38	95.95
Medicare	-9.91	22.44
California State Income	-13.41	35.58
California State DI	-6.15	13.93
Net Pay	**$611.79**	

Other Benefits and Information	this period	year to date
Sick		
- Carry Over		0.00
- Accrued Hours	0.00	48.00
- Taken Hours	0.00	48.00
- Balance		0.00
Vacation		
- Carry Over		0.00
- Accrued Hours	0.00	40.00
- Taken Hours	0.00	40.00
- Balance		0.00
Total Hours Worked	29.98	29.98

Deposits

account number	transit/ABA	amount
XXXXXX0381	XXXXXXXXX	611.79

Important Notes

Basis of pay: Hourly
If no CA SPSL 22 is listed, you have used zero hours.

30. Labor Code § 246.5 states that "[a]n employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article."

31. Moreover, Labor Code § 246.5 also creates a rebuttable presumption if an employer denies an employee the right to use sick days, discharges, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

> (A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.
>
> (B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.
>
> (C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

32. Labor Code § 233(c) states that "[a]n employer shall not deny any employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave…for any other reason specified in subdivision (a) of Section 246.5."

33. Labor Code § 233(e) states that "an employee may bring a civil action for the remedies provided by this section in a court of competent jurisdiction. If the employee prevails, the court may award reasonable attorney's fees."

34. Labor Code § 233(a) states that "any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5. The designation of sick leave taken for these reasons shall be made at the sole discretion of the employee..."

35. Labor Code § 233(d) states that "[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day's pay, whichever is greater, and to appropriate equitable relief."

36. Labor Code § 234 provides that "[a]n employer absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233."

37. At times during his employment with Defendants, including within the past year, Defendants failed to provide Plaintiff with any and/or the amount of sick days and sick pay required by Labor Code § 246 and Los Angeles Municipal Code § 187.04. Such conduct violates both Labor Code § 246 and PAGA. *See Wood v. Kaiser Found. Hosps.*, 88 Cal. App. 5th 742, 759 (2023), as modified (Mar. 23, 2023).

38. At times during his employment with Defendants, including within the past year, Defendants failed to include information about Plaintiff's accrued and used sick pay as well as the balance of their sick pay on the Plaintiff's wage statement and/or in the correct amounts.

39. In addition, at times during his employment with Defendants, including within the past year, Plaintiff alleges that Defendants maintained an absence control policy that counted sick leave taken and/or attempted to be taken pursuant to Labor Code §§ 233 and 234 as a basis for discipline. Defendants' own employment records indicate that it issued a disciplinary write-up and took an adverse action against him for exercising his rights to be absent for parental leave associated with the birth of his child:

03/11/2023	Employee Discipline Notice	Write up for attendance from 01/1/23 – 03/1/23. During this period employee only arrived to work on time 11 days
Parental Leave : 03/20/23 to 06/20/23		
06/22/23	Stock	Employee was trained how to complete the Extrusion Report and perform Quality Control for the repack by the Shift Lead. The employee completed the form incorrectly by not properly

40. Plaintiff alleges that Defendants' conduct in maintaining an absence control policy that counted sick leave taken and/or attempted to be taken pursuant to Labor Code §§ 233 and 234 as a basis for discipline and denying the employee with the right to sick pay violated Labor Code §§ 233, 234, 246, 246.5, and 1198.5. Moreover, Defendants failed to provide Plaintiff with sick pay when he was eligible for such pay due to its wholesale denial of either any sick days and/or the amounts required by Labor Code § 246 and Los Angeles Municipal Code § 187.04. As a result when Plaintiff's employment ended, he left his employment without having received compensation for all of their sick pay that they were owed under Labor Code § 246 resulting in a violation of Labor Code §§ 201-203.

41. Defendants terminated Plaintiff as a direct and proximate cause of his protected complaints about unlawful and unsafe working conditions in violation of Labor Code §§ 98.6 and 1102.5, in violation of public policy and in retaliation for violation of the Fair Employment and Housing Act and other applicable laws.

42. Labor Code § 1197 states the California requirement that employees must be paid at least the minimum wage fixed by the Commission or by any applicable state or local law, and any payment of less than the minimum wage is unlawful. Similarly, Labor Code § 1194 entitles "any employee receiving less than the legal minimum wage…to recover in a civil action the unpaid balance of the full amount of this minimum wage." IWC Wage Order No. 1-2001 and other applicable wage orders obligate employers to pay each employee minimum wages for all hours worked. Labor Code § 1194 also invalidates any alleged agreement for an employee to receive less than the legal minimum wage and/or overtime compensation to which the employee is entitled.

43. In addition, Labor Code § 1198 provides that "the maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

44. Los Angeles Municipal Code § 187.02 established a local minimum wage that applied to all employees in California starting in 2017 in accordance with the following terms:

> A. An Employer shall pay an Employee a wage of no less than the hourly rates set under the authority of this article.
>
> B. Employers with 26 or more Employees shall provide Sick Time Benefits pursuant to Section 187.04 and pay a wage of no less than the hourly rates set forth:
>
> 1. On July 1, 2016, the hourly wage shall be $10.50.
> 2. On July 1, 2017, the hourly wage shall be $12.00.
> 3. On July 1, 2018, the hourly wage shall be $13.25.
> 4. On July 1, 2019, the hourly wage shall be $14.25.
> 5. On July 1, 2020, the hourly wage shall be $15.00.
>
> C. Employers with 25 or fewer Employees shall provide Sick Time Benefits pursuant to Section 187.04 and pay a wage of no less than the hourly rates set forth:
>
> 1. On July 1, 2017, the hourly wage shall be $10.50.
> 2. On July 1, 2018, the hourly wage shall be $12.00.
> 3. On July 1, 2019, the hourly wage shall be $13.25.
> 4. On July 1, 2020, the hourly wage shall be $14.25.
> 5. On July 1, 2021, the hourly wage shall be $15.00.
>
> D. On July 1, 2022, and annually thereafter, the minimum wage will increase based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area, which is published by the Bureau of Labor Statistics. The DAA shall announce the adjusted rates on February 1st and publish a bulletin announcing the adjusted rates, which shall take effect on July 1st of each year. (Amended by Ord. No. 187,456, Eff. 5/8/22.)

45. The minimum wage that applied to all employers in Los Angeles between July 1, 2022 and June 30, 2023 was $16.04 and was raised to $16.78 on July 1, 2023. Defendant M Plastics, Inc. represented in its PPP loan application that it employed at least 30 employees as of 2020.

46. At times during Plaintiff's employment with Defendants, including within the past year, Defendants' deducted amounts from Plaintiff's wages that caused him to receive less than the minimum wage then in effect in both Los Angeles and California. The minimum wage in California as of January 2023 was $15.50. However, Defendants regularly and consistently

deducted at least $3.00 per hour from Plaintiff's wages and up to $100.00 per pay period and potentially more. For instance, for the pay period of February 13, 2023 to February 19, 2023, Defendants paid Plaintiff for 28.29 hours at the rate of $17.00 per hour; however, Defendants deducted $100.00 from Plaintiff's wages causing him to receive only $13.46 per hour (($480.93 in gross compensation - $100.00 unlawful deduction=$380.93) / 30.02 hours). As a result of this unlawful conduct, Defendant violated Los Angeles Municipal Code § 187.02, California law, and Labor Code §§ 221, 1194, 1197, and 1197.1.

47. Relatedly, Labor Code § 221 expressly prohibits an employer from collecting or receiving from an employee any part of wages paid by the employer to the employee. Labor Code § 224 provides a limited exception to Labor Code § 221 by permitting an employer to withhold or divert an employee's wages when the employer is required or empowered to do so by state or federal law or "when a deduction is authorized in writing by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by…statute." The deductions made by Defendant to Plaintiff's wages that caused them to receive less than the minimum wage in California and Los Angeles expressly violated Labor Code §§ 221 and 224 and only benefitted Defendant.

48. Since Defendants unlawfully deducted and withheld Plaintiff's property—the wages that it could not legally deduct and withheld despite what's written on any piece of paper pursuant to Labor Code § 1194—Defendant held Plaintiff's cash/wages in the form of a bond.

49. Labor Code § 403 requires that cash received as a bond be "deposited in a savings account in a bank authorized to do business in this State, and may be withdrawn only upon the joint signatures of the employer and the employee or applicant." Additionally, Labor Code § 403 requires that the bond be accompanied by "an agreement in writing made by the employer and employee or applicant, setting forth the conditions under which the bond is given." Similarly, Labor Code § 406 clarifies that "[a]ny property put up by an employee directly, or indirectly, shall be deemed to be put up as a bond and is subject to the provision of this article whether the property is put up on a note or as a loan or an investment and regardless of the wording of the agreement under which it is put up. When Defendants deducted the funds from Plaintiff's wages,

it did not place such expenses and deposits in a separate bank for which the amount can only be withdrawn upon the joint signature of both the employer and the employee as required by Labor Code §§ 403 and 406.

50. At times during Plaintiff's employment with Defendants, including within the past year, Defendants also required Plaintiff to complete trainings while off-the-clock including through the use of his own electronic data devices and wrote Plaintiff up for not completing trainings while they were off-the-clock and not receiving compensation (including minimum wages) in violation of Labor Code §§ 1194, 1197, and 1198.

51. Within the past year, Defendants also failed to provide Plaintiff with accurate itemized wage statements in accordance with Labor Code § 226(a)(1, 2, 4, 5, and 9). Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

> (1) gross wages earned;
> (2) total hours worked by the employee;
> (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
> (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
> (5) net wages earned;
> (6) the inclusive dates of the period for which the employee is paid;
> (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
> (8) the name and address of the legal entity that is the employer…;
> (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee…

52. Similarly, Labor Code § 226(e) provides:

> (e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars ($4,000), and is entitled to an award of costs and reasonable attorney's fees.
> (2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.
> (B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:
>
> > (i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized

wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).
(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).
(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.
(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

53. Within the past year, due to Defendants' failure to pay Plaintiff including all minimum wages owed, the wage statements issued by Defendants did not indicate the correct amount of gross wages earned, the total hours worked, the net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Moreover, due to Defendant's unlawful deduction of wages owed to Plaintiff, Defendant misreported the amount of net wages earned and the amount of deductions. Thus, Defendant violated Labor Code §226(a)(1), (2), (4), (5), and (9).

54. Moreover, Plaintiff also suffered legal "injury" for purposes of Labor Code section 226(e) insofar as he was unable to readily and easily determine from the wage statements themselves the information required to be set forth by Section 226(a), the information provided by Defendants were confusing and inaccurate. In addition, Plaintiff was unable to determine the total hours worked by the employee, the gross wages earned, the net wages earned, the amount of deductions, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee for the reasons discussed above.

55. Under Labor Code §§ 201-202, an employer must provide an employee wages at the time or discharge or within up to seventy-two (72) hours of their resignation. Labor Code § 203 provides "if an employer willfully fails to pay . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty. . ." for up to 30 days. Lab. Code § 203; *Mamika v. Barca*, 68 Cal.App.4th 487, 492 (1998).

56. As described in detail above, Defendants failed to pay all minimum wages, unlawfully withheld and deducted wages, and sick pay owed at the time of termination as required by Labor Code sections 201, 202, and 203.

57. Defendants also failed to provide Plaintiff with any of their wages within the time constraints of Labor Code §§ 201-202. For instance, Defendant terminated Plaintiff on August 21, 2023, but did not pay Plaintiff his final wages at the time of termination and instead paid his final wages on or around August 22, 2023.

58. Labor Code § 204 expressly requires that "[a]ll wages…earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Defendants paid Plaintiff on a weekly basis such that it is covered by Labor Code § 204(d).

59. Due to Defendants' failure to pay Plaintiff all minimum wages, the unlawful deduction of wages (including in unauthorized amounts), and sick pay, Defendants failed to timely pay Plaintiff and all wages owed within seven (7) days of the close of the payroll period in accordance with Labor Code § 204(d) on a regular and consistent basis.

60. Labor Code § 210 provides that "in addition to, an entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections…204…shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25% of the amount unlawfully withheld." As a result of the faulty compensation policies and practices described in detail above, Plaintiff is entitled to recover penalties under Labor Code § 210 through PAGA. *See Amaral v. Cintas Corp. No.* 2, 163 Cal.App.4th 1157, 1209 (2008) (affirming an award of Labor Code section 210 penalties under PAGA due to the employer's failure to timely pay wages at the proper rate in accordance with a local wage ordinance).

61. Labor Code § 206.5 states that:

(a) An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made. A release required or executed in violation of the provisions of this section shall be null and void as between the employer and the employee. Violation of this section by the employer is a misdemeanor.

(b) For purposes of this section, execution of a release includes requiring an employee, as a condition of being paid, to execute a statement of the hours he or she worked during a pay period which the employer knows to be false.

62. At times during his employment with Defendants and including between October 25, 2022 until the end of his employment, Defendant required Plaintiff, who is an aggrieved employee pursuant to PAGA, to execute a release as a condition of being paid in the form of a statement of hours that he or she worked during the pay period that Defendant and/or some of its agents knew to be false. Such conduct violated Labor Code § 206.5. However, as Defendant knew, it was not paying Plaintiff even minimum wages as because they were unlawfully deducting $3.00 per hour of his pay in violation of Labor Code § 1194 and Los Angeles Municipal Code § 187.02. This issue is exemplified by the timecard shown earlier.

63. Prior to filing this lawsuit, Plaintiff timely filed a complaint with the California Civil Rights Department and obtained a notice of right to sue letter. Accordingly, Plaintiff exhausted his administrative remedies under the Fair Employment and Housing Act.

64. Plaintiff fully and completely exhausted his administrative remedies under PAGA prior to proceeding with this action. Plaintiffs filed a PAGA Notice online with the Labor Workforce Development Agency ("LWDA") and sent a letter by certified mail to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq*. As required by PAGA, Plaintiffs submitted the $75.00 filing fee to the LWDA. Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA evidencing its intention to investigate within sixty-five (65) calendar days of the postmark date of the PAGA notice. Plaintiff is therefore, entitled to commence and proceed with a civil action pursuant to Labor Code § 2699 on behalf of the state of California.

II.

JURISDICTION AND VENUE

65. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive of interest, exceeds $25,000, and because each cause of action asserted arises under the laws of the State of California or is subject to adjudication in the courts of the State of California.

66. This Court has personal jurisdiction over Defendant M Plastics, Inc._it is a California Corporation and its principal place of business is located at 1800 E 50th Street, Los Angeles, CA 90058. Defendant has caused injuries in the County of Los Angeles and State of California through their acts, and by their violation of California law.

67. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure §395. Defendants operate within California and do business within Los Angeles County, including in Los Angeles, California, and caused the injuries while within Los Angeles County. The unlawful acts alleged herein have a direct effect on Plaintiff and within the State of California and the County of Los Angeles.

III.

PARTIES

A. PLAINTIFF

68. Plaintiff Luis Romero is a former employee of Defendants who worked for Defendants in Los Angeles County.

B. DEFENDANTS

69. Defendant M Plastics, Inc. is a California Corporation and its principal place of business is located at 1800 E 50th Street, Los Angeles, CA 90058.

70. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants

designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

71. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer and/or joint employer, alter ego, or other person acting on behalf of an employer within the meaning of the Labor Code and/or managing agent within the meaning of the Labor Code and Civil Code.

IV.
FIRST CAUSE OF ACTION
RETALIATION FOR ENGAGING IN PROTECTED ACTIVITY (GOVERNMENT CODE, § 12900 ET SEQ.)
[Against All Defendants except any individual defendants]

72. The allegations set forth in preceding paragraphs are re-alleged and incorporated herein by reference.

73. At all times herein mentioned, FEHA, Government Code section 12940 et seq., was in full force and effect and was binding on Defendants. This statute requires Defendants to refrain from retaliating against any employee making complaints or opposing discrimination, harassment, or retaliation, or otherwise engaging in activity protected by the FEHA, including for seeking to exercise rights guaranteed under FEHA and/or assisting and/or participating in an investigation, opposing Defendants' failure to provide rights, including rights to complain and to assist in a lawsuit, and/or the right to be free of retaliation, in violation of Government Code section 12940(h). This statute also requires Defendants to refrain from retaliating against any employee because that employee reported harassment and/or discrimination in the workplace.

74. As discussed in detail above, Defendants retaliated against Plaintiff for resisting discrimination and harassment, including and not limited to by denying Plaintiff job opportunities and assignments, taking disciplinary actions against Plaintiff, terminating Plaintiff, and reducing

Plaintiff's pay following the receipt of his lawful report of that a supervisory employee was engaging in discriminatory conduct and sexually harassing other employees.

75. Plaintiff's exercise of, or attempt to exercise, his rights guaranteed under the FEHA, including the right to be free of discrimination, harassment, or retaliation, in violation of Government Code section 12940(h), were substantial motivating factors for the adverse employment actions taken against Plaintiff by Defendants, including his wrongful termination and reduction in pay.

76. Based on the allegations detailed herein, Plaintiff believes and alleges that Defendants retaliated against him for complaining about harassment and discrimination as set forth herein.

77. As a proximate result of Defendants' willful, knowing, and intentional retaliation committed against Plaintiff, Plaintiff sustained and continues to sustain general and special damages, including lost earnings and employment benefits.

78. As a proximate result of Defendants' willful, knowing, and intentional retaliation committed against Plaintiff, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to his damage in a sum according to proof.

79. Plaintiff seeks declaratory relief that Plaintiff was retaliated against for resisting discrimination and harassment and for reporting the harassment and discrimination.

80. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Pursuant to Government Code section 12965(c)(6), Plaintiff is entitled to recover reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

81. Defendants' retaliatory conduct was committed intentionally, in a malicious, despicable, fraudulent, and/or oppressive manner, entitling Plaintiff to punitive damages against Defendants.

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V.
SECOND CAUSE OF ACTION
DISABILITY DISCRIMINATION
[Against all Defendants except any individual defendants]

82. The allegations set forth in preceding paragraphs are re-alleged and incorporated herein by reference.

83. At all times herein mentioned, FEHA, Government Code section 12940*, et seq.*, was in full force and effect and was binding on defendants. This statute requires defendants to refrain from discriminating against any employee because of a person's disability (actual, perceived, and/or history of).

84. Defendants' conduct, as alleged, violated FEHA, Government Code section 12900, *et seq.*, and defendants committed unlawful employment practices, including by the following, separate bases for liability:

a. Discharging, barring, refusing to retain, employ, and/or otherwise discriminating against Plaintiff, in whole or in part on the basis of Plaintiff's association with a family member with a disability (actual, perceived, and/or history of) and/or other protected characteristics, in violation of Government Code section 12940(a);

b. Interfering with Plaintiff's right to medical leaves and leaves associated with a family member's disability including, but not limited to, by failing to advise Plaintiff of his right to a leave under the Fair Employment and Housing Act and the California Family Rights Act and by taking disciplinary action against Plaintiff for exercising his rights to a leave as a reasonable accommodation and/or under the California Family Rights Act, in violation of Government Code sections 12940(m) among other statutes;

c. Failing to take all reasonable steps to prevent discrimination, harassment, and retaliation based on actual, perceived, and/or history of physical disability of Plaintiff's family member, in violation of Government Code section 12940(k);

d. Retaliating against Plaintiff for seeking to exercise rights guaranteed under

FEHA and/or opposing defendants' failure to provide such rights, including rights of reasonable accommodation, rights of interactive process, leave rights, and/or the right to be free of discrimination, in violation of Government Code section 12940(h); and

e. Failing to provide Plaintiff with requisite statutory leave, violating notice and/or other procedural requisites of leave, and/or retaliating against Plaintiff for taking leave.

85. Plaintiff's family members' disability (actual, perceived, and/or history of), and/or other characteristics protected by FEHA, Government Code section 12900, *et seq.*, were substantial motivating reasons in defendants' decision to take adverse actions against Plaintiff, including but not limited to writing him up for taking a leave, and their decision not to retain, or otherwise employ Plaintiff in any position, and/or to take other adverse employment actions against Plaintiff.

86. Defendants also failed to investigate Plaintiff's claim for disability discrimination and complaint to Jenny that his leave rights were interfered with.

87. As a proximate result of defendants' willful, knowing, and intentional discrimination against Plaintiff, Plaintiff has sustained and continues to sustain general and special damages, including losses of earnings and other employment benefits.

88. As a proximate result of Defendants' willful, knowing, and intentional discrimination against Plaintiff, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and physical and mental pain and anguish, in a sum according to proof.

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

90. Defendants' discrimination and misconduct was committed intentionally, in a malicious, fraudulent, and/or oppressive manner, and this entitling Plaintiff to punitive damages against Defendants.

VI.
THIRD CAUSE OF ACTION
RETALIATION IN VIOLATION OF LABOR CODE § 1102.5
[Against all Defendants except any individual defendants]

91. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

92. At all relevant times, Labor Code section 1102.5 was in effect and was binding on Defendants. This statute prohibited Defendants from retaliating against any employee, including Plaintiff, for actually raising complaints of actual or potential illegality, for providing information of such potential or actual illegality, because the employee is believed to have engaged in such conduct, or because the employee may engage in such conduct. The statute also further prohibits defendants from retaliating against any employee, including plaintiffs, where the employee refused to participate in activity that would result in a violation of the law.

93. Labor Code section 1102.5 expressly prohibits an employer or person acting on behalf of an employer from retaliating against an employee for disclosing information or because the employer believes that the employee disclosed or may disclose information to a government or law enforcement agency.

94. Labor Code § 1102.5(d) provides that 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.

95. Labor Code § 1102.5 provides that "[t]he court is authorized to award reasonable attorney's fees to a plaintiff who brings a successful action for a violation of these provisions"

96. As a proximate result of defendants' willful, knowing, and intentional violations of Labor Code § 1102.5, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to their damages in a sum according to proof.

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

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VII.

FOURTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 233
[Against all Defendants except any individual defendants]

98. Plaintiff realleges and incorporates by reference all previous paragraphs.

99. Labor Code § 233(c) states that "[a]n employer shall not deny any employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave…for any other reason specified in subdivision (a) of Section 246.5."

100. Labor Code § 233(e) states that "an employee may bring a civil action for the remedies provided by this section in a court of competent jurisdiction. If the employee prevails, the court may award reasonable attorney's fees."

101. Labor Code § 233(a) states that "any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5. **The designation of sick leave taken for these reasons shall be made at the sole discretion of the employee**..." (emphasis added).

102. Labor Code § 233(d) states that "[a]ny employee aggrieved by a violation of this section shall be entitled to reinstatement and actual damages or one day's pay, whichever is greater, and to appropriate equitable relief."

103. Labor Code § 234 provides that "[a]n employer absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233."

104. Despite the fact that Labor Code § 233 expressly prohibits an employer from denying an employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using, or attempting to exercise the right to use, sick leave to attend to an illness or the preventive care of a family member, Defendant, falsely told Plaintiff that he did not have any sick days available in 2023 despite not

making an upfront grant or allowing him to accrue any at all whatsoever in express violation of Labor Code §§ 246-248.5, denied him use of his sick days, and took disciplinary action against him, including but not necessarily limited to, issuing a written write-up as part of its absence control policy counting sick days and protected leaves as punishable conduct:

03/11/2023	Employee Discipline Notice	Write up for attendance from 01/1/23 – 03/1/23. During this period employee only arrived to work on time 11 days
Parental Leave : 03/20/23 to 06/20/23		
06/22/23	Stock	Employee was trained how to complete the Extrusion Report and perform Quality Control for the repack by the Shift Lead. The employee completed the form incorrectly by not properly

105. Defendants violated Labor Code §§ 233, 234, and 246 by discharging Plaintiff for using and/or attempting to use his accrued sick leave in violation of Labor Code §§ 233 and 234.

106. Based upon information and belief, including the circumstance related to Plaintiff's termination, Defendants maintained a policy and practice that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension. This

107. Plaintiff's use of and/or attempted use of sick leave in March 2023 was the actual basis, a substantial motivating factor, and/or partial basis for his receipt of disciplinary action including a write-up.

108. As a proximate result of Defendants' willful and malicious violation of Labor Code §§ 233 and 234, Plaintiff has sustained and continues to sustain general and special damages, including loss of earnings and other employment benefits.

109. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Pursuant to violation of Labor Code §§ 233 and 234, Plaintiff is entitled to recover reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

110. Defendants' violation was committed intentionally, in a malicious, fraudulent, and/or oppressive manner, and this entitles Plaintiff to punitive damages against Defendants. Defendants have previously been sued for violating California's sick leave laws and were fully

aware that they could not retaliate against Plaintiff for the use and/or attempted use of his accrued sick leave.

VIII.

FIFTH CAUSE OF ACTION
VIOLATIONS AND/OR INTERFERENCE WITH CFRA LEAVE
[Against all Defendants except any individual defendants]

111. Plaintiff realleges and incorporates by reference all previous paragraphs.

112. Defendants employed approximately thirty (30) employees at any given time according to its PPP application and, based upon information and belief, have maintained the same staffing levels as then and regularly employ twenty or more employees.

113. Under the Fair Employment and Housing Act ("FEHA"), Government Code section 12900 et. seq., and more specifically, the California Family Rights Act ("CFRA"), an employee is entitled to a leave of absence for a serious health condition and/or to care for a child, parent or spouse with a serious health condition. It is unlawful, under FEHA to aid, abet, incite, compel, or coerce the doing of any acts forbidden under FEHA, and/or attempt to do so.

114. Under CFRA it is an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of any right provided under CFRA. 378.

115. Under CFRA it is unlawful to refuse to grant CFRA leave to employees who qualify for it.

116. Under CFRA it is unlawful to fail to advise an employee of their eligibility and/or right to take CFRA leave.

117. Under CFRA it is an unlawful employment practice for an employer to interfere with the exercise of CFRA rights by refusing the authorization of CFRA leave, discouraging the use of CFRA leave, or using the CFRA leave as a negative factor in employment actions.

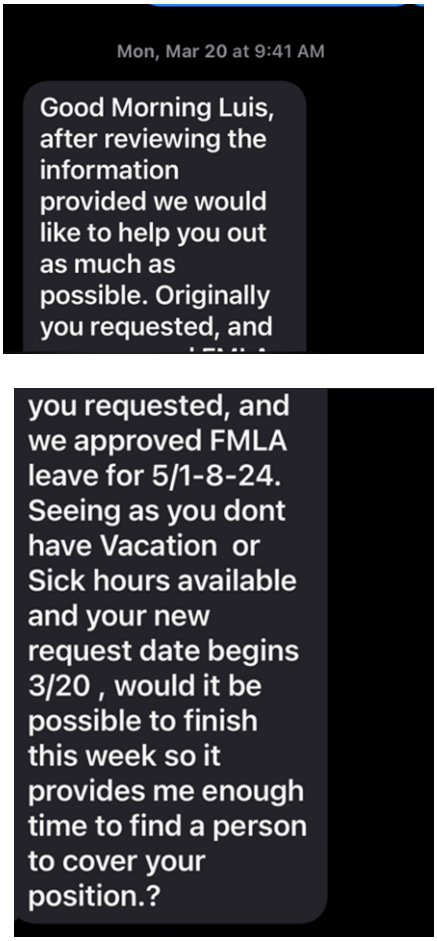
118. Defendants are a company that is covered by CFRA, having at least 20 employees within a 75 mile radius of Plaintiff's employment with Defendants.

119. Defendants interfered with, restrained, or denied the exercise of Plaintiff's rights under CFRA, all in violation of CFRA and FEHA.

120. Under CFRA, leave is deemed to not have been granted unless the employer

provides the employee upon granting the leave request a guarantee of employment in the same or comparable position upon the termination of the leave.

121. Under FEHA, and more specifically, the CFRA, which is part of FEHA, it is an unlawful employment practice to discriminate against an employee in the terms and conditions, and/or privileges of their employment, retaliate against an employee, and/or terminate an employee for requesting medical leave and/or taking medical leave for their own serious health condition, and/or to care for a child, parent or spouse with a serious health condition. As discussed in detail above, Defendants retaliated against Plaintiff for attempting to take a CFRA leave, including but not limited to, by writing him up for taking a leave and trying to pressure him to postpone his leave and falsely claiming that he did not have sick time available either when Defendants failed to provide a single hour of sick pay time to Plaintiff in 2023 in clear violation of California law:



		from production
03/11/2023	Employee Discipline Notice	Write up for attendance from 01/1/23 – 03/1/23. During this period employee only arrived to work on time 11 days
Parental Leave : 03/20/23 to 06/20/23		
06/22/23	Stock	Employee was trained how to complete the Extrusion Report and perform Quality Control for the repack by the Shift Lead. The employee completed the form incorrectly by not properly

122. 385. Under FEHA, which contains CFRA, it is an unlawful employment practice for an employer to refuse to grant a request by any employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12- month period, to take up to a total of 12 workweeks in any 12-month period for family care and medical leave.

123. Regulations pertaining to CFRA are set forth in Title 2, California Code of Regulation, Sections 7297.0 et seq. CFRA incorporates and includes the complimentary regulatory scheme delineated in the regulations at Title 2, California Code of Regulation § 7297.0 et seq.

124. Under CFRA and pursuant to the Title 2, California Code of Regulation § 7297.7, it is unlawful retaliation and an unlawful employment practice for an employer to discharge, fine, suspend, expel, punish, refuse to hire, or otherwise discriminate against any individual because an employee exercised his or her right to CFRA leave.

125. Under CFRA, Government Code § 12945.2, it is unlawful for an employer to fail to reinstatement an employee to the same or similar position after taking a CFRA qualifying medical leave.

126. Under FEHA, it is an unlawful employment practice for any person to retaliate against an employee who opposes a practice forbidden by FEHA or asserts rights under FEHA or takes qualifying medical leave pursuant to CFRA.

127. Under CFRA, an employer is prohibited from interfering with an employee's rights under CFRA, and with legal proceedings or inquiries related to an employee's rights under CFRA. Under CFRA, and the incorporated federal regulations, it is unlawful and an employer is

prohibited from interfering with, restraining, or denying the exercise of or attempts to exercise) any rights provided by the CFRA. As discussed above, Defendants interfered with and sought to deny and/or restrain Plaintiff from taking CFRA leave.

128. Under CFRA an employee's request for CFRA leave may be verbal and the employee need not expressly assert rights under CFRA or even mention CFRA to meet the notice requirement.

129. Under CFRA when an employee makes a request for leave, and puts the employer on notice that the leave may qualify for CFRA protection, an employer has a duty to inquire further to obtain sufficient information to determine whether the leave actually qualifies for CFRA protection, and then designate the leave as CFRA qualifying or not CFRA qualifying. Defendant did not make inquiries into Plaintiff's entitlement to CFRA leave and instead retaliated against him, attempted to interfere with his leave, interfered with his leave, and retaliated against him for taking CFRA leave.

130. Under CFRA it is interference with an employee's CFRA rights to fail to make inquiries to determine whether leave qualifies for CFRA protection if the employer is put on notice that the leave may be CFRA qualifying.

131. Under CFRA, under all circumstances it is the employer's responsibility to designate leave, paid or unpaid, as CFRA or CFRA qualifying, based on information provided by the employee or the employee's spokesperson, and to give notice of the designation to the employee. Defendant failed to make a designation of Plaintiff's leave as being a CFRA leave or not and merely called it parental leave when it disciplined Plaintiff for taking his lawfully protected leave.

132. Plaintiff was employed by Defendants for more than 12 months of service prior to his taking/requesting the medical leave as stated herein. Additionally, Plaintiff had at least 1,250 hours of service with Defendants during the previous 12-month period, prior to taking/requesting medical leave.

133. Plaintiff's partner experienced a pregnancy related disability and/or Plaintiff was entitled to take CFRA leave for the purposes of baby bonding.

134. Plaintiff complied with all applicable notice requirements of CFRA.

135. Plaintiff's exercise of and/or attempts to exercise their right to take CFRA leave was a substantial motivating factor in Defendants' decisions that were adverse to Plaintiff.

136. As a proximate result of defendants' willful, knowing, and intentional discrimination against Plaintiff, Plaintiff has sustained and continues to sustain general and special damages, including losses of earnings and other employment benefits.

137. As a proximate result of Defendants' willful, knowing, and intentional discrimination against Plaintiff, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and physical and mental pain and anguish, in a sum according to proof.

138. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees. Plaintiff is entitled to recover reasonable attorneys' fees and costs (including expert costs) in an amount according to proof.

139. Defendants' discrimination and misconduct was committed intentionally, in a malicious, fraudulent, and/or oppressive manner, and this entitling Plaintiff to punitive damages against Defendants.

IX.
SIXTH CAUSE OF ACTION
PLAINTIFF'S CLAIMS FOR WRONGFUL TERMINATION OF EMPLOYMENT IN VIOLATION OF PUBLIC POLICY - TAMENY V. ATLANTIC RICHFIELD CO., 27 CAL. 3D 167 (1980)
[Against all Defendants except any individual defendants]

140. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

141. Defendants terminated plaintiffs' employment in violation of various fundamental public policies underlying both state laws including his reports of violations of the Fair Employment and Housing Act, gender discrimination (including gender identity), sexual orientation discrimination, sexual harassment, and/or for taking time-off that he was legally entitled to take under CFRA and/or the FEHA, and as otherwise detailed herein. These good faith complaints were protected activities within the meaning of California Labor Code sections 98.6 as well as 1102.5, FEHA, and CFRA. These actions were in violation of, but not limited to, the

California Constitution, and California Labor Code sections 98.6 as well as 1102.5, FEHA, and CFRA.

142. As a proximate result of Defendants' wrongful termination of plaintiffs' employment in violation of fundamental public policies, Plaintiff has suffered and continues to suffer humiliation, emotional distress, and mental and physical pain and anguish, all to their damages in a sum according to proof.

143. As a result of Defendants' wrongful termination of his employment, Plaintiff has suffered general and special damages in sums according to proof.

144. Defendants' wrongful termination of Plaintiff's employment was done intentionally, in a malicious, fraudulent, and/or oppressive manner, and this entitles plaintiffs to punitive damages.

X.

SEVENTH CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF LABOR CODE §§ 1194 and 1194.2 AND IWC WAGE ORDER NO. 1-2001

[Against all Defendants]

145. Plaintiff realleges and incorporates by reference all previous paragraphs.

146. Section 1194 of the Labor Code provides, in relevant part:

> Notwithstanding any agreement to work for a lesser wage, any employee receiving less than minimum wage…applicable to the employee is entitle to recover in a civil action the unpaid balance of the full amount of this minimum wage …, including interest thereon, reasonable attorney's fees, and costs of suit.

147. Section 1194.2 of the Labor Code provides, in relevant part:

> In any action under…Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

148. As set forth above, during statutory period applicable to the claims in this action, including within the past year, and continuing into the present, Plaintiff was not compensated for all hours worked as a result of Defendants' policies and practices described in detail above.

149. In failing to pay Plaintiff for all hours worked, for the reasons described above, Defendants willfully and intentionally violated Labor Code § 1194 and acted in bad faith. Accordingly, pursuant to sections 1194 and 1194.2 of the California Labor Code, Plaintiff is entitled to recover, either their unpaid hourly wages due, or minimum wage plus interest and/or liquidated damages in an additional amount equal to the total amount of wages unlawfully withheld.

XI.
EIGHTH CAUSE OF ACTION
PENALTIES PURSUANT TO LABOR CODE § 226(e)
[Against all Defendants]

150. Plaintiff realleges and incorporates by reference all previous paragraphs and all subsequent paragraphs.

151. Within the past year, Defendants failed to provide Plaintiff with accurate itemized wage statements in accordance with Labor Code § 226(a)(1, 2, 4, 5, and 9). Labor Code § 226 obligates employers, semi-monthly or at the time of each payment to furnish an itemized wage statement in writing showing:

> (1) gross wages earned;
> (2) total hours worked by the employee;
> (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece rate;
> (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item;
> (5) net wages earned;
> (6) the inclusive dates of the period for which the employee is paid;
> (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number;
> (8) the name and address of the legal entity that is the employer…;
> (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee…

152. Similarly, Labor Code § 226(e) provides:

> (e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars ($4,000), and is entitled to an award of costs and reasonable attorney's fees.
> (2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.
> (B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or

more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

> (i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).
> (ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).
> (iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.
> (iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

153. Within the past year, due to Defendants' failure to pay Plaintiff including all minimum wages owed, the wage statements issued by Defendants did not indicate the correct amount of gross wages earned, the total hours worked, the net wages earned, all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Moreover, due to Defendant's unlawful deduction of wages owed to Plaintiff, Defendant misreported the amount of net wages earned and the amount of deductions. Thus, Defendant violated Labor Code §226(a)(1), (2), (4), (5), and (9).

154. Moreover, Plaintiff also suffered legal "injury" for purposes of Labor Code section 226(e) insofar as he was unable to readily and easily determine from the wage statements themselves the information required to be set forth by Section 226(a), the information provided by Defendants were confusing and inaccurate. In addition, Plaintiff was unable to determine the total hours worked by the employee, the gross wages earned, the net wages earned, the amount of deductions, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee for the reasons discussed above.

155. Defendants also failed to both comply with and create a policy that complied with Labor Code § 226 prior to the filing of this lawsuit and having been previously sued for violating Labor Code section 226. Labor Code § 226(e)(3) provides that when determining whether or not an employer's violation of Labor Code § 226(a) was knowing and intentional, "the relevant factor [is] whether the employer, prior to an alleged violation, has adopted and is in compliance with a

set of policies, procedures, and practices that fully comply with this section." Accordingly, Defendants' conduct was knowing and intentional within the meaning of Labor Code § 226(e).

156. An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000), and is entitled to an award of costs and reasonable attorneys' fees. *See* Lab. Code § 226(e). Plaintiff seeks penalties under Labor Code § 226(e) in amounts to be determined at trial, and are entitled to recovery of such amounts, attorneys' fees, and costs.

XII.
NINTH CAUSE OF ACTION
WAITING TIME PENALTIES PURSUANT TO LABOR CODE §§201-203
[Against all Defendants]

157. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

158. Sections 201 and 202 of the California Labor Code requires Defendants to pay all compensation due and owing to Plaintiff during the actionable period for this cause of action, at or around the time that their employment is terminated.

159. Section 203 of the California Labor Code provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the employer is liable for penalties in the form of continued compensation up to thirty (30) workdays.

160. As described in detail above, Defendants failed to pay Plaintiff all wages including minimum wages and sick pay and/or the wages from his final pay period worked at the time of his termination and still owe Plaintiff for unlawfully withheld minimum wages. Thus, as result of Defendants' faulty policies described above, Plaintiff left his employment with Defendants without being compensated for each and every hour worked at the appropriate rate in violation of Labor Code §§ 201 and 203.

161. At the time that Plaintiff's employment ended, the sums were certain and known to

Defendants.

162. As a result, Defendants are liable to Plaintiff for waiting time penalties amounting up to thirty (30) days wages for Plaintiff pursuant to California Labor Code § 203. See, e.g., DLSE Manual, 4.3.4 (Failure to pay any sort of wages due upon termination entitles an employee to recover waiting time penalties).

XIII.
TENTH CAUSE OF ACTION
UNFAIR COMPETITION PURSUANT TO BUSINESS & PROFESSIONS CODE § 17200
[Against all Defendants]

163. Plaintiff realleges and incorporates by reference all previous paragraphs.

164. Plaintiff, on behalf of himself and on behalf of the general public bring this claim pursuant to Business & Professions Code § 17200, et seq. The conduct of Defendants as alleged in this Complaint has been and continues to be unfair, unlawful, and harmful to Plaintiff and the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5. Plaintiff is a "person" within the meaning of Business & Professions Code § 17204, and therefore has standing to bring this cause of action for injunctive relief, restitution, and other appropriate equitable relief.

165. Defendants have engaged in unlawful and unfair business practices that violate fundamental public policies of the state of California and the United States of America. As a result of its unlawful and unfair business practices, Defendants have forced employees to work under substandard and unlawful conditions in an effort to gain a competitive advantage over law-abiding employers who comply with California's Labor Code.

166. Defendants have violated statutes and public policies as alleged herein. Through the conduct alleged in this Complaint, Defendants have acted contrary to these public policies, have violated specific provisions of the Labor Code, and have engaged in other unlawful and unfair business practices in violation of Business & Profession Code § 17200, et seq., depriving Plaintiff, all interested persons of rights, benefits, and privileges guaranteed to all employees and the general public.

167. Defendants' conduct, as alleged hereinabove, constitutes unfair competition in

violation of § 17200 et seq. of the Business & Professions Code.

168. Defendants, by engaging in the conduct herein alleged, either knew or in the exercise of reasonable care, should have known that the conduct was unlawful. As such it is a violation of § 17200 et seq. of the Business & Professions Code.

169. As a proximate result of the above-mentioned acts of Defendants, Plaintiff, others similarly situated, other businesses, and the general public have been damaged in a sum as may be proven.

170. As part of their claims against Defendant, Plaintiffs seek not only the unpaid wages, but also the market value of the loss of the statutory protections and the cost to other employers of providing proper pay, breaks, and complying with the California Labor Code provisions identified herein. *See e.g. Safeway, Inc. v. Sup. Ct.*, 238 Cal.App.4th 1138, 1162 (2015).

171. Unless restrained, Defendants will continue to engage in the unlawful conduct as alleged above. Pursuant to the Business & Professions Code, this court should make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by Defendants, its agents, or employees, of any unlawful or deceptive practices prohibited by the Business & Professions Code, and/or, including but not limited to, restitution and disgorgement of profits which may be necessary to restore Plaintiff the money Defendants have unlawfully failed to pay.

XIV.
ELEVENTH CAUSE OF ACTION
PENALTIES PURSUANT TO LABOR CODE § 2698, ET SEQ. FOR VIOLATIONS OF LABOR CODE §§ 98.6, 200, 201, 202, 203, 204, 210, 221, 224, 226, 226.3, 232, 233, 246, 246.5, 403, 406, 1102.5, 1194, 1197.1, 1198, and IWC Wage Order No. 1-2001
[Against all Defendants]

172. Plaintiffs, on behalf of the State of California, realleges and incorporates by reference all previous paragraphs.

173. As a result of the acts alleged above, Plaintiff seeks penalties under Labor Code § 2698, *et seq.* because of Defendants' violations of Labor Code §§ 98.6, 200, 201, 202, 203, 204, 210, 221, 224, 226, 226.3, 232, 233, 246, 246.5, 403, 406, 1102.5, 1194, 1197.1, 1198, and IWC Wage Order No. 1-2001 and/or other applicable wage order.

174. Under Labor Code §§ 2699(f)(2) and 2699.5, for each such violation, the State of California and Plaintiff as its proxy is entitled to penalties in an amount to be shown at the time of trial subject to the following formula unless a civil penalty is already proscribed under the Labor Code:

$100 for the initial violation per employee per pay period; and

$200 for each subsequent violation per employee per pay period.

175. These penalties will be allocated 75% to the Labor Workforce Development Agency and 25% to the affected employees.

176. In addition, Plaintiff, as an aggrieved employee seeks the default penalty provided by Labor Code § 226.3. Labor Code § 226.3 provides that "[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars ($250) per employee per violation in an initial violation and one thousand dollars ($1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226."

177. Labor Code § 210 provides that "in addition to, an entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections…204…shall be subject to a civil penalty as follows: (1) For any initial violation, one hundred dollars ($100) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25% of the amount unlawfully withheld." Pursuant to Labor Code § 210, "[t]welve and one-half percent of the penalty recovered shall be paid into a fund within the Labor and Workforce Development Agency dedicated to educating employers about state labor laws, and the remainder shall be paid into the State Treasury to the credit of the General Fund." As a result of the faulty compensation policies and practices described in detail above, the State of California is entitled to recover penalties under Labor Code § 210 through PAGA.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For general, compensatory and/or special damages in an amount according to proof for Plaintiff's loss of past and future earnings, loss of job security and all damages flowing therefrom;
2. For general, compensatory, and/or special damages to compensate Plaintiff for any past and future medical expenses, emotional distress, and suffering and related damages;
3. For compensatory damages in the amount of unpaid minimum wages not paid to Plaintiff as may be proven;
4. For special damages according to proof;
5. For exemplary damages, according to proof;
6. For pre-judgment and post-judgment interest on all damages awarded to the extent permitted by law;
7. For punitive damages according to proof;
8. For compensatory damages in the amount of unpaid minimum wages not paid to Plaintiff as may be proven;
9. For penalties pursuant to Labor Code § 226(e) for violations of Labor Code § 226(a) in the amount of fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000) for the inaccurate itemized wage statements issued to Plaintiff as may be proven;
10. For restitution for unfair competition pursuant to Business & Professions Code § 17200 to Plaintiff and the Unfair Competition Class for actions, including disgorgement of profits, in an amount as may be proven;
11. An order enjoining Defendant and its agents, servants, and employees, and all persons acting under, in concert with, or for it from providing its employees compensation for all hours worked, overtime hours worked, rest period premiums, from failing to provide proper rest periods, from failing to pay reporting time pay, and from timely failing to pay all wages.

12. For penalties against any Defendants that are either a corporation or limited liability company in the amount of $10,000 pursuant to Labor Code § 1102.5;
13. For penalties under Labor Code § 2698, et seq. for the State of California and Plaintiff because of Defendants' violation of Labor Code §§ 98.6, 200, 201, 202, 203, 204, 210, 221, 224, 226, 226.3, 232, 233, 246, 246.5, 403, 406, 1102.5, 1194, 1197.1, 1198, and IWC Wage Order No. 1-2001 and/or other applicable wage order;
14. For pre-judgment and post-judgment interest on all damages awarded to the extent permitted by law;
15. For reasonable attorneys' fees pursuant to FEHA, CFRA, Labor Code §§ 203, 218.5 226, 1102.5, and 2698 *et seq*. ("PAGA");
16. For costs of suit incurred;
17. For declaratory relief including, but not limited to the following:
    a. Whether Defendant discriminated against, and/or permitted its employees to knowingly discriminate against and/or failed to take steps to prevent discrimination and harassment committed against Plaintiff on the basis of his association with a person with a disability and/or perceived disability;
    b. Whether Defendant retaliated against Plaintiff for reporting unlawful discrimination and harassment;
    c. Whether Defendant retaliated against Plaintiff for attempting to take leave under FEHA and CFRA;
    d. Whether Defendant retaliated against Plaintiff for attempting to take a sick day;
    e. Whether Defendant retaliated against Plaintiff for seeking to exercise his rights and/or resisting discrimination;
    f. Whether Defendant interfered with and/or restrained Plaintiff from using his CFRA leave and/or attempted to interfere with and/or restrain Plaintiff from using his CFRA leave;

g. A declaratory judgment that Defendants violated Labor Code § 1194;

h. A declaratory judgment that Defendants violated Labor Code § 221; and

i. A declaratory judgment that Defendants violated Labor Code § 226;

j. A declaratory judgment that Defendants violated Labor Code § 201-203;

18. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of his claims by jury except for the tenth and eleventh causes of action, which may not be tried by jury by law.

DATED: January 3, 2024

WINSTON LAW GROUP, P.C.

By: David Winston

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