

Ophir J. Bitton (SBN: 204310)
BITTON & ASSOCIATES
7220 Melrose Avenue, 2nd Floor
Los Angeles, CA 90046
Tel. No.: (310) 356-1006
Fax No.: (818) 524-1224

Attorneys for Plaintiff,
Robert McGruder

Electronically FILED by
Superior Court of California,
County of Los Angeles
9/25/2024 10:24 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By E. Galicia, Deputy Clerk

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

ROBERT MCGRUDER, an individual,

Plaintiff,

v.

SECURITY SERVICES GROUP INC., a
California Corporation; RYAN ANTHONY
TONGOL SR., an individual; and DOES 1
THROUGH 20, inclusive,

Defendants.

Case No.: 24STCV24860
Unlimited Jurisdiction

COMPLAINT

- 1. WRONGFUL TERMINATION AND RETALITION IN VIOLATION OF PUBLIC POLICY;**
- 2. DISCRIMINATION BASED ON PROTECTED STATUS – DISABILITY;**
- 3. FAILURE TO ACCOMMODATE;**
- 4. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;**
- 5. FAILURE TO TAKE REASONABLE STEPS TO PREVENT DISCRIMINATION AND/OR RETALIATION;**
- 6. NONPAYMENT OF MINIMUM WAGES;**
- 7. NONPAYMENT OF REGULAR WAGES;**
- 8. NONPAYMENT OF OVERTIME COMPENSATION;**
- 9. FAILURE TO PROVIDE MEAL BREAKS;**
- 10. FAILURE TO PROVIDE REST PERIODS;**
- 11. FAILURE TO REIMBURSE EXPENSES;**
- 12. WAITING TIME PENALTIES;**
- 13. NEGLIGENCE;**
- 14. NEGLIGENT HIRING,**

**SUPERVISION AND RETENTION;
AND
15. UNFAIR BUSINESS PRACTICES.**

DEMAND FOR JURY TRIAL

Plaintiff ROBERT MCGRUDER ("PLAINTIFF") hereby files this Complaint against Defendants SECURITY SERVICES GROUP INC. ("SSG"), a California Corporation, and RYAN ANTHONY TONGOL SR. ("TONGOL"), an individual, and DOES 1 THROUGH 20, inclusive (Collectively, "DEFENDANTS"). PLAINTIFF alleges as follows:

PARTIES

1. PLAINTIFF is, and at all times material hereto was, an individual residing in the County of Los Angeles in the State of California.

2. PLAINTIFF is informed and believes, and on this basis alleges that Defendant SSG is, and at all times material hereto was, a California corporation organized and existing under the laws of the State of California and authorized to conduct business in the County of Los Angeles.

3. PLAINTIFF is informed and believes, and on this basis alleges that Defendant TONGOL is an individual conducting business in California and working in the County of Los Angeles

4. The true names and capacities of DOES 1 through 20, inclusive, whether individual, corporate, associate, or otherwise, are unknown to PLAINTIFF at this time, who therefore sues said defendants by such fictitious names; when the true names and capacities of such defendants are ascertained, PLAINTIFF will seek leave of court to amend this Complaint to insert same. PLAINTIFF is informed and believes and thereon alleges that each defendant named as a DOE is responsible for each and every act and obligation hereinafter set forth.

5. PLAINTIFF is informed and believes and thereon alleges that each defendant named in this Complaint now is, and was at all times herein mentioned, the agent, servant, employee, representative, alter ego, members of and/or engaged in a joint venture, partnership and

1 common enterprise of the other defendants herein, and was at all such times acting within the
2 course and scope of said agency and employment and with the consent and permission of each of
3 the other co-defendants, and each of the defendants herein ratified each of the acts of each of the
4 other co-defendants, and each of them.

5 **JURISDICTION AND VENUE**

6 6. Jurisdiction is proper because, upon information and belief, plaintiff worked for
7 defendants in the state of California, and all actions relevant to this Complaint occurred in the State
8 of California.

9 7. Venue is proper in the County of Los Angeles because, upon information and belief,
10 at least some of the transactions that are the subject matter of this Complaint occurred therein
11 and/or each defendant is found, maintains office, transacts business, and/or has an agent therein.

12 **FACTS COMMON TO ALL CAUSES OF ACTION**

13 8. On or around May 18, 2022, PLAINTIFF was hired as a security guard by SSG,
14 and he was regularly positioned at a warehouse located at 6100 Bandini Blvd., Commerce,
15 California.

16 9. PLAINTIFF would guard the east side of the warehouse.

17 10. SSG is a security services provider with TONGOL named as the Chief Executive
18 Officer.

19 11. PLAINTIFF is informed and believed that TONGOL oversees all wage and hour
20 policies and practices which affected the terms and conditions of PLAINTIFF's employment.

21 12. Through bi-weekly deposits from SSG, PLAINTIFF was paid at \$23/hour, which
22 was his most recent rate of pay.

23 13. Scheduled to work from Monday to Friday, PLAINTIFF typically started working
24 at 4 a.m. and was scheduled to leave at 12 p.m.

25 14. However, it was a daily routine PLAINTIFF would have to patrol first to check if
26 there is anything unusual before signing into work and PLAINTIFF would not be able to leave his
27 shift until the other guard showed up to take over. These additional times of work were
28 uncompensated time.

1 15. It was also common practice for PLAINTIFF not to take his meal and rest breaks
2 as he was not allowed to leave his post.

3 16. PLAINTIFF had to pay out-of-pocket expenses for his uniform pants, and he had
4 to carry his own personal gun for work.

5 17. Additionally, PLAINTIFF had to use his personal cellphone to clock in and out of
6 work.

7 18. Due to the nature of his job, PLAINTIFF suffered a back injury. He informed his
8 immediate supervisor Joseph Soriano (“Soriano”) of his injury on August 15, 2022.

9 19. SSG did not send him to a clinic nor accommodate him. Instead, PLAINTIFF was
10 ignored.

11 20. Instead, on or around October 3, 2022, PLAINTIFF was informed by SSG that he
12 was no longer employed by their company.

13 21. On September 25, 2024, PLAINTIFF filed a complaint with the Department of Fair
14 Employment and Housing (“DFEH”) and obtained a Right to Sue letter on the same day. The
15 complaint was served on DEFENDANTS by mail and PLAINTIFF herein with this Complaint
16 serves DEFENDANTS with the DFEH complaint and Right to Sue notices.

17 **FIRST CAUSE OF ACTION**

18 **WRONGFUL TERMINATION**

19 **AND RETALIATION IN VIOLATION OF PUBLIC POLICY**

20 **(PLAINTIFF against SSG and DOE 1 through 10)**

21 22. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
22 Complaint by reference as though fully set forth herein.

23 23. PLAINTIFF was employed by SSG,

24 24. PLAINTIFF was wrongfully terminated and retaliated against by SSG in violation
25 of public policy and the California Fair Employment and Housing Act (“FEHA”) as a result of
26 having a disability.

27 25. SSG took adverse employment actions against PLAINTIFF because PLAINTIFF
28 had sustained injuries while on the job, made complaints about the work-related injuries, and

sought accommodation due to the injuries and medical condition. *California Government Code* §12940 provides that it is against the law to discriminate against an employee due to disability and medical condition, and to retaliate against an employee for requesting an accommodation for disability and medical condition regardless of whether the request was granted. These policies are also enumerated in *Labor Code* §132(a), FEHA, the California and United States Constitutions, among other laws and regulations.

26. SSG'S violations of public policy and FEHA described above were substantial motivating reasons for the adverse employment actions taken against PLAINTIFF by SSG.

27. As a substantial result of SSG'S intentional acts in violation of public policy and FEHA, PLAINTIFF was harmed. Specifically, PLAINTIFF lost income, and endured emotional and mental damages, among other related damages. The exact amount of damage to PLAINTIFF shall be proved at trial.

28. PLAINTIFF believes that SSG'S conducts described above were done with malice, fraud and oppression and with conscious disregard for PLAINTIFF'S rights and with the intent, design and purpose to cause PLAINTIFF harm. As such, PLAINTIFF is also entitled to punitive and exemplary damages.

29. In addition, PLAINTIFF is entitled to interest and costs, among other damages against SSG.

SECOND CAUSE OF ACTION

DISCRIMINATION IN VIOLATION

OF CALIFORNIA GOVERNMENT CODE §12940, ET SEQ

(PLAINTIFF against SSG and DOE 1 through 10)

30. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

31. PLAINTIFF was an employee of SSG.

32. During PLAINTIFF's employment with SSG, PLAINTIFF was injured, and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under

1 FEHA. SSG herein was aware of PLAINTIFF's disability and medical condition. However, SSG
2 otherwise expected PLAINTIFF to work through the pain without treatment or accommodation.

3 33. PLAINTIFF'S disability was a substantial motivating reason for SSG's conduct
4 that caused the discrimination against PLAINTIFF, including his complaints being ignored and
5 PLAINTIFF termination soon thereafter.

6 34. As a substantial result of SSG'S intentional acts, PLAINTIFF was harmed. The
7 exact amount of damage to PLAINTIFF shall be proved at trial.

8 35. PLAINTIFF believes that SSG'S conducts described above were done with malice,
9 fraud and oppression and with conscious disregard for PLAINTIFF's rights and with the intent,
10 design and purpose to cause PLAINTIFF harm. As such, PLAINTIFF is also entitled to punitive
11 and exemplary damages.

12 36. In addition, PLAINTIFF is entitled to interest, attorney's fees and costs, among
13 other damages against SSG.

14 **THIRD CAUSE OF ACTION**

15 **FAILURE TO ACCOMMODATE – DISABILITY DISCRIMINATION**

16 **IN VIOLATION OF GOVERNMENT CODE §12940(m)**

17 **(PLAINTIFF against SSG and DOE 1 through 10)**

18 37. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
19 Complaint by reference as though fully set forth herein.

20 38. PLAINTIFF was employed as an employee by SSG.

21 39. During PLAINTIFF'S employment with SSG, PLAINTIFF was injured, and
22 PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under
23 FEHA.

24 40. SSG herein was aware of PLAINTIFF'S disability that limited PLAINTIFF'S work
25 activities.

26 41. PLAINTIFF was able to perform the essential duties of the position or a vacant
27 alternative position to which PLAINTIFF could have been reassigned with reasonable
28 accommodation for PLAINTIFF's disability.

1 42. However, SSG failed to provide such reasonable accommodation for
2 PLAINTIFF’S disability. SSG otherwise expected PLAINTIFF to work through the pain without
3 treatment or accommodation.

4 43. As a substantial result of SSG’S failure to accommodate, PLAINTIFF was harmed.
5 The exact amount of damage to PLAINTIFF shall be proved at trial.

6 44. In addition, PLAINTIFF is entitled to interest, attorney’s fees and costs, among
7 other damages against SSG.

8 **FOURTH CAUSE OF ACTION**

9 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS**

10 **IN VIOLATION OF CALIFORNIA GOVERNMENT CODE §12940(n)**

11 **(PLAINTIFF against SSG and DOE 1 through 10)**

12 45. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
13 Complaint by reference as though fully set forth herein.

14 46. PLAINTIFF was an employee of SSG.

15 47. PLAINTIFF had a disability that was known to SSG, and PLAINTIFF’S injury
16 rendered PLAINTIFF disabled within the meaning for disability under FEHA.

17 48. PLAINTIFF requested that SSG make reasonable accommodation for PLAINTIFF
18 so that PLAINTIFF would be able to perform the essential job requirements.

19 49. PLAINTIFF was willing to participate in an interactive process to determine
20 whether reasonable accommodation could be made so that PLAINTIFF would be able to perform
21 the essential job requirements.

22 50. However, SSG failed to participate in a timely good-faith interactive process with
23 PLAINTIFF to determine whether reasonable accommodation could be made.

24 51. As a substantial result of SSG’S failure to engage in the interactive process,
25 PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

26 52. In addition, PLAINTIFF is entitled to interest, attorney’s fees and costs, among
27 other damages against SSG.

1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO TAKE REASONABLE STEPS**
3 **TO PREVENT DISCRIMINATION AND RETALIATION**
4 **IN VIOLATION OF GOVERNMENT CODE §12940 (k)**
5 **(PLAINTIFF against SSG and DOE 1 through 10)**

6 53. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
7 Complaint by reference as though fully set forth herein.

8 54. PLAINTIFF was employed as an employee by SSG.

9 55. PLAINTIFF was subject to disability discrimination and retaliation in violation of
10 public policy in the course of employment.

11 56. SSG failed to take all reasonable steps to prevent discrimination, and retaliation.
12 DEFENDANTS ignored PLAINTIFF’S complaints about disability discrimination and retaliation
13 and as a result by not doing anything, had condoned, ratified and participated in the acts causing
14 PLAINTIFF harm.

15 57. As a substantial result of SSG’S failure to take reasonable steps to prevent
16 discrimination and retaliation, PLAINTIFF was harmed. The exact amount of damage to
17 PLAINTIFF shall be proved at trial.

18 58. In addition, PLAINTIFF is entitled to interest, attorney’s fees and costs, among
19 other damages against SSG.

20 **SIXTH CAUSE OF ACTION**

21 **NONPAYMENT OF MINIMUM WAGES**
22 **(PLAINTIFF against all DEFENDANTS)**

23 59. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
24 Complaint by reference as though fully set forth herein.

25 60. *Labor Code* §1194.2(a), in pertinent part, states “[i]n any action ... to recover
26 wages because of the payment of a wage less than the minimum wage fixed by an order of the
27 commission or by statute, an employee shall be entitled to recover liquidated damages in an amount
28 equal to the wages unlawfully unpaid and interest thereon.”

61. PLAINTIFF performed work for DEFENDANTS.

62. PLAINTIFF was paid less than the minimum wage by DEFENDANTS for hours worked such as when he worked before and after is assigned shift. Thus, PLAINTIFF was deprived of PLAINTIFF's regular rate of pay and even minimum wages.

63. PLAINTIFF was at all times relevant a non-exempt hourly employee of DEFENDANTS.

64. PLAINTIFF often worked more than eight hours in a day and/or forty hours in a week, for which he should have been paid overtime wages. However, he was not compensated for this time at all – not even minimum wage.

65. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived of regular time wages and liquidated damages in amounts to be proven at trial, and PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties, attorney's fees and costs.

SEVENTH CAUSE OF ACTION

NONPAYMENT OF WAGES

(PLAINTIFF against all DEFENDANTS)

66. PLAINTIFF hereby realleges and incorporated all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

67. PLAINTIFF performed work for DEFENDANTS.

68. DEFENDANTS owes PLAINTIFF wages at the regular rate for uncompensated work time under the terms of the employment.

69. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived of regular time wages and liquidated damages in amounts to be proven at trial, and PLAINTIFF is entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties, attorney's fees and costs.

///

///

///

1 **EIGHTH CAUSE OF ACTION**

2 **NONPAYMENT OF OVERTIME COMPENSATION**

3 **(PLAINTIFF against all DEFENDANTS)**

4 70. PLAINTIFF hereby realleges and incorporated all of the previous paragraphs of
5 this Complaint by reference as though fully set forth herein.

6 71. *Labor Code* §510(a) provides that any work in excess of eight hours in one workday
7 and any work in excess of 40 hours in any one workweek and the first eight hours worked on the
8 seventh day of work in any one workweek shall be compensated at the rate of no less than one and
9 one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day
10 shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In
11 addition, any work in excess of eight hours on any seventh day of a workweek shall be
12 compensated at the rate of no less than twice the regular rate of pay of an employee.

13 72. PLAINTIFF performed work for DEFENDANTS that PLAINTIFF worked
14 overtime hours for more than eight (8) hours in a day and/or forty (40) hours in a week and/or
15 seven consecutive days, yet not all her time was compensated, for she was paid for her overtime
16 hours at a regular rate.

17 73. DEFENDANTS knew or should have known that PLAINTIFF had worked
18 overtime hours.

19 74. As a result of the unlawful acts of DEFENDANTS, PLAINTIFF has been deprived
20 of regular time wages and liquidated damages in amounts to be proven at trial, and PLAINTIFF is
21 entitled to recovery of such amounts from DEFENDANTS, plus interest, penalties, attorney's fees
22 and costs.

23 **NINTH CAUSE OF ACTION**

24 **FAILURE TO PROVIDE MEAL BREAKS**

25 **(PLAINTIFF against all DEFENDANTS)**

26 75. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
27 Complaint by reference as though fully set forth herein.

28 76. *Labor Code* §512(a) provides that employees who work more than five hours in a

1 day are entitled to a meal period of at least 30 minutes; and a second meal period of at least 30
2 minutes if they work for more than 10 hours in a day.

3 77. *Labor Code* §512 further provides that “An employer may not employ an employee
4 for a work period of more than 10 hours per day without providing the employee with a second
5 meal period of not less than 30 minutes, except that if the total hours worked is no more than 12
6 hours, the second meal period may be waived by mutual consent of the employer and the employee
7 only if the first meal period was not waived.”

8 78. *Labor Code* §516 provides that the Industrial Welfare Commission may adopt or
9 amend working condition orders with respect to meal periods for any workers in California
10 consistent with the health and welfare of those workers.

11 79. Section 11(C) of the *IWC Wage Order(s)* provides that “Unless the employee is
12 relieved of all duty during a 30-minute meal period, the meal period shall be considered an “on
13 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted only
14 when the nature of the work prevents an employee from being relieved of all duty and when by
15 written agreement between the parties an on-the-job paid meal period is agreed to. The written
16 agreement shall state that the employee may, in writing, revoke the agreement at any time.”

17 80. Section 11(D) of the *IWC Wage Order(s)* provides that “If an employer fails to
18 provide an employee a meal period in accordance with the applicable provisions of this order, the
19 employer shall pay the employee one (1) hour of pay at the employee’s regular rate of
20 compensation for each workday that the meal period is not provided.”

21 81. Furthermore, an employer may not undermine a formal policy of providing meal
22 breaks by pressuring employees to perform their duties in ways that omit breaks. The wage orders
23 and governing statute do not countenance an employer's exerting coercion against the taking of,
24 creating incentives to forego, or otherwise encouraging the skipping of legally protected breaks.

25 82. Since PLAINTIFF was not allowed to leave his post, he was not given meal periods.

26 83. On a daily basis, PLAINTIFF would have to completely forego his meal breaks or
27 would take his lunch breaks later. At other times, it was interrupted or cut short.

1 84. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to meal
2 breaks.

3 85. PLAINTIFF was at times not given meal breaks and at other times meal breaks
4 which were not compliant with labor laws.

5 86. PLAINTIFF had been harmed and DEFENDANTS are liable to PLAINTIFF for
6 one (1) hour of additional premium pay at the regular rate of compensation for each day in which
7 the proper meal was not provided. The exact amount of missed meal break wages owed to
8 PLAINTIFF shall be proved at trial, and PLAINTIFF is entitled to recovery of such amounts from
9 DEFENDANTS, plus interest, penalties and attorney's fees and costs.

10 **TENTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE REST PERIODS**

12 **(PLAINTIFF against all DEFENDANTS)**

13 87. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
14 Complaint by reference as though fully set forth herein.

15 88. State law requires employers to authorize paid rest periods of a specified minimum
16 duration of 10 minutes for every four hours an employee works. (See, e.g., *8 California Code*
17 *Regulations* §§11010-11150 ¶2 and §11160 ¶1; Wage order No. 5)

18 89. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to rest
19 breaks. PLAINTIFF's shifts that were over four (4) hours therefore were entitled to a rest period
20 of not less than ten (10) minutes prior to exceeding four (4) hours of employment for each four (4)
21 hours of work.

22 90. Throughout PLAINTIFF's employment, DEFENDANTS typically did not provide
23 PLAINTIFF with rest breaks and/or compliant breaks for every four hours of work.

24 91. An employer who fails to provide rest periods as required by an applicable Wage
25 Order must pay the employee one (1) additional hour of pay at the employee's regular rate of pay
26 for each workday that a rest period was not provided. The exact amount of missed rest break wages
27 owed to PLAINTIFF shall be proved at trial, and PLAINTIFF is entitled to recovery of such
28 amounts from DEFENDANTS, plus interest, penalties and attorney's fees and costs.

ELEVENTH CAUSE OF ACTION
FAILURE TO REIMBURSE EXPENSES
(PLAINTIFF against all DEFENDANTS)

92. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

93. In California, employers must cover employees' expenses. Pursuant to *Labor Code* §2802(a) an employer is required to "indemnify him or her employee for all necessary expenditures and losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer..." This includes, "all reasonable costs" as defined in *Labor Code* §2802(c). Further, *Labor Code* §2804 states the employee may not waive these rights.

94. PLAINTIFF had to pay out-of-pocket expense for his uniform pants, and he had to carry and maintain his own personal gun for work.

95. Additionally, PLAINTIFF had to use his personal cell phone to clock in and out of work.

96. DEFENDANTS did not reimburse PLAINTIFF for these expenses.

97. Therefore, DEFENDANTS are liable and PLAINTIFF is entitled to reimbursement of expenses and other costs pursuant to *Labor Code* §2802(a).

TWELFTH CAUSE OF ACTION
WAITING TIME PENALTIES
(PLAINTIFF against all DEFENDANTS)

98. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this Complaint by reference as though fully set forth herein.

99. *Labor Code* §203 provides that "if an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days."

1 100. PLAINTIFF’S employment with DEFENDANTS ended.

2 101. DEFENDANTS failed to pay PLAINTIFF all wages when due since PLAINTIFF’s
3 termination until the date of filing this Complaint.

4 102. DEFENDANTS willfully failed to pay PLAINTIFF final wages in full.

5 103. As a result of DEFENDANTS’ aforementioned unlawful act, PLAINTIFF suffered
6 damage. PLAINTIFF is entitled to recover from DEFENDANTS the statutory penalty wages for
7 each day they were not paid, at their regular hourly rate of pay, up to a thirty (30) day maximum
8 pursuant to Labor Code sections 203, plus interest and attorney’s fees in the amount to be proven
9 at trial.

10 **THIRTEENTH CAUSE OF ACTION**

11 **NEGLIGENCE**

12 **(PLAINTIFF against all DEFENDANTS)**

13 104. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
14 Complaint by reference as though fully set forth herein.

15 105. DEFENDANTS owe, and at all times relevant owed, a duty to their employees to
16 provide a safe, non-discriminating and non-retaliatory work environment, to make sure that its
17 supervisors take action against employees practicing workplace discrimination and retaliation, to
18 make sure supervisors and managers look after the safety of employees during their watch, to pay
19 employees proper wages when due, and to provide them with proper wage statements.

20 106. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

21 107. DEFENDANTS’ breach was and is the actual and proximate cause of
22 PLAINTIFF’s harm.

23 108. As a substantial result of DEFENDANTS’ negligent acts, PLAINTIFF was harmed.
24 The exact amount of damage to PLAINTIFF shall be proved at trial.

25 ///

26 ///

27 ///

28 ///

1 **FOURTEENTH CAUSE OF ACTION**

2 **NEGLIGENT HIRING, SUPERVISION, AND RETENTION**

3 **(PLAINTIFF against all DEFENDANTS)**

4 109. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
5 Complaint by reference as though fully set forth herein.

6 110. DEFENDANTS hired PLAINTIFF'S supervisor Soriano.

7 111. PLAINTIFF'S supervisor became unfit and incompetent to perform the work for
8 which PLAINTIFF'S supervisor was hired.

9 112. DEFENDANTS knew or should have known of PLAINTIFF'S supervisor
10 becoming unfit and incompetent to perform the work, and PLAINTIFF'S supervisor created a
11 particular risk to others.

12 113. PLAINTIFF'S supervisor's unfitness and incompetence harmed PLAINTIFF.

13 114. DEFENDANTS' negligence in hiring, supervising and retaining of PLAINTIFF'S
14 supervisors was a substantial factor in causing PLAINTIFF'S harm. The exact amount of damage
15 to PLAINTIFF shall be proved at trial.

16 **FIFTEENTH CAUSE OF ACTION**

17 **UNFAIR BUSINESS PRACTICES**

18 **IN VIOLATION OF CAL. BUS. & PROF. CODE § § 17200 ET. SEQ.**

19 **(PLAINTIFF against all DEFENDANTS)**

20 115. PLAINTIFF hereby realleges and incorporates all of the previous paragraphs of this
21 Complaint by reference as though fully set forth herein.

22 116. DEFENDANTS, themselves or through their supervisors, in an effort to exploit,
23 harass, and discriminate against their employees for profit or otherwise, have engaged in the
24 following unlawful, unfair, deceptive, and misleading business practices, amongst others outlined
25 in this complaint:

26 a. Wrongfully terminating and retaliating against employees with disability and
27 medical-condition based reasons;

28 b. Discriminating against employees with disability and medical condition-based

reasons;

c. Failing to accommodate;

d. Failing to properly supervise and train its employees;

e. Failing to pay minimum, regular, overtime wages earned and owed to employees;

f. Failing to provide proper meal breaks and rest periods, or to pay premium wages for missed meal and rest periods to PLAINTIFF;

g. Failing to provide reimbursement for business expenses; and,

h. The foregoing wrongful activities have caused harm, fear, pressure, and humiliation to the employee(s) at DEFENDANTS.

117. PLAINTIFF is entitled to enforce all applicable penalty provisions of the California Business and Professions Code §17202.

118. Pursuant to the provisions of §17203 of the California Business and Professions Code, PLAINTIFF is entitled to restoration of lost wages, meal breaks and rest periods premium wages, business expense reimbursement, interests, and profits DEFENDANTS have collected by the use of the unfair, deceptive, and misleading business practices described in this Complaint.

119. Pursuant to provisions of §17203 et seq. of the California Business and Professions Code, DEFENDANTS must be ordered to disgorge all the unlawful profits in the relevant statutory to PLAINTIFF, which DEFENDANTS have received from improperly billing clients and cheating of employees in terms of their hours reported as having been worked but not paid.

120. Pursuant to the provisions of §17203 of the California Business and Professions Code, this Court should issue an injunction prohibiting DEFENDANTS from engaging in the foregoing unfair, deceptive, and misleading business practices.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS, and DOES 1 through 20 inclusive, as follows:

1. General and compensatory damages in an amount to be subject to proof at trial to the extent permitted by law;

- 1 2. Special damages;
- 2 3. Emotional distress damages;
- 3 4. Civil and statutory penalties to the extent recoverable;
- 4 5. Restoration of all money PLAINTIFF lost that DEFENDANTS have collected by
- 5 the use of the unfair, deceptive, and misleading business practices described as in unfair business
- 6 practices cause of action;
- 7 6. Injunctive relief prohibiting DEFENDANTS from engaging in the unfair,
- 8 deceptive, and misleading business practices described as in unfair business practices cause of
- 9 action;
- 10 7. Declaration that DEFENDANTS' business practices are unfair within the meaning
- 11 described as in unfair business practices cause of action;
- 12 8. Punitive and exemplary damages;
- 13 9. Pre-judgment interest;
- 14 10. Costs of lawsuit herein incurred;
- 15 11. Attorneys' fees; and
- 16 12. For an award of such other and further equitable and legal relief as this Court may
- 17 deem appropriate.

18

19 Dated: September 25, 2024

BITTON & ASSOCIATES

20 

21

22 _____

23 Ophir J. Bitton, Esq.
24 Attorneys for Plaintiff,
25 Robert McGruder

26

27

28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Dated: September 25, 2024



Ophir J. Bitton, Esq.
Attorneys for Plaintiff,
Robert McGruder