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SUPERIOR COURT-STOCKTON
2023 DEC 26 PM 12:02
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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN JOAQUIN

ASIA HAMILTON-MEDFORD,

Plaintiff,

vs.

UNITED CEREBRAL PALSY
ASSOCIATION, INC., a corporation,
UNITED CEREBRAL PALSY OF SAN
JOAQUIN, CALAVERAS & AMADOR
COUNTIES, a corporation, CHRISTINA
BAKER, an individual, and DOES 1-100,
inclusive,

Defendants.

Case No.:

STK-CV-UOE-2023-14252

CLASS AND INDIVIDUAL ACTION
COMPLAINT

1. FAILURE TO PAY MINIMUM WAGE
2. FAILURE TO PAY OVERTIME
3. FAILURE TO PROVIDE MEAL BREAKS
4. FAILURE TO PROVIDE REST BREAKS
5. FAILURE TO PAY ALL WAGES DUE
AND OWING AT END OF
EMPLOYMENT
6. FAILURE TO PROVIDE ACCURATE
ITEMIZED WAGE STATEMENTS
7. FAILURE TO REIMBURSE BUSINESS
EXPENSES
8. UNLAWFUL BUSINESS PRACTICES
9. HARASSMENT
10. DISABILITY DISCRIMINATION
11. FAILURE TO ACCOMMODATE
12. FAILURE TO ENGAGE
13. RETALIATION
14. FAILURE TO PREVENT

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1 Plaintiff Asia Medford-Hamilton brings this class and individual action against United
2 Cerebral Palsy Association, Inc., United Cerebral Palsy of San Joaquin, Calaveras, and Amador
3 Counties, Christina Baker and Does 1-100 for violations of the California Labor Code, the Business
4 and Professions Code, and the Fair Employment and Housing Act.

5 **PARTIES**

6 1. Asia Medford-Hamilton ("Plaintiff") is and at all times relevant herein was employed
7 in San Joaquin County, California, and was an "employee" as defined by the California Labor Code
8 ("Labor Code"), the applicable California Industrial Wage Commission ("IWC") Order(s), and the
9 Fair Employment and Housing Act ("FEHA").

10 2. United Cerebral Palsy Association, Inc. ("UCPA") is a corporation organized and
11 existing under the laws of the state of California company which does business in California and
12 throughout the United States.

13 3. At all times relevant herein, UCPA has been an "employer" as defined by the Labor
14 Code, and applicable IWC Order(s), and the FEHA and employed Plaintiff.

15 4. United Cerebral Palsy of San Joaquin, Calaveras, and Amador Counties
16 ("UCPSJCAC") is a corporation organized and existing under the laws of the state of California, with
17 its principal place of business located at 333 W Benjamin Holt Drive, Stockton, San Joaquin County,
18 California, and is a company which does business in California and throughout the United States.

19 5. At all times relevant herein, UCPSJCAC has been an "employer" as defined by the
20 Labor Code, and applicable IWC Order(s), and the FEHA and employed Plaintiff.

21 6. UCPA and UCPSJCAC and Does 1-100 are collectively referred to as Defendants.

22 7. Christina Baker was, at all times relevant herein, an employee of Defendant and a
23 "supervisor" as defined by the FEHA.

24 8. Plaintiff is informed and believes, and on that basis alleges, that each of the Defendants
25 is responsible in some manner for the occurrences herein alleged and that Plaintiff's injuries and
26 damages herein alleged were legally caused by such Defendants. Unless otherwise indicated, each
27 Defendant was acting within the course and scope of said agency and/or employment, with the
28 knowledge and/or consent of said co-Defendant.

9. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants was acting as the employer, joint employer, agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of the remaining Defendants in doing the things herein alleged, while at all times acting within the course and scope of such agency, service, employment partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and within the course and scope of such agency and/or employment, with the knowledge and/or consent of the remaining Defendants.

JURISDICTION AND VENUE

10. This Court is the proper Court, and this action is properly filed in the Superior Court of California for the County of San Joaquin because UCPSJCAC resides within San Joaquin County, both Defendants conduct business in this County, and Plaintiff has performed work for Defendants in this County. Plaintiff hereby demands a jury trial.

GENERAL ALLEGATIONS

11. Defendants serve individuals with cerebral palsy and other disabilities. Plaintiff worked for Defendants from approximately July 2023 until early November 2023.

12. Throughout her employment, Plaintiff was a non-exempt employee entitled to be paid for every hour worked and overtime as appropriate.

13. Because of Defendants' uniform and unlawful compensation system, and in violation of Labor Code sections 1197 and 1182.12 et seq., Defendants' hourly, non-exempt employees were routinely denied at least minimum wage for all hours worked.

14. Specifically, Defendants would (a) refuse to pay employees minimum wage for each hour worked, (b) require employees to work off-the-clock, (c) unlawfully round employees' time to the quarter hour, and/or (d) manipulate employees' time to their detriment.

15. Because of Defendants' uniform and unlawful compensation system, and in violation of Labor Code section 510, Defendants' hourly, non-exempt employees were routinely denied overtime.

16. Specifically, Defendants would (a) refuse to pay employees for every hour of overtime worked, (b) require employees to work off-the-clock, (c) unlawfully round employees' time to the quarter hour, and/or (d) manipulate employees' time to their detriment.

1 17. Because of their busy schedules, understaffing, and unlawful policies, Defendants'
2 hourly, non-exempt employees routinely were not relieved of all duties for their meal breaks, were not
3 timely provided meal breaks, were not provided uninterrupted meal breaks and/or were not provided
4 the requisite number of meal breaks for the duration of their shifts.

5 18. Defendants would also instruct employees to report compliant meal breaks and/or
6 manipulate their time to reflect that compliant meal breaks had been provided when in fact they had
7 not.

8 19. When their non-exempt, hourly employees were not provided compliant meal breaks,
9 Defendants either (a) failed to pay the appropriate premiums or (b) failed to pay premiums at the
10 employee's regular rate of pay (taking commissions, non-discretionary bonuses, and other items of
11 compensation into account).

12 20. Because of their busy schedules, understaffing, and unlawful policies, Defendants'
13 hourly, non-exempt employees routinely were not relieved of all duties for their duty-free rest breaks,
14 were not timely provided duty-free rest breaks, were not provided uninterrupted duty-free rest breaks
15 and/or were not provided the requisite number of duty-free rest breaks for the duration of their shifts.

16 21. Employees were also expressly forbidden from leaving the premises during rest breaks,
17 rendering them under the continuous control of Defendants and not appropriately relieved of duty.

18 22. When its non-exempt, hourly employees were not provided compliant rest breaks,
19 Defendants either (a) failed to pay the appropriate premiums or (b) failed to pay premiums at the
20 employee's regular rate of pay (taking commissions, non-discretionary bonuses, and other items of
21 compensation into account).

22 23. Because of the violations set forth above, the wage statements furnished by Defendants
23 to their hourly, non-exempt employees violated Labor Code section 226(a) insofar as they failed to:

- 24 a. Accurately show the gross wages earned in violation of section 226(a)(1);
25 b. Accurately show the total number of hours worked by the employee in violation of
26 section 226(a)(2);
27 c. Accurately show the net wages earned in violation of section 226(a)(5); and
28

1 d. Accurately show all applicable hourly rates in effect during the pay period and the
2 corresponding number of hours worked at each hourly rate in violation of section
3 226(a)(9).

4 24. Separately, and apart from the above, the wage statements Defendants furnish to their
5 hourly, non-exempt employees violate Labor Code section 226(a) insofar as they fail to accurately
6 show the total hours worked in violation of section 226(a)(2). Specifically, they list multiple different
7 categories of earnings including, but not limited to: (1) “E01 Regular”, (2) “E03 Vacation”, (3) “E04
8 Sick”. See e.g. **Exhibit A**.

9 25. With respect to the hours worked during the pay period, the wage statements (a) do not
10 include a line item for “total hours worked”, (b) inaccurately include all of the different categories of
11 earnings, and (c) fail to accurately set forth the number of hours actually worked. See e.g. **Exhibit A**.

12 26. For Example, during the pay period of October 22, 2023, through November 4, 2023,
13 Plaintiff’s wage statement indicates that she worked 64.00 “E01 Regular” hours, 7.93 “E02 Vacation”
14 hours, and (3) 1.88 “E04 Sick” hours. See **Exhibit A**.

15 27. If Plaintiff or another of Defendants’ hourly, non-exempt employees sought to calculate
16 the total number of hours worked during a pay period and added the hours listed under each of the
17 aforementioned categories, the total hours worked would be incorrect. *Id.*; see *McKenzie v. Federal*
18 *Exp. Corp.*, 275 F.R.D. 290, 292 (C.D. Cal. 2011).

19 28. Additionally, Plaintiff and Defendants’ other non-exempt employees’ wage statements
20 list UCPA as the employer with an address of “333 W Benjamin Hold Drive # 1, Stockton CA 95207”.
21 See **Exhibit A**.

22 29. If UCPA is Plaintiff and Defendants’ other non-exempt employees’ employer, then
23 identifying UCPA may be accurate, but listing UCPSJCAC’s address may be inaccurate.

24 30. If UCPSJCAC is Plaintiff and Defendants’ other non-exempt employees’ employer,
25 then listing UCPA as their employer may be inaccurate and the listing the UCPSJCAC’s address may
26 be accurate.

31. Because Plaintiff and Defendants' other non-exempt employees' are not compensated for all of their minimum wage, overtime, and meal / breaks (or premiums associate therewith), they are not timely compensated for the same during each pay period and at the end of their employment.

32. In addition, Plaintiff and Defendants' other non-exempt employees' were required to use their personal cell phones both on and off the job to communicate with Defendants and their co-workers. Despite this reasonable and necessary use of personal cell phones, Defendants failed to provide any reimbursement.

33. From at least four years prior to the filing of this action, Defendants have adopted and employed unfair business practices. These unfair business practices include, but are not limited to, failing to properly pay all minimum and overtime wages due, failing to provide compliant meal and rest breaks, and failing to reimburse employees for all business expenses.

INDIVIDUAL ALLEGATIONS

34. Plaintiff was hired by Defendants in July 2023. During her interview Defendants informed Plaintiff that they couldn't afford her because of her experience, but that they needed her. Ultimately, Plaintiff accepted an interim supervisor position.

35. On July 31, 2023, Plaintiff was injured doing a two person lift of a patient. Plaintiff was sent to Defendants' workers compensation doctor and placed on work restrictions, specifically no lifting or pulling of over 20 pounds. Plaintiff gave a copy of her restrictions to Ana Galeazzi ("Ms. Galeazzi"). A copy was also emailed to Defendants' human resources by the workers' compensation doctor.

36. Because Defendants were frequently understaffed, Plaintiff was often required to violate her restrictions. Plaintiff complained to her supervisors on numerous occasions to no avail.

37. Because of Plaintiff's restrictions, other employees were at times required to help out more. This angered several employees including, but not limited to, Christina Baker ("Ms. Baker") a supervisor for Defendants.

38. Ms. Baker and other co-workers began to harass Plaintiff making hurtful and discriminatory comments towards and about her including, but not limited to, “How long is this gonna

1 last?”, “[Plaintiff] is on light duty so we all have to do more”, “I’m not gonna be doing this bathroom
2 duty for long”, and “Oh, [Plaintiff] can’t do that”.

3 39. Because her injury was significant and because she was, despite her complaints,
4 required to repeatedly violate her restrictions, Plaintiff was not getting any better. Consequently, on
5 August 7, 2023, Plaintiff’s doctor put her on even tighter restrictions, namely secretarial work only.

6 40. After receiving these new restrictions, Plaintiff spoke with Defendants’ workers
7 compensation adjuster and explained that she was not being accommodated and was worried about
8 what they were going to do. The adjuster reviewed Plaintiff’s file and told her that she was supposed
9 to be a supervisor so Defendants should use this time to train her while she was on light duty. The
10 adjuster also told Plaintiff that she would talk to human resources and take care of it.

11 41. With even tighter restrictions, Plaintiff faced increased harassment from her co-
12 workers, in particular Ms. Baker. Plaintiff complained multiple times, including at least twice to both
13 Ms. Galeazzi and Frankie Orona (“Ms. Orona”).

14 42. Exasperated because nothing was being done, Plaintiff advised Ms. Orona that she was
15 going to HR. Ms. Orona said that that was fine, but instructed Plaintiff to clock out before doing so.

16 43. Shortly thereafter Plaintiff met with Shawna Balasco (“Ms. Balasco”) from HR.
17 Plaintiff explained everything that was happening and begged Ms. Balasco for help. Ms. Balasco told
18 Plaintiff that she would speak to everyone.

19 44. Much to Plaintiff’s horror, Ms. Balasco proceeded to schedule a meeting to be attended
20 by herself, Plaintiff, Ms. Galeazzi, Ms. Orona, and Ms. Baker. During the meeting, Plaintiff had to
21 restate all of her complaints in front of Ms. Baker. Worse, Ms. Balasco became upset during the
22 meeting when it was revealed that Plaintiff had her own office since the time she began supervisor
23 training.

24 45. Later that same day, Ms. Balasco told Plaintiff that she could no longer have her own
25 office and that she would have to share an office with Ms. Baker. Plaintiff protested the move and the
26 propriety of making her share an office with the woman who had been harassing her (and whom she
27 had formally complained about), but her complaints were ignored.
28

1 46. On October 18, 2023, Defendants had a staff meeting to discuss ongoing problems in
2 the facility. During the meeting other employees, including Lisa Rodriguez, complained about the
3 poor working conditions and significant lifting requirements. Neither Ms. Orona nor Ms. Galeazzi
4 offered any meaningful solutions and Plaintiff was left to feel as though the problems were her fault
5 and because of her disability and the lifting restrictions it imposed.

6 47. Shortly after the meeting concluded, Plaintiff suffered a panic attack and had to be
7 rushed to the hospital in an ambulance.

8 48. In late October 2023, Plaintiff received an email from Ms. Balasco stating that her
9 probation was being extended because she could not fully perform her job duties. When Plaintiff
10 inquired as to how long her probation was being extended, she was not given a straight answer.

11 49. On October 31, 2023, Plaintiff again complained to Ms. Orona. Plaintiff explained she
12 was not feeling well, that her back was still hurting, and that she was incredibly stressed out from
13 dealing with the harassment. Plaintiff further explained that her back was getting worse and she might
14 have to have surgery.

15 50. Rather than taking action to stop the harassment and discrimination, or to determine the
16 existence of any reasonable accommodations, Ms. Orona responded that Defendants did not have any
17 positions that did not involve lifting.

18 51. On November 3, 2023, unable to bear the harassment, discrimination, and retaliation,
19 and in pain from Defendants' persistent refusal to reasonably accommodate her, Plaintiff was left with
20 no reasonable choice but to end her employment with Defendants.

21 **CLASS ACTION ALLEGATIONS**

22 52. Plaintiff seeks to maintain this action as a class action as to the First through Eighth
23 Causes of Action. Plaintiff brings this action, on behalf of herself and all others similarly situated, as a
24 class action pursuant to Code of Civil Procedure 382. The putative classes which Plaintiff seeks to
25 represent consist of the following:

- 26 a. All current and former hourly, non-exempt employees who worked for Defendants
27 from December 22, 2019, through the date of trial (the "Non-Exempt Class");
28

- b. All current and former hourly, non-exempt employees worked one or more shifts of longer than five hours for Defendants from December 22, 2019, through the date of trial (the “Meal Break Class”);
- c. All current and hourly, non-exempt employees who worked for Defendants from December 22, 2019, through the date of trial (the “Rest Break Class”);
- d. All current and former hourly non-exempt employees who received a wage statement from Defendants from December 22, 2022, through the date of trial (the “Wage Statement Class”);
- e. All current and hourly, non-exempt employees who worked for Defendants from December 22, 2019, through the date of trial (the “the 2802 Class”); and
- f. All members of the Non-Exempt Class, the, Meal Break Class, and the Rest Break Class, whose employment ended between December 22, 2020, through the date of trial (the “Waiting Time Penalty Class”).

The Non-Exempt Class, Meal Break Class, Rest Break Class, Wage Statement Class, the 2802 Class, and Waiting Time Penalty Class are collectively referred to as the “Class”.

53. The class of persons is so numerous that joinder of all members is impracticable, and the disposition of their claims in a class action is a benefit to the parties and to the Court. Plaintiff is informed and believes, and based thereon alleges, that Defendants employ more than 500 employees who satisfy the class definition. Although the exact number and identity of class members is not presently known, they can be identified in Defendants’ records through coordinated discovery pursuant to this class action.

54. This action may be maintained as a class because the questions of law and fact which are common to class members clearly predominate over any questions affecting only individual members and because a class action is superior to other available methods for adjudicating the controversy.

55. There are numerous common questions of law and fact arising out of Defendants’ conduct. This class action focuses on Defendants’ systematic failure to: (a) properly pay employees for all hours worked, including overtime; (b) provide compliant meal and rest breaks and to pay the

1 requisite premiums in the event of non-compliant breaks; (c) provide accurate itemized wage
2 statements, (d) reimburse non-exempt employees for business expenses, and (e) timely pay all wages
3 due and owing each pay period and at the end of employment.

4 56. Furthermore, common questions of fact and law predominate over any questions
5 affecting only individual members of the class. The predominating common or class-wide questions
6 of law and fact include the following:

- 7 a. Whether Defendants failed to pay all their non-exempt employees for all hours
8 worked;
- 9 b. Whether Defendants failed to pay their non-exempt employees for all overtime
10 worked;
- 11 c. Whether Defendants failed to provide compliant meal and breaks to their non-
12 exempt employees;
- 13 d. Whether Defendants failed to pay all earned wages to their non-exempt
14 employees;
- 15 e. Whether Defendants failed to pay premiums to their non-exempt employees as a
16 result of non-compliant meal and rest breaks;
- 17 f. Whether the Defendants failed to furnish accurate itemized wage statements;
- 18 g. Whether Defendants failed to reimburse their non-exempt employees for all
19 business expenses they incurred carrying out their job duties;
- 20 h. Whether Defendants failed to pay all wages due and owing at end of their non-
21 exempt employees' employment;
- 22 i. Whether the alleged violations constitute unfair business practices;
- 23 j. Whether the Class is entitled to injunctive relief; and
- 24 k. Whether the Class is entitled to unpaid wages, statutory penalties and/or
25 restitutionary relief, and the amount of the same.

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1 57. Plaintiff's claims are typical of the claims of the members of the Class as a whole, all of
2 whom have sustained and/or will sustain damage and injury as a proximate and/or legal result of the
3 alleged violations of Defendants. Plaintiff's claims are typical of those of the Class because
4 Defendants subjected Plaintiff and each member of the Class to the same violations alleged herein.

5 58. The defenses of Defendants, to the extent that such defenses apply, are applicable
6 generally to the whole Class and are not distinguishable as to the proposed class members.

7 59. Plaintiff will fairly and adequately protect the interests of all members of the Class, and
8 has retained attorneys with extensive experience in litigation, including class and representative
9 actions. Plaintiff has no interests that conflict with those of the Class. Plaintiff is able to fairly and
10 adequately protect the interests of all members of the class because it is in her best interest to
11 prosecute the claims alleged herein in order to obtain the full compensation due herself and the other
12 class members.

13 60. A class action is superior to any other method available for fairly and efficiently
14 adjudicating the controversy because 1) joinder of individual class members is not practicable, 2)
15 litigating the claims of individual class members would be unnecessarily costly and burdensome and
16 would deter individual claims, 3) litigating the claims of individual class members would create a risk
17 of inconsistent or varying adjudications that would establish incompatible standards of conduct for
18 Defendants, 4) class members still working for Defendants may be fearful of retaliation if they were to
19 bring individual claims, 5) class members would be discouraged from pursuing individual claims
20 because the damages available to them are relatively small, and 6) public policy encourages the use of
21 the class actions to enforce employment laws and protect individuals who, by virtue of their
22 subordinate position, are particularly vulnerable.

23 61. Judicial economy will be served by maintenance of this lawsuit as a class action. To
24 process numerous virtually identical individual cases will significantly increase the expense on the
25 Court, the class members, and Defendants, all while unnecessarily delaying the resolution of this
26 matter. There are no obstacles to effective and efficient management of this lawsuit as a class action
27 by this Court and doing so will provide multiple benefits to the litigating parties including, but not
28 limited to, efficiency, economy, and uniform adjudication with consistent results.

1 62. Notice of a certified class action and any result or resolution of the litigation can be
2 provided to class members by mail, email, publication, or such other methods of notice as deemed
3 appropriate by the Court.

4 **FIRST CAUSE OF ACTION**
5 **VIOLATION OF CALIFORNIA LABOR CODE § 1128.12 et seq.**
6 **(Failure to Pay Minimum Wage)**
7 **Against Defendants**

8 63. Plaintiff hereby realleges and incorporates by reference each and every allegation set
9 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
10 allegations of this cause of action.

11 64. California Labor Code section 1182.12 establishes the minimum wage for California
12 employees from July 1, 2014, to present.

13 65. Labor Code Section 1194 provides, in relevant part:

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

18 66. Labor Code section 1194.2 provides, in relevant part:

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

23 67. Labor Code section 1197 provides that the minimum wage for employees fixed by the
24 commission is the minimum wage to be paid to employees, and the payment of a lesser wage is
25 unlawful

26 68. Pursuant to California Labor Code section 1198, the maximum hours of work and
27 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
28 standard conditions of labor for employees and the employment of any employee for longer hours than
those fixed by the commission or under conditions of labor prohibited by the order is unlawful.

 69. During the relevant time period, Defendants intentionally and willfully failed to pay
Plaintiff and its other non-exempt employees for every hour worked.

1 70. Wherefore, Plaintiff and the other members of the Non-Exempt Class have been injured
2 as set forth above and request relief as hereafter provided.

3 **SECOND CAUSE OF ACTION**
4 **VIOLATION OF CALIFORNIA LABOR CODE §§ 510 & 1198**
5 **(Failure to Pay Overtime)**
6 **Against Defendants**

7 71. Plaintiff hereby realleges and incorporates by reference each and every allegation set
8 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
9 allegations of this cause of action.

10 72. Pursuant to California Labor Code section 510, any work in excess of eight hours in
11 one workday and any work in excess of 40 hours in any one workweek and the first eight hours
12 worked on the seventh day of work in any one workweek shall be compensated at the rate of no less
13 than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours
14 in one day shall be compensated at the rate of no less than twice the regular rate of pay for an
15 employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be
16 compensated at the rate of no less than twice the regular rate of pay of an employee.

17 73. Pursuant to California Labor Code section 1198, the maximum hours of work and
18 standard conditions of labor fixed by the commission shall be the maximum hours of work and the
19 standard conditions of labor for employees and the employment of any employee for longer hours than
20 those fixed by the commission or under conditions of labor prohibited by the order is unlawful.

21 74. During the relevant time period, Plaintiff and Defendants' other hourly, non-exempt
22 employees regularly worked overtime.

23 75. During the relevant time period, Defendants intentionally and willfully failed to pay
24 Plaintiff and their other hourly, non-exempt employees the proper overtime wages due to them.

25 76. Wherefore, Plaintiff and the other members Non-Exempt Class have been injured as set
26 forth above and request relief as hereafter provided.

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THIRD CAUSE OF ACTION
VIOLATION OF LABOR CODE §§ 226.7, 512 and IWC WAGE ORDERS
(Failure to Provide Meal Periods)
Against Defendants

77. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

78. Labor Code § 226.7 requires employers to provide employees meal breaks as mandated by Order of the Industrial Welfare Commission. It states:

- a. No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- b. If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee 1 additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

79. Labor Code § 512(a) and the applicable Wage Order(s) provide that an employer may not employ a person for a work period of more than 5 hours per day without providing that employee a meal period of not less than 30 minutes, except that if the total work period per day is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ a person for a work period of more than 10 hours per day without providing an employee with a second meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than twelve 12 hours, the meal period may be waived by mutual consent of both the employer and the employee, and if the first meal period was not waived.

80. During the relevant time period, Plaintiff and Defendants' other hourly, non-exempt employees were not provided with compliant meal breaks, nor did they receive an additional hour of premium pay for each missed meal break.

81. Wherefore, Plaintiff and the other members of the Meal Break Class have been injured as set forth above and request relief as hereafter provided.

FOURTH CAUSE OF ACTION
VIOLATION OF LABOR CODE §§ 226.7, 512 and IWC WAGE ORDERS
(Failure to Provide Rest Periods)
Against Defendants

82. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

83. Labor Code § 226.7 requires employers to provide employees rest periods as mandated by Order of the Industrial Welfare Commission. It states:

- a. No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- b. If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee 1 additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided

84. The applicable Wage Order(s) provides that every "employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof..." The applicable Wage Order further provides that "[i]f an employer fails to provide an employee rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

85. During the relevant time period, Plaintiff and Defendants' other hourly, non-exempt employees were not provided with compliant rest breaks, nor did they receive an additional hour of premium pay for each missed rest break.

86. Wherefore, Plaintiff and the other members of the Rest Break Class have been injured as set forth above and request relief as hereafter provided.

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FIFTH CAUSE OF ACTION
VIOLATION OF LABOR CODE §§ 201, ET SEQ.
(Failure to Pay All Wages Due and Owing at End of Employment)
Against Defendants

87. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

88. California Labor Code section 201 provides that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.

89. California Labor Code section 202 requires an employer to pay an employee all earned wages within 72 hours of the employee quitting his or her employment, or immediately at the time of quitting if the employee has given 72 hours previous notice of his or her intention to quit.

90. As set forth above, Plaintiff and Defendants' other hourly, non-exempt employees were not timely paid all of their earned but unpaid wages, including minimum wage, overtime, and meal and rest break premiums, when their employment with Defendants ended.

91. Wherefore, Plaintiff and the other members of the Waiting Time Penalty Class have been injured as set forth above and request relief as hereafter provided.

SIXTH CAUSE OF ACTION
VIOLATION OF LABOR CODE § 226(a)
(Failure to Furnish Accurate Itemized Wage Statements)
Against Defendants

92. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

93. Pursuant to California Labor Code section 226(a) "every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when the wages are paid by personal check or cash, an accurate itemized 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 basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the

1 employee and only the last four digits of his or her social security number or an employee
2 identification number, (8) the name and address of the legal entity that is the employer [. . .], (9) all
3 applicable hourly rates in effect during the pay period and corresponding number of hours worked at
4 each hourly rate by the employee and, if the employer is a temporary services employer [. . .], the rate
5 of pay and the total hours worked for each temporary services assignment.”

6 94. An employee suffering injury as a result of the knowing and intentional failure by an
7 employer to comply with Labor Code section 226(a) is entitled to recover the greater of all actual
8 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
9 dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the aggregate
10 penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable
11 attorney’s fees. Labor Code § 226(e)(1).

12 95. An employee is deemed to suffer injury if the employer fails to provide a wage
13 statement or if the employer fails to provide accurate and complete information as required by any one
14 or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and
15 easily determine from the wage statement alone, i) the amount of gross/net wages paid to the employee
16 during the pay period or any of the other information required to be provided pursuant to Labor Code
17 section 226(a) items (2) to (4), inclusive, (6) and (9), ii) deductions made by the employer, iii) the
18 name and address of the employer and iv) the name of the employee and the last four digits of his or
19 her social security number or employee identification number. Labor Code § 226(e)(2)(A) and (B)(i)-
20 (iv). “Promptly and easily determine” means a reasonable person would be able to readily ascertain
21 the information without reference to other documents or information. Labor Code § 226(e)(2)(C).

22 96. As set forth above, Defendants intentionally and willfully failed to furnish accurate
23 itemized wage statements which complied with Labor Code section 226.

24 97. Wherefore, Plaintiff and the other members of the Wage Statement Class have been
25 injured as set forth above and request relief as hereafter provided.

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SEVENTH CAUSE OF ACTION
VIOLATION OF CALIFORNIA LABOR CODE § 2802
(Failure to Reimburse Business Expenses)
Against Defendants

98. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

99. Labor Code section 2802 requires employers to reimburse their employees for business expenses reasonably incurred in the performance of their job duties.

100. As set forth above, Defendants have failed to reimbursement their non-exempt employees for expenses incurred as a direct consequence of the performance of their job duties.

101. Wherefore, Plaintiff and the other members of the 2802 Class have been injured as set forth above and request relief as hereafter provided.

EIGHTH CAUSE OF ACTION
VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE §§ 17200 *ET SEQ.*
(Unfair Business Practices)
Against Defendants

102. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

103. The statutory violations, as alleged above, are unfair business practices within the meaning of the Unfair Competition Law (Business and Professions Code sections 17200 *et seq*), and include, but are not limited to failing to properly pay minimum and overtime wages and failing to provide complaint meal and rest breaks or to pay premiums associated with the same.

104. Wherefore, Plaintiff and the other members of the Class have been damaged as set forth above and request relief as hereafter provided.

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NINTH CAUSE OF ACTION
VIOLATION OF GOVERNMENT CODE SECTION 12940(j)
(Harassment)
Against Defendants and Christina Baker

105. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

106. The FEHA explicitly prohibits any employer or any other person from harassing an employee on the basis of sex, gender, or physical disability. Gov. Code § 12940(j)(1). In addition, an employee is personally liable for any harassment prohibited under Gov. Code § 12940 that is perpetrated by the employee. Gov. Code § 12940(j)(3).

107. Defendants were at all times material herein Plaintiff's employer pursuant to Gov. Code § 12940(j)(4) and were therefore barred from harassing their employees based on disability and/or perceived disability. Ms. Baker was a supervisor as defined under Gov. Code § 12926(t) and Defendants are thus responsible for her harassing conduct as well.

108. The harassing conduct engaged in by Defendants and Ms. Baker, and ratified by Defendants (including through Ms. Baker), as set forth in the preceding paragraphs, created a hostile and abusive working environment for Plaintiff in violation of Gov. Code § 12940(j). The Defendants and each of them and/or their agents/employees, including Baker, harassed Plaintiff and/or failed to take immediate and appropriate corrective action. The harassment, which included Ms. Baker making numerous inappropriate and offensive comments regarding Plaintiff's disability, was sufficiently pervasive and severe as to alter the conditions of Plaintiff's employment and to create a hostile or abusive work environment.

109. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner in order to injure or damage Plaintiff, thereby justifying an award to her of punitive damages.

110. As a direct and proximate result of Defendants' conduct, Plaintiff has been harmed and requests relief as hereafter provided.

TENTH CAUSE OF ACTION
VIOLATION OF GOVERNMENT CODE SECTION 12940(a)
(Disability Discrimination)
Against Defendants and Does 1-100

111. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

112. The FEHA explicitly prohibits an employer from refusing to hire or employ a person, discharging a person from employment, or discriminating against such person in compensation or in terms, conditions or privileges of employment on the basis of physical disability or medical condition. Gov. Code § 12940(a).

113. Defendants were at all times material herein Plaintiff's employer pursuant to Gov. Code § 12926(d) and were therefore barred from discriminating against their employees based on disability and/or perceived disability

114. At all times herein mentioned, Plaintiff was qualified for her position with Defendants based upon her work experience and performance history.

115. Defendants were at all times material herein Plaintiff's employer pursuant to Gov. Code § 12926(d) and were therefore barred from discriminating against their employees based on disability and/or perceived disability.

116. Nevertheless, as set forth above, Defendants discriminated against Plaintiff based on disability, perceived disability, and/or future perceived disability, in violation of Gov. Code § 12940(a).

117. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner in order to injure or damage Plaintiff, thereby justifying an award to her of punitive damages.

118. As a direct and proximate result of Defendants' conduct, Plaintiff has been harmed and requests relief as hereafter provided.

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ELEVENTH CAUSE OF ACTION
VIOLATION OF GOVERNMENT CODE SECTION 12940(h)
(Failure to Accommodate)
Against Defendants and Does 1-100

119. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

120. The FEHA requires an employer to “make reasonable accommodation for the known physical or mental disability of an applicant or employee.” Gov. Code § 12940(m).

121. Defendants at all times material herein were Plaintiffs’ employer pursuant to Gov. Code § 12926(d), knew of her disability(ies) and were required to reasonably accommodate her pursuant to Gov. Code § 12940(m).

122. Nevertheless, as set forth above, Defendants failed to reasonably accommodate Plaintiff.

123. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner in order to injure or damage Plaintiff, thereby justifying an award to her of punitive damages.

124. As a direct and proximate result of Defendants’ conduct, Plaintiff has been harmed and requests relief as hereafter provided.

TWELFTH CAUSE OF ACTION
VIOLATION OF GOVERNMENT CODE SECTION 12940(h)
(Failure to Engage in the Interactive Process)
Against Defendants and Does 1-100

125. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

126. The FEHA requires an employer “to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical disability or known medical condition.” Gov. Code § 12940(n).

1 127. Defendants at all times material herein were Plaintiff's employer pursuant to Gov. Code
2 § 12926(d), had knowledge of her disability and were required to engage in the interactive process
3 pursuant to Gov. Code § 12940(n).

4 128. Nevertheless, as set forth above, Defendants failed to engage in a timely, good faith
5 interactive process with Plaintiff.

6 129. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or
7 managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner
8 in order to injure or damage Plaintiff, thereby justifying an award to her of punitive damages.

9 130. As a direct and proximate result of Defendants' conduct, Plaintiff has been harmed and
10 requests relief as hereafter provided.

11 **THIRTEENTH CAUSE OF ACTION**
12 **VIOLATION OF GOVERNMENT CODE SECTION 12940(h)**
13 **(Retaliation)**
14 **Against Defendants and Does 1-100**

15 131. Plaintiff hereby realleges and incorporates by reference each and every allegation set
16 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
17 allegations of this cause of action.

18 132. The FEHA explicitly prohibits any employer or any other person from discharging,
19 expelling or discriminating against any person because the person has opposed any practices forbidden
20 by the FEHA or because the person has filed a complaint, testified or assisted in any proceeding under
21 the FEHA. Gov. Code § 12940(h).

22 133. Defendants were at all times material herein Plaintiff's employer pursuant to Gov.
23 12926(d) and 12945.2(c)(2) and was therefore barred from retaliating against its employees pursuant
24 to Government Code section 12940(h).

25 134. Nevertheless, as set forth above, Defendants retaliated against Plaintiff in violation of
26 Government Code section 12940(h).

27 135. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or
28 managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner
in order to injure or damage Plaintiff, thereby justifying an award to her of punitive damages.

136. As a direct and proximate result of Defendants' conduct, Titus has been harmed and requests relief as hereafter provided.

FOURTEENTH CAUSE OF ACTION
VIOLATION OF GOVERNMENT CODE SECTION 12940(k)
(Failure to Prevent)
Against Defendants and Does 1-100

137. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

138. The FEHA requires an employer to "take all reasonable steps necessary to prevent discrimination and harassment from occurring." Gov. Code § 12940(k).

139. Nevertheless, as set forth above, Defendants failed to prevent and remedy the discrimination and retaliation against Plaintiff.

140. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner in order to injure or damage Plaintiff, thereby justifying an award to her of punitive damages.

141. As a direct and proximate result of Defendants' conduct, Plaintiff has been harmed and requests relief as hereafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs prays judgment against Defendants as follows:

As to the First through Eighth Causes of Action:

1. That this Court certify the Class;
2. That this Court appoint Plaintiff as representative of the Class;
3. That this Court appoint Mayall Hurley, P.C. as Class Counsel;
4. That this Court award actual, compensatory, special, and general damages as well as restitutionary relief to Plaintiff and the members of the Class;
5. That this Court award injunctive relief, including that available under Labor Code sections 226(h) and Business and Professions Code Section 17203;

6. That this Court award penalties and liquidated damages including, but not limited to, those available under Labor Code sections 203, 226, 226.7, 512 and 1194.2;
7. That this Court award statutory attorneys' fees and costs, including those available under Labor Code sections 218.5, 226(e)(1), and 1194 as well as Code of Civil Procedure section 1021.5;
8. That this Court award prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law; and
9. That this Court award such other and further relief as the court deems just and proper.

As to the Ninth through Fourteenth Causes of Action:

1. For economic (special) and non-economic (general) damages in an amount yet unknown, but in excess of the minimum jurisdictional limit of this Court;
2. For injunctive relief pursuant to Government Code section 19265(c);
3. For punitive and/or exemplary damages;
4. For statutory attorneys' fees and costs, including those available under Government Code section 12965(b);
5. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including that available under Civil Code sections 3287(a) and 3289(b);
6. For such other and further relief as the Court deems just and proper.

DATED: December 22, 2023

MAYALL HURLEY P.C.

By



ROBERT J. WASSERMANN
JENNY D. BAYSINGER
Attorneys for Plaintiff and the Putative Class

EXHIBIT A

