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

DAOLYNN SIBOUNHEUANG, an
Individual, on behalf of herself and
Aggrieved Employees,

Plaintiff,

vs.

SOFT GEL TECHNOLOGIES, INC., a
California Corporation; and DOES 1
through 10, inclusive,

Defendants.

Case No. 23STCV30385

COMPLAINT

Plaintiff DAOLYNN SIBOUNHEUANG (“Plaintiff”) hereby submits the following
Complaint against Defendants SOFT GEL TECHNOLOGIES, INC. (hereinafter “SOFT GEL”),
and DOES 1 through 10 (collectively the “Defendants”) and alleges as follows:

INTRODUCTION

1. Plaintiff was hired by Defendants in 2019 as Quality Control Chemist and was
promoted to Product Development Formulator in 2021. Despite her promotion, Plaintiff did not
receive the commensurate pay increase, and was paid less than her male counterpart, who she
outperformed and enjoyed work benefits beyond what she was ever offered. Plaintiff was also
held to different standards than her male counterpart. After Plaintiff complained about unequal,

1 inadequate pay, harassment and discrimination, Plaintiff was terminated under the pretext of
2 violating company policy in retaliation for engaging in protected activities. The alleged violation
3 of company policy was itself illegal because Defendant admitted the circumstance was a
4 qualifying event mandating the use of available sick time to compensate for the 1hr and 18 min
5 she was terminated for. Defendants' Human Resources Director, Juan Salgado, imposed a non-
6 existent notice requirement on a qualifying event that necessitated the use of Plaintiff's sick
7 leave, which he admitted to during his attempt to oppose her application for unemployment
8 benefits, after Defendants had already caused her acute financial hardship in the months that
9 followed Plaintiff's wrongful termination.

10 2. Throughout the duration of Plaintiff's employment, Defendants also violated
11 various provisions of the California Labor Code in connection with their employment of the
12 Plaintiff, which included but was not limited to paycheck stub violations, meal and rest period
13 violations without payment of related premiums, sick leave violations, failure to pay for all hours
14 worked at both regular and overtime rates of pay, fostering a culture of unequal pay and
15 retaliation for engaging in protected activities.

16 3. As a result, Plaintiff seeks damages available to her under, *inter alia*, the Fair
17 Employment and Housing Act and the California Labor Code (including various statutory
18 penalties), interest, attorney's fees and costs against Defendants. The Plaintiff also seek civil
19 penalties on behalf of herself and the Aggrieved Employees under the Private Attorney General
20 Act.

21 **IDENTIFICATION OF ALL PARTIES**

22 4. Plaintiff DAOLYNN SIBOUNHEUANG was at all relevant times herein an
23 individual residing in Los Angeles County, California.

24 5. Defendant SOFT GEL TECHNOLOGIES, INC., is, and at all relevant times was,
25 a California Corporation, established in 1994 and assigned Corporate Entity ID Number
26 1750098, with its principal place of business in Los Angeles, California.

27 6. Plaintiff is ignorant of the true names and capacities of defendants sued herein as
28 DOES 1 through 10, and therefore sues these defendants by such fictitious names and capacities
until ascertained.

7. Plaintiff is informed and believes and, on that basis, alleges that each fictitiously
named defendant is responsible in some manner for the occurrences herein alleged and that

1 Plaintiff's injuries as herein alleged were proximately caused by the conduct of such defendants.

2 8. Plaintiff is informed and believes and thereon alleges that at all times material
3 herein, each of the Defendants were the agent, employee and/or were working in concert with
4 their Co-Defendants and were acting within the course and scope of such agency, employment
5 and/or concerted activity.

6 9. To the extent that certain acts and omissions were perpetrated by certain
7 defendants, the remaining Defendant or Defendants confirmed and ratified said acts and
8 omissions.

9 10. Plaintiff is informed and believes and thereupon alleges that at all times material
10 herein, each Defendant was completely dominated and controlled by his Co-Defendant, and each
11 was the alter ego of the other.

12 11. Whenever and wherever reference is made to individuals, who are not named as
13 Plaintiff or Defendant(s) in this complaint but were employees/agents of each Defendant, such
14 individuals at all relevant times acted on behalf of each Defendant within the scope of their
15 employment.

16 12. At all times relevant, each Defendant was the employer, joint employer, alter ego
17 and/or managing agent of each of the Co-Defendants.

18 **VENUE AND JURISDICTION**

19 13. Venue is proper in the County of Los Angeles because the work performed by the
20 Plaintiff and incidents forming the basis of this complaint occurred in Los Angeles County,
21 California.

22 14. This Court has jurisdiction over the present matter because, as delineated within
23 this complaint, the nature of the claims and the amount in controversy meet the requirements for
24 jurisdiction in Los Angeles County Superior Court.

25 15. This Court also has personal jurisdiction over the Defendants as Defendants all
26 reside in and do business in California and specifically within Los Angeles County.

27 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

28 16. Plaintiff has exhausted her administrative remedies with respect to her Fair
Employment and Housing Act claims by filing a complaint, assigned number 202312-

1 22943112. Plaintiff obtained a Right to Sue letter on December 12, 2023.

2 17. Plaintiff has also complied with the PAGA notice provision outlined in Cal. *Lab.*
3 *Code* Section 2699.3(a)(1) by electronically submitting her written Notice on October 7, 2023
4 to the Labor and Workforce Development Agency (LWDA), and by certified mail to the
5 Defendants of the specific provisions of this code alleged to have been violated. The LWDA
6 provided an identification number of LWDA-CM-986296-23 but has not provided Plaintiff with
7 notice that it intends to investigate these violations. Therefore, since over 65 calendar days
8 have elapsed since the postmark date of Plaintiff's notice, Plaintiff is entitled to commence this
9 action under Cal. *Lab. Code* § 2699.3(a)(2)(A).

10 **GENERAL ALLEGATIONS**

11 18. Plaintiff began working for SOFT GEL February of 2019 as a Quality Control
12 Chemist.

13 19. The Plaintiff performed well in her position, which prompted a series of raises
14 and her promotion to what was ostensibly a Product Development Formulator position in or
15 about August 2021.

16 20. The Plaintiff's promotion and assignment of more complex job duties did not
17 come with a commensurate, position appropriate raise, however.

18 21. Prior to Plaintiff's promotion, she was approached about applying for the job.
19 Specifically, Defendant's Human Resources Director, Juan Salgado, told her that they would be
20 internally posting for a different job – Product Development Technician. Mr. Salgado explained
21 that the posting was only for show and stated that was not going to be her role.

22 22. Based on the job duties Mr. Salgado explained Plaintiff would be taking on, it
23 was clear to both of them that she would be a Product Development Formulator. When Plaintiff
24 asked Mr. Salgado why they didn't just make a job posting for Product Development Formulator,
25 Mr. Salgado explained that the job description had not yet been created by her would be
supervisor, Alfredo Reyes.

26 23. The Plaintiff explained that \$30-\$35/hr to start would be appropriate for that role.
27 Mr. Salgado told her to submit an application with the position blank to get the transfer initiated,
28 and provided her a starting rate of \$26/hr, stating that she should first show what skills could be

1 acquired / work achieved in 3-6 months and they could reevaluate her pay to be in line with her
2 request at that time.

3 24. Plaintiff is informed and believes and thereon alleges, that she was paid less than
4 her male counterpart in the same division, Tac Tsan, who had been performing Product
5 Development Formulator duties for approximately one year at that point in time. This continued
6 for the remainder of her employment, even though she ended up outperforming Mr. Tsan and
7 taking on more responsibility than him.

8 25. In addition to being paid more than the Plaintiff for performing the same or similar
9 job duties as the Plaintiff, Mr. Tsan was allowed to work from home with a company laptop and
10 was provided with an office that he hardly ever used, while Plaintiff was required to come into
11 the office and work out of a cubicle. Mr. Tsan was provided with equipment and allowed to deal
12 with childcare needs during work hours, in comparison to Plaintiff being intensely scrutinized
13 in her performance of work for Defendants. For example, Plaintiff was visually tracked by her
14 supervisor, Mr. Reyes, when she was working. If Plaintiff would have to work with production
15 in another area, Mr. Reyes would ask her why she was over there and what she was doing with
16 them. Plaintiff would have to answer for her movement in the workplace while Mr. Tsan did
17 not.

18 26. Plaintiff was also given more responsibility than her male counterpart. In addition
19 to getting through a heavy workload, Plaintiff was required to host weekly meetings with her
20 department and production, lead project meetings with upper management, and conduct client
21 and supplier meetings, many of which Mr. Tsan simply wouldn't attend, even though attendance
22 was a category upon which employees were rated during reviews.

23 27. Plaintiff also had to pick up, remedy and interpret her male counterpart's work
24 communications because she spoke English better. At times, Plaintiff would have to word emails
25 for Mr. Tsan, explain emails to him, or jump in to remedy miscommunication stemming from
26 his lack of understanding. This of course would take time out of Plaintiff's day to help her male
27 counterpart function properly so they could get a job done.

28 28. Plaintiff quickly learned and excelled in her work, so much that in a joint
department meeting in January 2023 (which Plaintiff hosted weekly in the company conference

1 room to update the team on current product projects), Mr. Tsan stood up, angrily pointed at her,
2 and accused her of “trying to make him look bad” in response to being asked questions about
3 his work.

4 29. Everyone knew that Plaintiff had been outperforming Mr. Tsan. The Plaintiff
5 covered all production related projects because he wasn’t in the office, troubleshoot projects
6 related with clients, engaged in client relations, and did the majority of work on projects they
7 were tasked to complete together. Plaintiff had increased raw material evaluation approvals, and
8 enhanced interdepartmental communication, new product concept and design.

9 30. Plaintiff had been told repeatedly that length of employment did not determine
10 who got a supervisory position, but that merit did, and that she was being evaluated for the same.

11 31. Plaintiff’s performance and trajectory appeared to be intimidating to Mr. Tsan,
12 who had previously made statements to her that conveyed he was worried about her advancing
13 to a higher position above him. Mr. Tsan felt as if his job was threatened by comparison or
14 inquiry.

15 32. Blindsided by the accusation, the Plaintiff sat composed in her seat but in shock,
16 listening to Mr. Tsan continue to yell at and berate her in a verbally and physically offensive
17 manner. The incident became so uncomfortable with colleagues awkwardly watching, that
18 minutes after Mr. Tsan’s tirade began, someone from the group asked Plaintiff’s supervisor if
19 they should leave the room, to which Mr. Reyes responded yes.

20 33. Alone in the conference room with Mr. Tsan and Mr. Reyes, Mr. Tsan continued
21 his rant, shouting that Plaintiff she shouldn’t be asking him questions.

22 34. The Plaintiff had to ask Mr. Reyes if he could get Mr. Tsan to calm down since
23 Mr. Tsan was still standing and raising his voice with his body in a combative position facing
24 toward her, causing the Plaintiff fear and apprehension of unwelcome and harmful physical
25 contact. It was only after the Plaintiff asked Mr. Reyes to help that her supervisor chose to
26 intervene.

27 35. Once that was done, the Plaintiff was able to explain that as previously discussed
28 with their supervisor, it had been agreed that it was okay to ask questions and get feedback for
further clarification if something was not clearly understood - that it would be okay to

1 communicate with one another and that asking was part of the process of effective
2 communication.

3 36. Mr. Tsan disagreed and claimed instead that Plaintiff's ambition was too high.
4 The Plaintiff responded that had she not been ambitious with her work and confident in her
5 abilities, they as a team and the company as a whole would not have been as successful or up to
6 date with product success.

7 37. Mr. Tsan then deigned it appropriate to tell the Plaintiff how and when she should
8 interact with him, which was both unprofessional and unmanageable, not to mention
9 condescending and demeaning. Mr. Reyes just sat there watching until Mr. Tsan's attempt to
10 intimidate the Plaintiff at a lower decibel level and seated position was over, at which point Mr.
11 Reyes only said that they may not have to like each other, but that they did need to work with
12 one another to get the job done.

13 38. After returning to her desk, the Plaintiff found out that Human Resources
14 Director, Juan Salgado, was aware of this incident because he heard the commotion
15 when he walked by the conference room. Mr. Salgado asked Plaintiff what had
16 happened, which prompted her to ask, "You heard but did not come in to check it out or
17 help mitigate the situation?" He responded, no, then went on to suggest that Plaintiff
18 was making and/or causing trouble.

19 39. Surprised that Mr. Salgado would take such an incident so lightly and that
20 she would be suspected as the cause, Plaintiff said she was not causing any trouble, and
21 that Mr. Tsan's outburst in response to a question was completely unexpected. Plaintiff
22 shared her experience with Mr. Salgado and told him that she should not have had to
23 endure such an aggressive episode from her male coworker, which left her feeling
24 startled and fearful.

25 40. At that time, the Plaintiff and Mr. Salgado both agreed that Mr. Reyes
26 should have stopped the meeting and had a discussion with each of them separately and
27 privately. Plaintiff conveyed that instead, it felt as if Mr. Reyes just wanted to watch and
28 see what could happen, even if her safety and wellbeing were compromised in the
process.

1 41. In response to Plaintiff's complaint, Mr. Salgado did absolutely nothing
2 about the incident. Mr. Salgado never circled back to indicate how he would help to
3 remedy the situation or alleviate the tension. Mr. Salgado did not speak to Mr. Tsan or
4 Mr. Reyes about the incident to discuss or apply any disciplinary warnings/actions to
5 Mr. Tsan. It became clear to the Plaintiff that they were not concerned for her wellbeing.
6 The Plaintiff was appalled that management allowed this to happen and did not address
7 Mr. Tsan's aggressive behavior, which by Plaintiff's description, constituted at
8 minimum prohibited harassment, and at most assault in the workplace with her
9 supervisor complicit in silence. The Plaintiff concluded Defendant did not take this
10 incident seriously because she was a woman and immediately, she began to feel a
11 greater sense of emotional distress and trauma.

12 42. The Plaintiff's conclusion was informed by the knowledge that Mr. Tsan was paid
13 more money than her, and that even though she was outperforming Mr. Tsan and assist him in
14 the performance of route duties like communication, she had to continuously request that her
15 pay be on par with the duties she was performing as a Product Development Formulator. Mr.
16 Salgado and Mr. Reyes wanted to pay her less than the position warranted and discuss her pay
17 in three-six months to "see how she was doing" -i.e., prove herself. Once that time frame
18 elapsed, Plaintiff presented her list of accomplishments to justify her raise to the originally
19 discussed amount. Mr. Salgado then went back on his word and stated he could not do it until
20 her annual review, and in April 2022, she received an increase to \$28/hr – below the amount
discussed when she accepted the Product Development Formulator position.

21 43. Plaintiff also had not forgotten that Mr. Salgado and Mr. Reyes made Plaintiff do
22 the work required of two positions after she obtained her promotion – that of her new and former
23 job titles – at the same time. Specifically, Plaintiff had to carry on the Quality Control workload
24 of analytical testing and data analysis of multiple samples while performing Product
25 Development Formulator tasks. To further complicate her situation, Mr. Salgado and Mr. Reyes
26 did not give the Plaintiff an end/start date and told her she needed to help and continue to work
27 in the Quality Control Dept and allow them the time to plan for her departure. The Plaintiff felt
28 she had no other choice but to do it, as they conditioned her receipt of a new position on it.

1 Plaintiff knows of no other males at SOFT GEL who were required to do this.

2 44. As would be expected, the work became overwhelming, and left her following up
3 with Mr. Reyes weekly to request an end date to her time with the Quality Control department.
4 After working two positions for over a month, the Plaintiff conveyed to Mr. Reyes that the
5 amount of stress it was causing her was becoming unbearable. Only then did Mr. Reyes give
6 Plaintiff an end date for her former position at SOFT GEL.

7 45. Plaintiff's feelings of discrimination and unequal treatment were compounded
8 when she reflected on Mr. Salgado and Mr. Reyes' reluctance to identify her promotional title,
9 which was evident to her when Mr. Salgado made her fill out an application for the Product
10 Development Formulator position, but insisted on leaving the title blank, allegedly because they
11 did not have a job description for it and needed approval from Mr. Reyes. In retrospect, Soft gel
12 could take advantage of her by imputing ambiguity into her role. Thereafter, when SOFT GEL
13 made her business cards, they simply identified her position as "Product Development" insulting
14 the contributions she had made to the company as a Product Development Formulator.

15 46. Plaintiff further reflected on the perks her male counterpart enjoyed and
16 accommodations granted to him, while she worked twice as hard for less. With there being only
17 two people in the Product Development department, there was an incredible amount of work to
18 be done. Plaintiff reflected upon how her work hours would be intensely scrutinized, while Mr.
19 Tsan had the pleasure of working from home. The amount of work SOFT GEL required Plaintiff
20 to do necessitated that she work overtime, but the reaction she received in response to overtime
21 requests and/or input was unfavorable. In this way, the Plaintiff was effectively discouraged
22 from documenting all her overtime worked and remained reasonably concerned that it would be
23 used as an excuse for SOFT GEL to prevent her advancement in the company.

24 47. The ability to capture all time worked accurately was impossible because the only
25 hand scanner SOFT GEL utilized for employees to clock in and out was finnick and would
26 frequently reflect error codes, resulting in lines and hold ups to clock in and out for work. Even
27 if an employee thought they clocked in or out, the scanner would not register half the times
28 correctly, and there was no way to check the clock in or out times in real time. Employees had
to go to the Human Resources office to verify that all their time stamps were captured correctly,

1 which was time consuming and not realistic in a work environment where employees were
2 overburdened with work and expected to complete it within tight timeframes.

3 48. The Plaintiff is informed and believes and thereon alleges that her time records
4 were changed and/or entered by Mr. Salgado, who would occasionally make a comment about
5 her late lunches, which were a product of the demands of her job in the early hours of the day,
6 interfacing with production. Despite needing to take her lunches late almost every day, Plaintiff
7 noticed that she never received a meal period penalty. Further, her overtime rate of pay was not
8 listed properly, causing confusion and underpayment – never overpayment.

9 49. Plaintiff is informed and believes and thereon alleges that the time clock issues
10 and changing of records was not limited to her, but adversely affected all hourly employees,
11 operating to deprive them of compensation to which they would otherwise be entitled.

12 50. The scrutiny Plaintiff was subjected to extended further in relation to her vacation
13 time and sick time. Plaintiff's reviews would note how much of it was taken and her attendance
14 would be rated on that basis, operating to discourage her from taking time off due to illness or
15 enjoy a vacation.

16 51. The nature of Plaintiff's work was such that it was not possible to take breaks
17 because she was the only Product Development Formulator in the office. This was known to her
18 supervisors, but her reviews would nevertheless state that Plaintiff was diligent about taking
19 them so as to provide an excuse for not providing the Plaintiff with rest premiums.

20 52. The Plaintiff was eventually tasked with training another male employee, Joseph
21 Casas, in laboratory work when Mr. Casas had the time. Mr. Casas' job in Defendant's employ
22 was as a scheduler, which had no application to product development. Consequently, Plaintiff
23 had to provide a good deal of time for this endeavor, teaching Mr. Casas things she learned
24 through her undergraduate work in a relevant subject. Plaintiff was told that Mr. Casas would be
25 fully transitioning into the Product Development department and working alongside Mr. Tsan
26 and the Plaintiff.

27 53. On or about March 22, 2023, Plaintiff received a call from her mother who was
28 stranded after concluding a doctor's appointment and desperately needed to get her medication.
The Plaintiff was trying to arrange for her mother to be picked up and taken to the pharmacy

1 during lunch, but after she clocked back in, it was clear that she needed to attend to this family
2 emergency. Neither Mr. Reyes or Mr. Salgado were at the office to inform them, so the Plaintiff
3 left the office to pick up her mother and take her to the pharmacy. The Plaintiff was gone for 1
4 hour and 18 minutes and returned to work promptly. It was Plaintiff's intention to inform Mr.
5 Reyes about what happened when he returned from vacation March 30, 2023, but the Plaintiff
6 got caught up with work and forgot.

7 54. On or about April 6, 2023, Plaintiff was called into the office of Mr. Salgado when
8 she was getting ready to leave for the holiday weekend. Mr. Reyes was present when Mr.
9 Salgado started questioning her about what happened on March 22nd. The Plaintiff relayed what
10 had occurred with her mother that day - that she was seen by a doctor for a medical issue, was
11 stranded, and needed to get to the pharmacy to obtain her prescription medication. The Plaintiff
12 explained why she did not notify them or obtain approval before she left – quite simply, that it
13 was an emergency, that neither Mr. Salgado or Mr. Reyes were there, and that she had forgotten
14 to convey the information by the time they had returned.

15 55. Despite the Plaintiff having no warnings whatsoever in her over four years of
16 employment, and despite having knowledge of this qualifying event warranting a deduction from
17 Plaintiff's available sick time, Mr. Reyes and Mr. Salgado terminated the Plaintiff.

18 56. Plaintiff's termination occurred right before her annual review which she
19 anticipated would raise her hourly rate to the pay range for the Product Development Formulator
20 position articulated two years prior.

21 57. Plaintiff is informed and believes and thereon alleges that the male employee she
22 trained with inferior qualifications assumed her job duties and/or position after she was
23 terminated.

24 58. After the Plaintiff's termination, SOFT GEL opposed Plaintiff's application for
25 unemployment benefits, falsely stating that she was terminated for misconduct which resulted
26 in the denial of Plaintiff's application for unemployment benefits and prolonged her financial
27 hardship.

28 59. Plaintiff appealed the determination which resulted in a hearing approximately six
months later. At the hearing, Mr. Salgado published false statements about the Plaintiff –

1 specifically that her last held position with SOFT-GEL was as a Quality Control Chemist as if
2 she had never been promoted, and that the Plaintiff violated company policy. Mr. Salgado also
3 admitted that he knew the Plaintiff's 1hr 18 min departure from work was a qualifying event to
4 use available sick leave under the California Labor Code. Given that, when asked if Defendant
5 would reinstate the Plaintiff, Mr. Salgado refused, imputing a non-existent notice requirement
6 into the applicable statute. After the hearing, the initial determination was reversed in favor of
7 the Plaintiff.

8 **FIRST CAUSE OF ACTION**

9 **Violation of California *Labor Code* §§ 201 and 203**

10 **[Against all Defendants]**

11 60. Plaintiff incorporates by reference and realleges all previous paragraphs,
12 inclusive, as though set forth fully herein.

13 61. California Labor Code § 201, in pertinent part, requires an employer to pay all
14 wages earned and unpaid to employees upon the discharge of the employee.

15 62. California Labor Code §203, in pertinent part, requires an employer who has
16 willfully failed to pay any employee wages to continue to pay the wages of the employee as a
17 penalty, in the same amount thereof until payment is made, or action commences, but not to
18 exceed 30 days.

19 63. Defendants willfully failed to pay all wages due and owing to Plaintiff at the end
20 of the Plaintiff's employment with Defendants.

21 64. As a result of the Defendants' violation of California Labor Code Section 203,
22 Plaintiff is entitled to payment of statutory penalties provided for by law and attorneys' fees and
23 costs in an amount to be proven at trial.

24 **SECOND CAUSE OF ACTION**

25 **Violation of California *Labor Code* § 226**

26 **[Against all Defendants]**

27 65. Plaintiff incorporates by reference and realleges all previous paragraphs,
28 inclusive, as though set forth fully herein.

1 66. Under California law, Defendants were required to provide Plaintiff with an
2 itemized wage statement to accompany each of her paychecks that complied with California
3 Labor Code section 226(a).

4 67. Specifically, at the time of each payment of wages, Defendants were required to
5 furnish Plaintiff an accurate itemized statement in writing showing (1) gross wages earned, (2)
6 total hours worked by the employee, (3) the number of piece-rate units earned and any
7 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided
8 that all deductions made on written orders of the employee may be aggregated and shown as
9 one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is
10 paid, (7) the name of the employee and only the last four digits of his or her social security
11 number or an employee identification number other than a social security number, (8) the name
12 and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect
13 during the pay period and the corresponding number of hours worked at each hourly rate by the
14 employee.

15 68. An employee suffering injury as a result of a knowing and intentional failure by
16 an employer to comply with Labor Code Section 226(a) is entitled to recover the greater of all
17 actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
18 one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to
19 exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of
20 costs and reasonable attorney's fees.

21 69. An employee is deemed to suffer injury for purposes of Labor Code Section 226
22 if (i) the employer fails to provide a wage statement, (ii) the employer fails to provide accurate
23 and complete information as required by any one or more of items (1) to (9), inclusive, of Labor
24 Code Section 226(a) and the employee cannot promptly and easily determine from the wage
25 statement alone the amount of the gross wages or net wages paid to the employee during the
26 pay period or any of the other information required to be provided on the itemized wage
27 statement pursuant to items (2) to (4), inclusive, (6), and (9) of Labor Code Section 226(a).

28 70. Defendants failed to provide itemized wage statements that complied with Labor

Code section 226(a) in that all hours worked were not accurately reflected and overtime rates of pay were not listed and calculated correctly.

71. Plaintiff has been injured as a result of Defendants having failed to provide her with proper wage statements.

72. Plaintiff was forced to retain attorneys to pursue her claim for damages stemming from Defendants having failed to provide her with accurately itemized wage statements and is entitled to penalties, attorney's fees and costs under the California Labor Code as a result.

THIRD CAUSE OF ACTION

Violation of California *Labor Code* § 226.7

[Against all Defendants]

73. Plaintiff incorporates by reference and realleges all previous paragraphs, inclusive, as though set forth fully herein.

74. California *Labor Code* § 226.7 states, in pertinent part, that an employer shall not require an employee to work during a meal or rest period mandated pursuant to statute or order of the Industrial Welfare Commission.

75. Plaintiff alleges Defendants did not provide timely meal breaks and encouraged Plaintiff to work through her rest breaks and/or denied her an opportunity to take meal and rest breaks in direct violation of § 226.7.

76. Plaintiff alleges she never waived her right to a meal break.

77. Plaintiff alleges she never waived her right to a rest break.

78. As a result, Plaintiff is entitled to these statutory penalties provided for by law, interest, attorneys' fees, costs, compensatory damages, and other remedies in an amount to be proven at trial.

FOURTH CAUSE OF ACTION

Violation of California *Labor Code* § 1194

[Against all Defendants]

79. Plaintiff incorporates by reference and realleges all previous paragraphs, inclusive, as though set forth fully herein.

80. California *Labor Code* § 1194 states, in pertinent part, that any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

81. California *Labor Code* § 510 provides, in pertinent part, that an employer must pay an employee at a rate of one and one-half times the regular rate of pay for any employee who works more than eight hours in one workday and forty hours in one workweek.

82. Plaintiff alleges Defendants failed to pay one-and-one-half-time the regular rate of pay for all hours Plaintiff worked over eight hours in a workday or forty hours in a workweek, in direct violation of California *Labor Code* § 510.

83. As a result, Plaintiff is entitled to those unpaid wages, any statutory penalties provided for by law, interest, attorneys' fees, costs, and other remedies in an amount to be proven at trial, including, but not limited to liquidated damages pursuant to California *Labor Code* § 1194.2.

FIFTH CAUSE OF ACTION

Violation of *Business and Professions Code* § 17200

[Against all Defendants]

84. The allegations set forth in this complaint are hereby re-alleged and incorporated by reference.

85. Defendant is a “person” as defined under *Business and Professions Code* § 17021.

86. Plaintiff is informed and believes and based thereon alleges that Defendants committed unfair business practices, as defined by Cal. *Bus. & Prof. Code* § 17200, *et seq.*, by violating laws alleged to have been violated in this Complaint and which allegations are incorporated herein by reference and include, but are not limited to:

- a. Defendants failed to provide timely meal and rest breaks;
- b. Defendants failed to pay minimum and overtime wages due and owing; and
- c. Defendants failed to provide accurate and itemized wage and payroll statements.

1 87. The practices described above are unfair within the meaning of Cal. *Bus. & Prof.*
2 *Code* § 17200, *et seq.*, because the acts were intentionally performed for the purpose of harming
3 Plaintiff.

4 88. Further, such skirting of the California labor laws presents a threat to the general
5 public in that the enforcement of the labor laws is essential to ensure that all California employers
6 compete equally, and that no California employer receives an unfair competitive advantage at
7 the expense of its employees.

8 89. As a direct and legal result of the Defendant's actions against him, Plaintiff has
9 been harmed because he has suffered, in an amount to be determined according to proof at trial.

10 90. As a result, Plaintiff requests that she be awarded restitution in an amount to be
11 proven at trial.

12 91. As a direct and proximate result of the aforesaid acts and conduct of said
13 Defendant, Plaintiff is entitled to and hereby seeks attorneys' fees as permitted by law and as
14 provided for by § 1021.5 of the California Code of Civil Procedure in an amount to be proven at
15 trial.

16 **SIXTH CAUSE OF ACTION**

17 **Violation of *California Labor Code Section 233***

18 **[Against all Defendants]**

19 92. Plaintiff incorporates by reference and realleges all previous paragraphs,
20 inclusive, as though set forth fully herein.

21 93. California Labor Code §233(a) states in relevant portion that, "Any employer
22 who provides sick leave for employees shall permit an employee to use in any calendar year the
23 employee's accrued and available sick leave entitlement..." "The designation of sick leave
24 taken for these reasons shall be made at the sole discretion of the employee."

25 94. California Labor Code §233(c) states that, "An employer shall not deny an
26 employee the right to use sick leave or discharge, threaten to discharge, demote, suspend, or in
27 any manner discriminate against an employee for using, or attempting to exercise the right to
28 use, sick leave to attend to an illness or the preventive care of a family member..."

 95. California Labor Code §233(c) states that, "Any 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.”

96. The Plaintiff was wrongfully terminated for exercising her right to attend to her immediate family member's medical emergency.

97. The Defendant knew the circumstances behind Plaintiff leaving work for 1 hour and 18 minutes.

98. The Defendant admitted, by and through its Human Resources Director, under penalty of perjury, that Plaintiff's brief departure from work was a qualifying event under this statute.

99. When asked if Defendant would reinstate the Plaintiff to her position as a Product Development Formulator, Defendant refused by and through its Human Resources Director under penalty of perjury, in further violation of the statute.

100. Defendant wrongfully terminated the Plaintiff for an alleged violation of company policy, purposefully applied incorrectly to create a pretext, and so applied in violation of this statute.

101. At the time of Plaintiff's termination, she had no previous writeups or warnings, and had a history of receiving raises continuously throughout her over four years of employment.

102. Plaintiff has been harmed as a result of her termination.

103. Defendants' conduct was a substantial factor in causing Plaintiff harm.

104. As a result, Plaintiff is entitled to compensatory damages, interest, attorney's fees, costs, and all other remedies in an amount to be proven at trial.

105. Defendant's conduct was malicious, fraudulent and oppressive and thus warrants an award of punitive damages in an amount to be proven at trial.

SEVENTH CAUSE OF ACTION

[Violation of California *Labor Code* § 1102.5]

(Against all Defendants)

106. Plaintiff incorporates by reference and realleges all previous paragraphs,

1 inclusive, as though set forth fully herein.

2 107. California Labor Code § 1102.5(b) prohibits an employer, or someone acting on
3 behalf of the employer, from discharging or retaliating against an employee for disclosing
4 information, or because the employer believes that the employee disclosed or may disclose
5 information, to a government or law enforcement agency, to a person with authority over the
6 employee or another employee who has the authority to investigate, discover, or correct the
7 violation or noncompliance if the employee has reasonable cause to believe that the information
8 discloses a violation of state or federal statute, or a violation of or noncompliance with a local,
9 state, or federal rule or regulation.

10 108. Plaintiff disclosed to Mr. Reyes and Mr. Salgado, persons with authority over the
11 Plaintiff and with the authority to investigate, discover or correct legal violations, complaints of
12 disparate treatment, harassment, gender discrimination, assault, and violations of the California
13 Labor Code.

14 109. The Plaintiff had reasonable cause to believe that the information constituted
15 violations of or noncompliance with a local, state, or federal rule or regulation.

16 110. The Defendant discharged the Plaintiff.

17 111. The Plaintiff's disclosure of information was a contributing factor in Defendant's
18 decision to discharge the Plaintiff.

19 112. Plaintiff has been harmed.

20 113. Defendants' conduct was a substantial factor in causing Plaintiff harm.

21 114. As a result, Plaintiff is entitled to all compensatory damages, attorney's fees,
22 costs, and all other remedies in an amount to be proven at trial.

23 115. Defendant's conduct was malicious, fraudulent and oppressive and thus warrants
24 an award of punitive damages in an amount to be proven at trial.

25 **EIGHTH CAUSE OF ACTION**

26 **[Violation of California *Labor Code* § 1197.5]**

27 **(Against all Defendants)**

28 116. Plaintiff incorporates by reference and realleges all previous paragraphs,
inclusive, as though set forth fully herein.

117. California Labor Code §1197.5(a) states that, “No employer shall pay any individual in the employer’s employ at wage rates less than the rates paid to employees of the opposite sex in the same establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where the payment is made pursuant to a seniority system, a merit system, a system which measures earnings by quantity or quality of production, or a differential based on any bona fide factor other than sex.”

118. California Labor Code §1197.5(b) states that, “Any employer who violates subdivision (a) is liable to the employee affected in the amount of the wages, and interest thereon, of which the employee is deprived by reason of the violation, and in an additional equal amount as liquidated damages.”

119. The Plaintiff was paid less than the rate paid to her male counterpart, Mr. Tsan, who also worked for the Defendant.

120. The Plaintiff was performing substantially similar work as Mr. Tsan, considering the overall combination of skill, effort, and responsibility required; and

121. The Plaintiff was working under similar working conditions as Mr. Tsan.

122. As a result, Plaintiff is entitled to the difference in wages Mr. Tsan was paid in comparison to the Plaintiff, interest, liquidated damages, attorney’s fees, costs, and all other remedies in an amount to be proven at trial.

NINTH CAUSE OF ACTION

[Violation of *Fair Employment and Housing Act*, *Government Code* § 12940(a)]

(Against all Defendants)

123. Plaintiff incorporates by reference and realleges all previous paragraphs, inclusive, as though set forth fully herein.

124. California’s Fair Employment and Housing Act (hereinafter “FEHA”) § 12940(a) states, in pertinent part, that “It is an unlawful employment practice for an employer, because of... gender... to discriminate against the person in compensation or in terms, conditions, or privileges of employment.”

125. The Plaintiff was employed by Defendants.

1 126. The Defendant discriminated against the Plaintiff in compensation, terms,
2 conditions and privileges of employment.

3 127. Defendant paid Plaintiff's male counterpart, Mr. Tsan, more than the Plaintiff,
4 even though Plaintiff outperformed Mr. Tsan.

5 128. The Plaintiff was also subjected to disparate treatment, which included but was
6 not limited to management meticulously monitoring her every move, requiring her to work two
7 positions at the same time, and mandating that she work in the office while Mr. Tsan enjoyed
8 the ability to work from home and was not required to work as hard as the Plaintiff. Plaintiff
9 was additionally required to prop up her male counterpart with assistance in basic duties so he
10 could perform the job.

11 129. The Defendant allowed Plaintiff's male counterpart to harass and assault her in
12 the workplace, and then tried to victim blame the Plaintiff for "making trouble."

13 130. In contrast, the Defendant terminated the Plaintiff for a first and only-time alleged
14 violation of company policy that when applied, violated California law, while her male
15 counterpart who harassed and assaulted her in the workplace did not even get a disciplinary
16 warning.

17 131. The Plaintiff's gender was a substantial motivating reason for Defendant's
18 decision to discharge the Plaintiff.

19 132. The Plaintiff was harmed.

20 133. The Plaintiff's conduct was a substantial factor in causing Plaintiff's harm.

21 134. As a direct and proximate result, the Plaintiff has suffered damages including but
22 not limited to loss of employment, entitling Plaintiff to compensatory damages, attorney's fees,
23 interest costs, and all other remedies in an amount to be proven at trial.

24 135. Defendant's conduct was malicious, fraudulent and oppressive and thus warrants
25 an award of punitive damages in an amount to be proven at trial.

26 **TENTH CAUSE OF ACTION**

27 **[Violation of *Fair Employment and Housing Act*, Government Code § 12940(h)]**

28 **(Against all Defendants)**

 136. Plaintiff incorporates by reference and realleges all previous paragraphs,

1 inclusive, as though set forth fully herein.

2 137. California's FEHA § 12940(h) protects employees who resist or object or
3 complain of discrimination or harassment from retaliation.

4 138. The Plaintiff was employed by Defendants.

5 139. The Plaintiff complained of disparate treatment, harassment and gender
6 discrimination in the workplace.

7 140. The Defendant discharged the Plaintiff thereafter.

8 141. The Plaintiff's complaints were a substantial motivating reason for the
9 Defendant's decision to discharge the Plaintiff.

10 142. The Plaintiff was harmed.

11 143. The Defendant's decision to discharge the Plaintiff was a substantial factor in
12 causing her harm.

13 144. As a direct and proximate result, the Plaintiff has suffered damages including but
14 not limited to loss of employment, entitling Plaintiff to compensatory damages, attorney's fees,
15 interest costs, and all other remedies in an amount to be proven at trial.

16 145. Defendant's conduct was malicious, fraudulent and oppressive and thus warrants
17 an award of punitive damages in an amount to be proven at trial.

18 **ELEVENTH CAUSE OF ACTION**

19 **[Violation of *Fair Employment and Housing Act*, *Government Code* § 12940(k)]**

20 **(Against all Defendants)**

21 146. Plaintiff incorporates by reference and realleges all previous paragraphs,
22 inclusive, as though set forth fully herein.

23 147. California's FEHA § 12940(k) makes it unlawful for "an employer . . . to fail to
24 take all reasonable steps necessary to prevent discrimination and harassment from occurring."

25 148. The Plaintiff was employed by Defendant.

26 149. The Plaintiff was subjected to harassment, discrimination and retaliation in the
27 course of employment.

28 150. Defendant failed to take all reasonable steps to prevent the harassment,
discrimination, and retaliation.

151. The Plaintiff was harmed.

152. The Defendant's failure to take all reasonable steps to prevent harassment, discrimination and retaliation was a substantial factor in causing Plaintiff's harm.

153. As a direct and proximate result, the Plaintiff has suffered damages including but not limited to loss of employment, entitling Plaintiff to compensatory damages, attorney's fees, interest costs, and all other remedies in an amount to be proven at trial.

154. Defendant's conduct was malicious, fraudulent and oppressive and thus warrants an award of punitive damages in an amount to be proven at trial.

TWELFTH CAUSE OF ACTION
[Violation of *California Labor Code Section 2699 et seq.*]
(Against all Defendants)

155. Plaintiff incorporates by reference and realleges all previous paragraphs, inclusive, as though set forth fully herein.

156. Plaintiff brings this cause of action as a representative action on behalf of herself and aggrieved employees in the capacity as a private attorney general pursuant to the Private Attorneys General Act of 2004, California Labor Code section 2698, et sq. ("PAGA").

157. PAGA specifically provides for a private right of action to recover civil penalties for violations of the Labor Code pursuant to California Labor Code Section 2699(a).

158. Defendants violated various provisions of the California Labor Code as to the Plaintiff and other aggrieved employees. The aggrieved employees are as follows:

- a. for certain claims, all California based employees; and
- b. for certain claims, all California based non-exempt employees.

159. Plaintiff and the other specified employees are aggrieved employees as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants and one or more of the alleged violations were committed against them.

160. During all times relevant to this cause of action, Defendants have routinely subjected Plaintiff and the other aggrieved employees to violations of various sections of the California Labor Code by:

1 a. Defendants required aggrieved employees to perform work off-the-clock
2 and failed to compensate the aggrieved employees for this work time. Accordingly, Defendants
3 failed to pay Plaintiff and aggrieved employees even a minimum wage for time worked off-
4 the-clock in violation of California Labor Code sections 1182.12, 1194 and 1197.

5 b. Defendants failed to provide aggrieved employees with California
6 compliant rest periods on days when they worked shifts of more than 3.5 hours as required by
7 the Industrial Welfare Commission Wage Orders. In addition, Defendants failed to provide
8 aggrieved employees with California compliant meal periods on days when they worked shifts
9 of more than 5 hours in violation of California Labor Code section 512(a) and Industrial
10 Welfare Commission Wage Orders. California Labor Code sections 226.7 and 512 require
11 employers to pay an employee one additional hour of pay at the employee's regular rate of pay
12 for each meal or rest period that is not timely provided. Defendants failed to compensate
13 aggrieved employees properly for non-compliant meal and rest periods including, *inter alia*,
14 short, late, interrupted, and missed meal and rest periods.

15 c. California Labor Code sections 510 and 1198 require employers to pay
16 overtime at time-and-a-half or double time when an employee works more than 8 hours in a
17 day (or 12 in a day for double time hours) or more than 40 hours in a week. Defendants failed
18 to properly compensate aggrieved employees for all overtime hours worked by (i) having
19 employees work off-the-clock as noted above and (ii) having Employees work overtime but not
20 paying overtime compensation at the appropriate overtime rate required by California law.

21 d. California Labor Code sections 201 and 202 provide that if an employer
22 discharges an employee, the wages earned and unpaid at the time of discharge are due and
23 payable immediately, and if an employee quits his or her employment, his or her wages shall
24 become due and payable not later than seventy-two (72) hours thereafter, unless the employee
25 has given seventy-two (72) or more hours' notice of his or her intention to quit, in which case
26 the employee is entitled to his or her wages at the time of quitting. Defendants failed to pay
27 terminated Aggrieved Employees all wages due to them within the time period specified by
28 California Labor Code sections 201 and 202 upon the termination of their employment and paid

1 wages late to aggrieved employees. Defendants also failed to pay aggrieved employees the
2 waiting time penalty upon the late payment of wages.

3 e. California Labor Code section 204 requires that all wages earned by any
4 person in any employment between the 1st and 15th days, inclusive, of any calendar month,
5 other than those wages due upon termination of an employee, are due and payable between the
6 16th and the 26th of the month during which the labor was performed, and that all wages earned
7 by any person in any employment between the 17th and the last day, inclusive, of any calendar
8 month, other than those wages due upon termination of an employee, are due and payable
9 between the 1st and the 10th day of the following month. California Labor Code section 204
10 also requires that all wages earned for labor in excess of the normal work period shall be paid
11 no later than the pay day for the next regular payroll period. During the employment of
12 aggrieved employees, Defendants failed to pay them all wages due to them within the time
13 periods required by California Labor Code Section 204, including earned and unpaid regular
14 wages, overtime wages, and meal and rest period premium wages as discussed above.

15 f. California Labor Code section 226(a) requires employers to make, keep
16 and provide complete and accurate itemized wage statements to their employees. During the
17 relevant time period, Employers failed to provide aggrieved employees with complete and
18 accurate itemized wage statements, as the wage statements that Defendants provided to
19 aggrieved employees did not contain all of the information required to be listed therein per
20 California Labor Code section 226(a). By way of example, on the wage statements provided
21 by Employers to Aggrieved Employees, did not indicate all hours worked by the Aggrieved
22 Employees, and did not pay overtime at the correct overtime rate of pay.

23 g. California Labor Code section 226(c) requires, “An employer who
24 receives a written or oral request to inspect or receive a copy of records pursuant to subdivision
25 (b) pertaining to a current or former employee shall comply with the request as soon as
26 practicable, but no later than 21 calendar days from the date of the request.” Employers did not
27 provide paystubs or electronic time records in response to a demand for payroll records, in
28 violation of this subsection.

1 h. California Labor Code sections 2800 and 2802 require an employer to
2 reimburse its employees for all necessary expenditures incurred by the employee in direct
3 consequence of the discharge of his or her job duties or in direct consequence of his or her
4 obedience to the directions of the employer. During the relevant time period, aggrieved
5 employees incurred necessary business expenses and costs that were not fully reimbursed by
6 Defendants, including but not limited to the use of their personal cell phones for business
7 purposes.

8 i. California Labor Code 1102.5 provides that an employer, or any person
9 acting on behalf of the employer, shall not retaliate against an employee for disclosing
10 information, or because the employer believes that the employee disclosed or may disclose
11 information, to a government or law enforcement agency, to a person with authority over the
12 employee or another employee who has the authority to investigate, discover, or correct the
13 violation or noncompliance, or for providing information to, or testifying before, any public
14 body conducting an investigation, hearing, or inquiry, if the employee has reasonable cause to
15 believe that the information discloses a violation of state or federal statute, or a violation of or
16 noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing
17 the information is part of the employee's job duties. Defendants violated this provision by
18 terminating Ms. Sibounheuang and Aggrieved Employees in retaliation for disclosing to
19 supervisors what was reasonably believed to be illegal conduct, including but not limited to
20 discrimination, harassment, penal code and wage and hour violations.

21 j. California Labor Code 98.6 prohibits Employers from retaliating or
22 taking adverse actions against any employee because the employee engaged in any exercise of
23 rights afforded by the California Labor Code. During the relevant time period, Aggrieved
24 Employees were retaliated against and/or suffered adverse employment actions by Defendants
25 because they made complaints about their wages (i.e., engaged in protected activities under the
26 California Labor Code).

27 k. California Labor Code Section 1197.5 states that, "An employer shall not
28 pay any of its employees at wage rates less than the rates paid to employees of the opposite sex

1 for substantially similar work, when viewed as a composite of skill, effort, and responsibility,
2 and performed under similar working conditions.” Any employer who violates the statute is
3 liable to the employee affected in the amount of the wages, and interest thereon, of which the
4 employee is deprived by reason of the violation, and an additional equal amount as liquidated
5 damages. Employers did not pay Ms. Sibounheuang and other aggrieved female employees
6 equal pay in comparison to the opposite male sex for substantially similar work.

7 1. California Labor Code Section 432 states that, “If an employee or
8 applicant signs any instrument relating to the obtaining or holding of employment, he shall be
9 given a copy of the instrument upon request.” Ms. Sibounheuang made a request under
10 California Labor Code Section 432 by and through her counsel for all signed instruments
11 relating to the obtaining or holding of her employment. Employers did not produce the
12 responsive documents upon request. As such, Ms. Sibounheuang and other aggrieved
13 employees have been deprived the benefit of this statute, which is a violation of California
14 Labor Code Section 432.

15 m. California Labor Code Section 233 states that, “An employer shall not
16 deny an employee the right to use sick leave or discharge, threaten to discharge, demote,
17 suspend, or in any manner discriminate against an employee for using, or attempting to exercise
18 the right to use, sick leave to attend to an illness or the preventive care of a family member, or
19 for any other reason specified in subdivision (a) of Section 246.5.” Employers terminated Ms.
20 Sibounheuang for attempting to exercise the right to use sick leave to attend to the preventive
21 care of a family member. As such, Ms. Sibounheuang and other aggrieved employees have
22 been deprived the benefit of this statute.

23 161. Plaintiff was compelled to retain the services of counsel to file this court action
24 to protect her interests and the interests of the aggrieved employees and the State of California
25 and to assess and collect the civil penalties owed by Defendants to the State of California and
26 aggrieved employees. Plaintiff therefore seeks an award of reasonable attorney’s fees and costs
27 pursuant to California Labor Code section 2699(g)(1) and any other applicable statute.

28 //

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment against enumerated Defendants as to all
3 causes of action as follows:

- 4 1. For compensatory, punitive and liquidated damages;
5 2. For interest at the legal rate from the date wages were due;
6 3. For statutory penalties;
7 4. For civil penalties;
8 5. For attorney's fees;
9 6. For costs of suit herein incurred; and
10 7. For such other and further relief as the Court may deem just and proper.

11 Dated: December 13, 2023

KO LEGAL, INC.

12 By: 

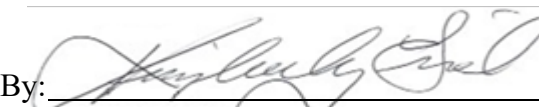
13 C. E. Kimberly Lind
14 Attorney for Plaintiff
DAOLYNN SIBOUNHEUANG

15 **DEMAND FOR TRIAL BY JURY**

16
17 Plaintiff hereby demands a trial by jury on all issues triable by a jury in the above-entitled action.

18
19 Dated: December 13, 2023

KO LEGAL, INC.

20
21 By: 

22 C. E. Kimberly Lind
23 Attorney for Plaintiff
24 DAOLYNN SIBOUNHEUANG
25
26
27
28