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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF RIVERSIDE

DELFINO OSORIO,

Plaintiff,

v.

GDT FRAMING, INC.;

DOES 1 THROUGH 100, inclusive,

Defendants.

) Case No.: **CVRI 2400473**

) **COMPLAINT FOR DAMAGES:**

) **(1) ACTUAL/PERCEIVED DISABILITY**
) **HARASSMENT, VIOLATION OF**
) **CAL. GOV. CODE §§ 12940 ET SEQ.;**

) **(2) ACTUAL/PERCEIVED DISABILITY**
) **DISCRIMINATION, VIOLATION OF**
) **CAL. GOV. CODE §§ 12940 ET SEQ.;**

) **(3) ACTUAL/PERCEIVED DISABILITY**
) **RETALIATION, VIOLATION OF**
) **CAL. GOV. CODE §§ 12940 ET SEQ.;**

) **(4) FAILURE TO ENGAGE IN THE**
) **MANDATORY GOOD-FAITH**
) **INTERACTIVE PROCESS,**
) **VIOLATION OF CAL. GOV. CODE**
) **§§ 12940 ET SEQ.;**

) **(5) FAILURE TO ACCOMMODATE,**
) **VIOLATION OF CAL. GOV. CODE**
) **§§ 12940 ET SEQ.;**

) **(6) WHISTLEBLOWER VIOLATIONS,**
) **CAL. LABOR CODE §1102.5.**

) **(7) FAILURE TO PROVIDE MEAL AND**
) **REST PERIODS, VIOLATION OF**
) **CAL. LABOR CODE §§ 226.7, 512 &**
) **IWC WAGE ORDER NO. 4;**

) **(8) FAILURE TO FURNISH**
) **COMPLIANT WAGE STATEMENTS**
) **AND MAINTAIN ACCURATE PAY**
) **RECORDS, VIOLATION OF CAL.**
) **LABOR CODE §§ 226, 1174(D), 1198;**

- 1) (9) **FAILURE TO PAY WAGES FOR**
2) **ALL HOURS WORKED IN**
3) **VIOLATION OF CAL. LABOR**
4) **CODE § 210;**
5) (10) **UNFAIR BUSINESS PRACTICES,**
6) **VIOLATION OF CAL. BUS. & PROF.**
7) **CODE §§ 17200 ET SEQ.;**
8) (11) **RETALIATION AND WRONGFUL**
9) **TERMINATION IN VIOLATION OF**
10) **PUBLIC POLICY; AND**
11) (12) **CIVIL PENALTIES UNDER PAGA,**
12) **VIOLATION OF CAL. LABOR**
13) **CODE §§ 2698, 2699, AND PAGA.**
14) **JURY TRIAL DEMANDED**

12 COMES NOW PLAINTIFF DELFINO OSORIO (hereinafter referred to as “Osorio” or
13 “Plaintiff”) and complains against the above-named Defendants and for causes of action against
14 the Defendants as follows:

15 **I.**

16 **FIRST CAUSE OF ACTION**

17 **For Actual/Perceived Disability Harassment in Employment**

18 **[California Government Code §§ 12940 et seq.]**

19 **Against All Defendants & DOES 1 Through 100, Inclusive**

20 1. At all times mentioned herein, Plaintiff was, and now is, an individual domiciled in the
21 County of Riverside, State of California.

22 2. Plaintiff is informed and believes, and thereon alleges that at all times relevant herein,
23 Defendant GDT FRAMING, INC. was, and now is, a corporation organized and existing under
24 the laws of the State of California, having their principal places of business in Norco, State of
25 California.

26 3. Plaintiff is ignorant of the true names and capacities, whether corporate, associate,
27 individual, or otherwise, of Defendants sued herein as DOES 1 through 100, inclusive, and
28 therefore sues said Defendants by such fictitious names. Plaintiff will seek leave of Court to

1 amend this Complaint to assert the true names and capacities of the fictitiously named
2 Defendants when the same have been ascertained. Plaintiff is informed and believes, and thereon
3 alleges, that each Defendants designated as “DOES” herein is legally responsible for the events,
4 happenings, acts, occurrences, indebtedness, damages and liabilities hereinafter alleged and
5 caused injuries and damages proximately thereby to the Plaintiff, as hereinafter alleged.

6 4. Plaintiff is informed, believes, and herein alleges that at all times relevant herein, a unity
7 of interest and ownership existed between Defendants and DOES 1 through 100, such that
8 individuality and separateness between these entities had ceased and that they were actually the
9 alter ego of one another.

10 5. Plaintiff is informed, believes, and herein also alleges that at all times relevant herein,
11 Defendants and DOES 1 through 100, were used merely as shells, instrumentalities, and/or
12 conduits of one another and by which the others were doing business.

13 6. Plaintiff is further informed and herein alleges that despite the formation of purported
14 corporate existence, Defendants and DOES 1 through 100, are in reality, one and the same thing.

15 7. Plaintiff is informed and believes, and herein further alleges, that the business affairs of
16 Defendants and DOES 1 through 100, are, and at all times relevant hereto, were, so mixed and
17 intermingled that the same cannot reasonable be segregated, and the same are in inextricable
18 confusion.

19 8. Accordingly, Defendants and DOES 1 through 100, constitute the alter egos for each
20 other and the fiction of their separate existence must be disregarded in the interest of justice.

21 9. At all times relevant herein, Plaintiff performed services for each and all of Defendants,
22 and to the mutual benefit of all Defendants, and all Defendants shared control of Plaintiff as an
23 employee, either directly or indirectly, and the manner in which Defendants’ business was and is
24 conducted.

25 10. Plaintiff is informed and believes and thereon alleges that each of the Defendants named
26 herein and DOES, has at all times relevant to this action, been the officer, agent, employee
27 and/or representative of the remaining Defendants and has acted within the course and scope of
28 such agency and employment, and with the permission and consent of the co-defendants.

11. Plaintiff began working at GDT Framing, Inc. as a Carpenter on February 7, 2023 until he was wrongfully terminated on or about April 21, 2023.

12. Defendants employed at least five employees during all relevant time periods of Plaintiff's employment.

13. At all relevant times herein, Plaintiff was an actual, perceived, and/or potentially disabled person within the meaning of California Government Code §§ 12926.1(b) et seq., because he was a person with an actual, perceived, potentially disabling, and/or potentially disabling in the future physical/mental disability(s) including, but not limited to: back injury(ies), chronic back pain, and other related disabilities. As such, Plaintiff was a member of a protected class pursuant to the Fair Employment & Housing Act ("FEHA).

14. Plaintiff's impairments affect Plaintiff's musculoskeletal body system and ability to perform major life activities, such as working.

15. At all times relevant herein, Plaintiff was able to perform the essential functions of Plaintiff's job either with and/or without reasonable accommodations.

16. At least some of Plaintiff's aforesaid disabilities were caused and/or exacerbated by the hostile work environment he was subjected to by Defendants.

17. At all times relevant times herein, Defendants were on notice of Plaintiff's disabilities, need for accommodations, and/or need for legally protected medical leave.

18. On a severe and/or pervasive basis throughout Plaintiff's employment, Defendants and DOES 1 through 100, and each of them, harassed Plaintiff due to Plaintiff's actual and/or perceived physical disability(s), need for accommodations, and/or need for legally protected medical leave through the following actions, among others:

- a) On or about March 6, 2023, Plaintiff suffered from actual/perceived disability(ies) in the form of an injury to his back. Plaintiff immediately notified Foreman Luis Doe. The same day, Plaintiff visited a clinic and was provided with work restrictions prohibiting lifting over 15 pounds, squatting, kneeling, and climbing. The following day, Plaintiff returned to work and continued working his regular duties.

b) Instead of engaging in the good-faith interactive process with Plaintiff and despite Plaintiff's ability to work with reasonable accommodations, Defendants terminated Plaintiff's employment on or about April 21, 2023 due to Plaintiff allegedly "no longer being able to perform the job." Defendants demonstrated their discriminatory animus towards Plaintiff due to his actual/perceived disability(ies) and need for accommodations as Human Resources stated to Plaintiff:

i. "You are faking your injury."

ii. "We have records of you being injured at another job."

iii. "Medical fees are expensive."

c) At least through April 21, 2023, and continuing, Defendants failed and/or refused to rehire/reinstate Plaintiff, and/or offer Plaintiff employment in any capacity, and/or initiate an investigation.

19. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them, were substantially motivated by Plaintiff's actual/perceived disabilities, need for accommodations, and/or need for legally protected finite medical leave.

20. A reasonable person in Plaintiff's circumstances would have considered the work environment to be hostile or abusive.

21. Plaintiff considered the work environment to be hostile or abusive towards Plaintiff and disabled individuals, and favorable to non-disabled individuals.

22. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or its agents/representatives failed to timely, properly, and/or completely investigate the harassment Plaintiff was routinely subjected to and ratified and condoned the unlawful behavior.

23. The acts and conduct of Defendants and DOES 1 through 100, and each of them, as aforesaid, were in violation of Cal. Gov. Code §§ 12940 et seq. Said statutes impose certain duties upon Defendants concerning harassment against persons, such as Plaintiff, on the basis of actual/perceived disabilities and the prohibition of actual/perceived disability harassment. Said statutes were intended to prevent the type of disability and damage herein set forth.

24. By the acts and conduct described above, Defendants and DOES 1 through 100, and each of them, in violation of said statutes, knew about, or should have known about, and failed to investigate and/or properly investigate, prevent, or remedy the disability harassment.

25. Prior to the initiation of this lawsuit, Plaintiff filed a timely complaint against each named Defendant with the California Civil Rights Department (“CRD”) pursuant to Cal. Gov. Code §§ 12900 et seq. and has received Right-to-Sue notices in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Attached hereto and incorporated herein as Exhibit “A” are said Complaints and by reference hereto are made a part hereof. Attached hereto and incorporated herein as Exhibit “B” are said Right-to-Sue notices and by reference hereto are made a part hereof. Plaintiff has therefore exhausted Plaintiff’s administrative remedies under the Cal. Gov. Code.

26. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through 100, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and/or externally, and/or suffered, among other things, numerous internal injuries, severe fright, shock, pain, discomfort and/or anxiety.

27. As a further legal result of the acts and omissions of Defendants and DOES 1 through 100, Plaintiff has been forced and/or will be forced to incur expenses for medical care, X-rays, and/or laboratory costs during the period of Plaintiff’s disability, and/or is informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

28. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully and/or partially in Plaintiff’s occupation, and is informed and believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or unable to perform Plaintiff’s usual work for an indefinite period of time in the future, all to Plaintiff’s damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

29. As a further direct and legal result of the acts and conduct of Defendants and DOES 1 through 100, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent emotional and/or mental distress and/or anguish, humiliation, embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

30. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and/or ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code § 3294(a) and (b).

31. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorneys' fees, and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

32. As a result of the harassing acts of Defendants and DOES 1 through 100, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Gov. Code § 12965(b).

33. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

34. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

1 II.

2 **SECOND CAUSE OF ACTION**

3 **For Actual/Perceived Disability Discrimination in Employment**

4 **[California Government Code §§ 12940 et seq.]**

5 **Against All Defendants & DOES 1 Through 100, Inclusive**

6 35. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
7 Complaint as though duly set forth in full herein.

8 36. Plaintiff began working at GDT Framing, Inc. as a Carpenter on February 7, 2023 until
9 he was wrongfully terminated on or about April 21, 2023.

10 37. Defendants employed at least five employees during all relevant time periods of
11 Plaintiff's employment.

12 38. At all relevant times herein, Plaintiff was an actual, perceived, and/or potentially disabled
13 person within the meaning of California Government Code §§ 12926.1(b) et seq., because he
14 was a person with an actual, perceived, potentially disabling, and/or potentially disabling in the
15 future physical/mental disability(s) including, but not limited to: chronic back pain, and other
16 related disabilities.

17 39. At all times relevant herein, Defendants had notice of Plaintiff's disabilities and/or need
18 for accommodations.

19 40. Plaintiff's impairments affect Plaintiff's mental and physical health and ability to perform
20 major life activities, such as working.

21 41. At all times relevant herein, as an employee disabled by a severe and debilitating
22 physical/mental disability, Plaintiff was a member of a protected class.

23 42. At all times relevant herein, Plaintiff was qualified for and/or competently performed the
24 position(s) held throughout Plaintiff's employment with Defendants.

25 43. At all times relevant herein, Plaintiff was able to perform the essential functions of
26 Plaintiff's job either with and/or without reasonable accommodations.

27 44. Starting during Plaintiff's employment, and continuing through April 21, 2023, as a result
28 of and substantially motivated by Plaintiff's actual/perceived disabilities, need for

1 accommodations, and/or need for protected finite leave, Defendants and DOES 1 through 100,
2 and each of them, subjected Plaintiff to discriminatory treatment and/or adverse employment
3 actions, including the following actions, among others:

4 a) On or about March 6, 2023, Plaintiff suffered from actual/perceived disability(ies)
5 in the form of an injury to his back. Plaintiff immediately notified Foreman Luis Doe.
6 The same day, Plaintiff visited a clinic and was provided with work restrictions
7 prohibiting lifting over 15 pounds, squatting, kneeling, and climbing. The following day,
8 Plaintiff returned to work and continued working his regular duties.

9 b) Instead of engaging in the good-faith interactive process with Plaintiff and despite
10 Plaintiff's ability to work with reasonable accommodations, Defendants terminated
11 Plaintiff's employment on or about April 21, 2023 due to Plaintiff allegedly "no longer
12 being able to perform the job." Defendants demonstrated their discriminatory animus
13 towards Plaintiff due to his actual/perceived disability(ies) and need for accommodations
14 as Human Resources stated to Plaintiff:

15 i. "You are faking your injury."

16 ii. "We have records of you being injured at another job."

17 iii. "Medical fees are expensive."

18 c) At least through April 21, 2023, and continuing, Defendants failed and/or refused
19 to rehire/reinstate Plaintiff, and/or offer Plaintiff employment in any capacity, and/or
20 initiate an investigation.

21 45. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them,
22 were substantially motivated by Plaintiff's actual/perceived disabilities, need for
23 accommodations, and/or need for legally protected finite medical leave.

24 46. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or
25 its agents/representatives failed to timely, properly, and/or completely investigate the
26 discrimination Plaintiff was routinely subjected to and ratified and condoned the unlawful
27 behavior.

1 47. The acts and conduct of Defendants and DOES 1 through 100, and each of them, as
2 aforesaid, were in violation of Cal. Gov. Code §§ 12940 et seq. Said statutes impose certain
3 duties upon Defendants concerning discrimination against persons, such as Plaintiff, on the basis
4 of disabilities and the prohibition of disability discrimination. Said statutes were intended to
5 prevent the type of injury and damage herein set forth.

6 48. By the acts and conduct described above, Defendants and DOES 1 through 100, and each
7 of them, in violation of said statutes, knew about, or should have known about, and failed to
8 investigate and/or properly investigate, prevent or remedy the actual/perceived disability
9 discrimination. When Plaintiff was discriminated against, Plaintiff's actual/perceived
10 disability(s) were substantial motivating reasons and/or factors in Defendants' conduct.

11 49. Prior to the initiation of this lawsuit, Plaintiff filed a timely complaint against each named
12 Defendant with the CRD pursuant to Cal. Gov. Code §§ 12900 et seq. and has received Right-to-
13 Sue notices in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Attached
14 hereto and incorporated herein as Exhibit "A" are said Complaints and by reference hereto are
15 made a part hereof. Attached hereto and incorporated herein as Exhibit "B" are said Right-to-Sue
16 notices and by reference hereto are made a part hereof. Plaintiff has therefore exhausted
17 Plaintiff's administrative remedies under the Cal. Gov. Code.

18 50. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
19 100, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and/or
20 externally, and/or suffered, among other things, numerous internal injuries, severe fright, shock,
21 pain, discomfort and/or anxiety.

22 51. As a further legal result of the acts and omissions of Defendants and DOES 1 through
23 100, Plaintiff has been forced and/or will be forced to incur expenses for medical care, X-rays,
24 and/or laboratory costs during the period of Plaintiff's disability, and/or is informed and believes,
25 and thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the
26 same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to
27 show the exact amount of said expenses at the time of trial.
28

52. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully and/or partially in Plaintiff's occupation, and is informed and believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

53. As a further direct and legal result of the acts and conduct of Defendants and DOES 1 through 100, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent emotional and/or mental distress and/or anguish, humiliation, embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

54. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and/or ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code § 3294(a) and (b).

55. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorneys' fees, and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

56. As a result of the discriminatory acts of Defendants and DOES 1 through 100, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Gov. Code § 12965(b).

57. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

58. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

III.

THIRD CAUSE OF ACTION

For Actual/Perceived Disability Retaliation in Employment

[California Government Code §§ 12940 et seq.]

Against All Defendants & DOES 1 Through 100, Inclusive

59. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

60. Plaintiff began working at GDT Framing, Inc. as a Carpenter on February 7, 2023 until he was wrongfully terminated on or about April 21, 2023.

61. Defendants employed at least five employees during all relevant time periods of Plaintiff's employment.

62. Plaintiff was, at all times material hereto, a disabled employee (and one who engaged in legally protected conduct) and within a protected class covered by Cal. Gov. Code § 12940, as Plaintiff suffered physical/mental disability(s) including, but not limited to: chronic back pain, and other related disabilities.

63. Plaintiff's impairments affect Plaintiff's mental and physical health and ability to perform major life activities, such as working.

64. Starting during Plaintiff's employment, and continuing through January 10, 2023, Defendants retaliated against Plaintiff as a result of Plaintiff asserting his legal rights and/or complaining about and/or protesting against the disability harassment and discrimination Plaintiff was subjected to.

65. Plaintiff asserted his legal rights, for example partaking in protected activity and protesting and complaining, on the following occasions, among others:

1 a) Plaintiff engaged in legally protected activity by notifying his employer of his
2 disabilities, need for accommodations, need to seek medical treatment, and/or need for
3 legally protected medical leave.

4 66. However, Defendants and DOES 1 through 100, and each of them, retaliated against
5 Plaintiff, due to and substantially motivated by Plaintiff's actual/perceived disability(s),
6 requesting accommodations, or protected finite leave, and/or due to Plaintiff engaging in the
7 aforesaid legally protected activities (complaints/protests), through the following actions, among
8 others:

9 a) Plaintiff was treated differently, disparately, and negatively because of his
10 complaints of disability harassment and discrimination, including but not limited to
11 Defendants harassing Plaintiff (as aforesaid), failing to initiate and thereafter participate
12 in the mandatory good-faith interactive process to determine the nature and extent of
13 Plaintiff's disabilities and determine whether reasonable accommodations were possible,
14 failing to provide Plaintiff reasonable accommodations, denying Plaintiff opportunities,
15 unfairly disciplining Plaintiff, overly monitoring and scrutinizing Plaintiff, denying
16 Plaintiff benefits, reducing Plaintiff's work hours, and refusing to return Plaintiff back to
17 Plaintiff's former position or offer Plaintiff employment in any capacity.

18 b) During Plaintiff's employment, Plaintiff was subjected to disparate treatment due
19 to his actual/perceived disability(ies).

20 c) On or about March 6, 2023, Plaintiff suffered from actual/perceived disability(ies)
21 in the form of an injury to his back. Plaintiff immediately notified Foreman Luis Doe.
22 The same day, Plaintiff visited a clinic and was provided with work restrictions
23 prohibiting lifting over 15 pounds, squatting, kneeling, and climbing. The following day,
24 Plaintiff returned to work and continued working his regular duties.

25 d) Instead of engaging in the good-faith interactive process with Plaintiff and despite
26 Plaintiff's ability to work with reasonable accommodations, Defendants terminated
27 Plaintiff's employment on or about April 21, 2023 due to Plaintiff allegedly "no longer
28 being able to perform the job." Defendants demonstrated their discriminatory animus

1 towards Plaintiff due to his actual/perceived disability(ies) and need for accommodations
2 as Human Resources stated to Plaintiff:

3 i. “You are faking your injury.”

4 ii. “We have records of you being injured at another job.”

5 iii. “Medical fees are expensive.”

6 e) At least through April 21, 2023, and continuing, Defendants failed and/or refused
7 to rehire/reinstate Plaintiff, and/or offer Plaintiff employment in any capacity, and/or
8 initiate an investigation.

9 67. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them,
10 were substantially motivated by Plaintiff’s actual/perceived disabilities, need for
11 accommodations, need for legally protected medical leave, and/or aforesaid legally protected
12 activities (complaints/protests).

13 68. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or
14 its agents/representatives failed to timely, properly, and/or completely investigate the retaliation
15 Plaintiff was routinely subjected to and ratified and condoned the unlawful behavior.

16 69. The acts and conduct of Defendants and DOES 1 through 100, and each of them, as
17 aforesaid, were in violation of Cal. Gov. Code §§ 12940 et seq. Said statutes impose certain
18 duties upon Defendants, and each of them, concerning retaliation against persons, such as
19 Plaintiff, on the basis of disabilities and the prohibition of actual/perceived disability retaliation.
20 Said statutes were intended to prevent the type of injury and damage herein set forth.

21 70. By the acts and conduct described above, Defendants and DOES 1 through 100, and each
22 of them, in violation of said statutes, knew about, or should have known about, and failed to
23 investigate and/or properly investigate, prevent, or remedy the disability retaliation. When
24 Plaintiff was retaliated against, Plaintiff’s disability(ies) and/or complaints about the unlawful
25 conduct were substantial motivating reasons and/or factors in Defendants’ conduct.

26 71. Prior to the initiation of this lawsuit, Plaintiff filed a timely complaint against each named
27 Defendant with the CRD pursuant to Cal. Gov. Code §§ 12900 et seq. and has received Right-to-
28 Sue notices in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Attached

hereto and incorporated herein as Exhibit “A” are said Complaints and by reference hereto are made a part hereof. Attached hereto and incorporated herein as Exhibit “B” are said Right-to-Sue notices and by reference hereto are made a part hereof. Plaintiff has therefore exhausted Plaintiff’s administrative remedies under the Cal. Gov. Code.

72. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through 100, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and/or externally, and/or suffered, among other things, numerous internal injuries, severe fright, shock, pain, discomfort and/or anxiety.

73. As a further legal result of the acts and omissions of Defendants and DOES 1 through 100, Plaintiff has been forced and/or will be forced to incur expenses for medical care, X-rays, and/or laboratory costs during the period of Plaintiff’s disability, and/or is informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

74. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully and/or partially in Plaintiff’s occupation, and is informed and believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or unable to perform Plaintiff’s usual work for an indefinite period of time in the future, all to Plaintiff’s damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

75. As a further direct and legal result of the acts and conduct of Defendants and DOES 1 through 100, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent emotional and/or mental distress and/or anguish, humiliation, embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

76. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by

managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and/or ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code § 3294(a) and (b).

77. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorneys' fees, and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

78. As a result of the retaliatory acts of Defendants and DOES 1 through 100, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Gov. Code § 12965(b).

79. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

80. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

IV.

FOURTH CAUSE OF ACTION

Failure to Engage in the Mandatory Good-Faith Interactive Process

[California Government Code §§ 12940 et seq.]

Against All Defendants & DOES 1 Through 100, Inclusive

81. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

82. At all times relevant herein, Plaintiff was an actual, perceived, and/or potentially disabled person within the meaning of Cal. Gov. Code §§ 12926.1(b) et seq., because Plaintiff was a person with an actual, perceived, potentially disabling, and/or potentially disabling in the future

physical/mental disability(s) including, but not limited to: chronic back pain, and other related disabilities.

83. At all times relevant herein, Plaintiff's impairments affected and/or affect Plaintiff's mental and psychological condition and/or Plaintiff's physical body system, thereby affecting Plaintiff's ability to perform major life activities, such as working.

84. At all times relevant herein, Defendants failed to engage in a good-faith interactive process with Plaintiff to determine whether it would be possible to provide reasonable accommodations as required by Cal. Gov. Code § 12940.

85. California Gov. Code § 12940 generally provides that it is an unlawful employment practice for an employer or other entity covered by the FEHA to fail to engage in a timely, good-faith, interactive process with the employee to determine effective reasonable accommodations, if any, for an employee with a known physical or mental disability or known medical condition.

86. Defendants were an "employer" pursuant to Cal. Gov. Code §§ 12900 et seq. and therefore a covered entity.

87. At all times relevant herein, Plaintiff was an employee of Defendants.

88. At all times relevant herein, Plaintiff had physical and/or mental limitations resulting from Plaintiff's aforesaid disabilities, which were known to Defendants, as aforesaid.

89. At all times relevant herein, Plaintiff was willing to participate in an interactive process to determine whether reasonable accommodations could be made.

90. Pursuant to Cal. Code of Regs. § 11069(b)(2), an employer or other covered entity shall initiate an interactive process when the employer or other covered entity otherwise becomes aware of the need for an accommodation through a third party or by observation.

91. At all times relevant herein, Defendants were aware and/or had notice of Plaintiff's disabilities and/or need for accommodations pursuant to Cal. Code of Regs. § 11069(b)(2).

92. However, despite its duty to do so, Defendants failed to timely initiate and thereafter participate in a good-faith interactive process with Plaintiff to determine whether reasonable accommodations could be made.

93. Defendants' failure to engage in a good-faith interactive process was a substantial factor in causing Plaintiff's harm.

94. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them, were substantially motivated by Plaintiff's actual/perceived disabilities, need for accommodations, and/or need for legally protected finite medical leave.

95. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or its agents/representatives failed to timely, properly, and/or completely investigate the unlawful conduct Plaintiff was routinely subjected to, and instead ratified and condoned the unlawful behavior.

96. Prior to the initiation of this lawsuit, Plaintiff filed a timely complaint against each named Defendant with the CRD pursuant to Cal. Gov. Code §§ 12900 et seq. and has received Right-to-Sue notices in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Attached hereto and incorporated herein as Exhibit "A" are said Complaints and by reference hereto are made a part hereof. Attached hereto and incorporated herein as Exhibit "B" are said Right-to-Sue notices and by reference hereto are made a part hereof. Plaintiff has therefore exhausted Plaintiff's administrative remedies under the Cal. Gov. Code.

97. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through 100, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and externally, and/or suffered, among other things, numerous internal injuries, severe fright, shock, pain, discomfort and/or anxiety.

98. As a further legal result of the acts and omissions of Defendants and DOES 1 through 100, Plaintiff has been forced and/or will be forced to incur expenses for medical care, X-rays, and/or laboratory costs during the period of Plaintiff's disability, and is informed and believes, and thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

99. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and

believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to Plaintiff's damage in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

100. As a further direct and legal result of the acts and conduct of Defendants and DOES 1 through 100, Plaintiff has been caused, and did suffer, and continues to suffer severe and permanent emotional and mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

101. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and/or ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code § 3294(a) and (b).

102. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorney's fees, and/or other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

103. As a result of Defendants' failure to initiate and participate in the good-faith interactive process, as alleged herein, Plaintiff is entitled to reasonable attorney's fees and costs of said suit as specifically provided in Cal. Gov. Code § 12965(b).

104. The FEHA also provides remedies, including but not limited to, declaratory and injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

105. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

V.

FIFTH CAUSE OF ACTION

Failure to Provide Reasonable Accommodations

[California Government Code §§ 12940 et seq.]

Against All Defendants & DOES 1 Through 100, Inclusive

106. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

107. At all times relevant herein, Defendants failed to provide reasonable accommodations to Plaintiff's for injuries and/or disabilities as required by Cal. Gov. Code § 12940.

108. Defendants failed to provide reasonable accommodations to Plaintiff through the following, among others:

a) During Plaintiff's employment, Plaintiff was subjected to disparate treatment due to his actual/perceived disability(ies).

b) On or about March 6, 2023, Plaintiff suffered from actual/perceived disability(ies) in the form of an injury to his back. Plaintiff immediately notified Foreman Luis Doe. The same day, Plaintiff visited a clinic and was provided with work restrictions prohibiting lifting over 15 pounds, squatting, kneeling, and climbing. The following day, Plaintiff returned to work and continued working his regular duties.

c) Instead of engaging in the good-faith interactive process with Plaintiff and despite Plaintiff's ability to work with reasonable accommodations, Defendants terminated Plaintiff's employment on or about April 21, 2023 due to Plaintiff allegedly "no longer being able to perform the job." Defendants demonstrated their discriminatory animus towards Plaintiff due to his actual/perceived disability(ies) and need for accommodations as Human Resources stated to Plaintiff:

i. "You are faking your injury."

ii. "We have records of you being injured at another job."

iii. "Medical fees are expensive."

1 d) At least through April 21, 2023, and continuing, Defendants failed and/or refused
2 to rehire/reinstate Plaintiff, and/or offer Plaintiff employment in any capacity, and/or
3 initiate an investigation.

4 109. California Gov. Code § 12940 provides that it is an unlawful employment practice for an
5 employer or other entity covered by this part to fail to make reasonable accommodations for the
6 known physical or mental disability of an applicant or employee.

7 110. At all times relevant herein, Plaintiff was an actual, perceived, and/or potentially disabled
8 person within the meaning of Cal. Gov. Code §§ 12926.1(b) et seq., because Plaintiff was a
9 person with an actual, perceived, potentially disabling, and/or potentially disabling in the future
10 physical/mental disability(s) including, but not limited to: chronic back pain, and other related
11 disabilities.

12 111. Plaintiff is informed, believes, and herein alleges Defendants were an “employer”
13 pursuant to Cal. Gov. Code §§ 12900 et seq. and therefore a covered entity.

14 112. At all times relevant herein, Plaintiff was an employee of Defendants.

15 113. At all times relevant herein, Defendants were aware and/or had notice of Plaintiff’s
16 disabilities and/or need for accommodations pursuant to Cal. Code of Regs. § 11069(b)(2).

17 114. At all times relevant herein, Plaintiff was able to perform the essential job duties with
18 and/or without reasonable accommodations for Plaintiff’s disabilities.

19 115. Plaintiff was harmed as a result of Defendants’ failure to provide reasonable
20 accommodations.

21 116. Defendants’ failure to provide reasonable accommodations was a substantial factor in
22 causing Plaintiff’s harm.

23 117. At all times relevant herein, Plaintiff believes and further alleges that Defendants and/or
24 its agents/representatives failed to timely, properly, and/or completely investigate the unlawful
25 conduct Plaintiff was routinely subjected to, and instead ratified and condoned the unlawful
26 behavior.

1 118. In doing the acts alleged herein, Defendants and DOES 1 through 100, and each of them,
2 were substantially motivated by Plaintiff's actual/perceived disabilities, need for
3 accommodations, and/or need for legally protected finite medical leave.

4 119. Prior to the initiation of this lawsuit, Plaintiff filed a timely complaint against each named
5 Defendant with the CRD pursuant to Cal. Gov. Code §§ 12900 et seq. and has received Right-to-
6 Sue notices in a California Superior Court pursuant to Cal. Gov. Code § 12965(b). Attached
7 hereto and incorporated herein as Exhibit "A" are said Complaints and by reference hereto are
8 made a part hereof. Attached hereto and incorporated herein as Exhibit "B" are said Right-to-Sue
9 notices and by reference hereto are made a part hereof. Plaintiff has therefore exhausted
10 Plaintiff's administrative remedies under the Cal. Gov. Code.

11 120. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
12 100, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and
13 externally, and/or suffered, among other things, numerous internal injuries, severe fright, shock,
14 pain, discomfort and/or anxiety.

15 121. As a further legal result of the acts and omissions of Defendants and DOES 1 through
16 100, Plaintiff has been forced and/or will be forced to incur expenses for medical care, X-rays,
17 and/or laboratory costs during the period of Plaintiff's disability, and is informed and believes,
18 and thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the
19 same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to
20 show the exact amount of said expenses at the time of trial.

21 122. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since
22 said incidents has been unable to engage fully in Plaintiff's occupation, and is informed and
23 believes, and thereon alleges, that Plaintiff will be fully and/or partially incapacitated and/or
24 unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to
25 Plaintiff's damage in an amount which is at present unascertained. Plaintiff will pray leave of
26 court to show the total amount of loss of earnings at the time of trial.

27 123. As a further direct and legal result of the acts and conduct of Defendants and DOES 1
28 through 100, Plaintiff has been caused, and did suffer, and continues to suffer severe and

1 permanent emotional and mental distress and anguish, humiliation, embarrassment, fright, shock,
2 pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently
3 unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

4 124. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were
5 willful, wanton, malicious, intentional, oppressive and/or despicable and were done in willful
6 and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the
7 awarding of punitive and exemplary damages in an amount to be determined at the time of trial
8 pursuant to Cal. Civil Code § 3294(a) and (b).

9 125. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, Plaintiff has
10 been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333
11 including, but not limited to, loss of earnings and future earning capacity, medical and related
12 expenses for care and procedures both now and in the future, attorney's fees, and/or other
13 pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend
14 when ascertained.

15 126. As a result of Defendants' failure to initiate and participate in the good-faith interactive
16 process, as alleged herein, Plaintiff is entitled to reasonable attorney's fees and costs of said suit
17 as specifically provided in Cal. Gov. Code § 12965(b).

18 127. The FEHA also provides remedies, including but not limited to, declaratory and
19 injunctive relief. As such, Plaintiff is entitled to both declaratory and injunctive relief as a result
20 of Defendants' unlawful conduct.

21 128. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

22 **VI.**

23 **SIXTH CAUSE OF ACTION**

24 **For Whistleblower Violations**

25 **[California Labor Code § 1102.5]**

26 **Against All Defendants & DOES 1 Through 100, Inclusive**

27 129. Plaintiff incorporates herein by reference each and every paragraph in this Complaint as
28 though duly set forth in full herein.

1 130. Plaintiff began working at GDT Framing, Inc. as a Carpenter on February 7, 2023 until
2 he was wrongfully terminated on or about April 21, 2023.

3 131. Defendants retaliated against Plaintiff for blowing the whistle/complaining
4 about/protesting against its unlawful activities, including but not limited to disability harassment
5 discrimination, and retaliation, where Plaintiff had reasonable cause to believe Plaintiff's
6 employer was violating the law.

7 132. It is a violation of the California whistleblower statute, Cal. Labor Code § 1102.5, and
8 public policy to unlawfully retaliate/punish/discharge or deny opportunities to an employee for
9 refusing to violate the law and/or for protesting unlawful activities to a government agency or
10 his/her employer.

11 133. Plaintiff was a whistleblower pursuant to Cal. Labor Code § 1102.5, as Plaintiff engaged
12 in the following protected activities, among others:

13 a) Plaintiff complained to his managers and supervisors regarding the
14 aforementioned harassment, discrimination, and retaliation.

15 134. Accordingly, Defendants had and maintained a policy and/or practice which
16 prevented/prevents Plaintiff and other employees from complaining about and/or protesting
17 against his/her employer's violation(s) of law to a government agency, or reasonable belief that a
18 law(s) is being violated.

19 135. California Labor Code § 1102.5 declares:

20 (a) An employer, or any person acting on behalf of the employer, shall not make,
21 adopt, or enforce any rule, regulation, or policy preventing an employee from
22 disclosing information to a government or law enforcement agency, to a person
23 with authority over the employee, or to another employee who has authority to
24 investigate, discover, or correct the violation or noncompliance, or from providing
25 information to, or testifying before, any public body conducting an investigation,
26 hearing, or inquiry, if the employee has reasonable cause to believe that the
27 information discloses a violation of state or federal statute, or a violation of or
28 noncompliance with a local, state, or federal rule or regulation, regardless of
whether disclosing the information is part of the employee's job duties.

(b) An employer, or any person acting on behalf of the employer, shall not retaliate
against an employee for disclosing information, or because the employer believes
that the employee disclosed or may disclose information, to a government or law
enforcement agency, to a person with authority over the employee or another

1 employee who has the authority to investigate, discover, or correct the violation or
2 noncompliance, or for providing information to, or testifying before, any public
3 body conducting an investigation, hearing, or inquiry, if the employee has
4 reasonable cause to believe that the information discloses a violation of state or
federal statute, or a violation of or noncompliance with a local, state, or federal
rule or regulation, regardless of whether disclosing the information is part of the
employee's job duties.

5 (c) An employer, or any person acting on behalf of the employer, shall not retaliate
6 against an employee for refusing to participate in an activity that would result in a
7 violation of state or federal statute, or a violation of or noncompliance with a local,
state, or federal rule or regulation.

8 136. Defendants violated Cal. Labor Code § 1102.5(a) as it made, adopted, and enforced rules,
9 regulation and policies preventing Plaintiff from disclosing information to government and law
10 enforcement agencies or a person with authority over Plaintiff and/or authority to investigate,
11 discover, investigate, or correct the violation, where Plaintiff had reasonable cause to believe
12 Plaintiff's employer was violating the law.

13 137. Defendants violated Cal. Labor Code § 1102.5(b) as it retaliated against Plaintiff for
14 protesting Defendants' unlawful actions, and/or because Defendants felt Plaintiff may protest, to
15 a government or law enforcement agency or to a person with authority over the employee and/or
16 authority to investigate, discover, investigate, or correct the violation.

17 138. Plaintiff was retaliated against through the aforesaid acts by Defendants, at least in part,
18 because of Plaintiff's refusal to participate in an activity that would result in a violation of state
19 or federal statutes (or Plaintiff reasonably believed to be in violation). Defendants were thus in
20 violation of Cal. Labor Code § 1102.5(c).

21 139. When Plaintiff was subjected to the adverse employment actions identified above,
22 Defendants, and DOES 1 through 100, and each of them, were substantially motivated by
23 Plaintiff's complaints of violations of state and/or federal law (or Plaintiff's reasonable belief
24 that a law(s) was being violated), and said complaints were substantial motivating factors and/or
25 reasons in the decision to subject Plaintiff to the aforesaid retaliatory, adverse employment
26 actions, in violation of Cal. Labor Code § 1102.5.

27 140. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through
28 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both

internally and/or externally, and suffered, among other things, emotional distress, including but not limited to shock, pain, discomfort and/or anxiety.

141. As a further legal result of the acts and omissions of Defendants, and DOES 1 through 100, and each of them, Plaintiff has been forced to incur expenses for medical care, X-rays, and/or laboratory costs during the period of Plaintiff's disability, and is informed and believes, and/or thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

142. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully in Plaintiff's occupation, and/or is informed and believes, and thereon alleges, that Plaintiff will be partially and/or fully incapacitated and/or unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to Plaintiff's damages in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

143. As a further direct and legal result of the acts of Defendants, and DOES 1 through 100, Plaintiff has been caused, and did suffer, and continues to suffer severe and/or permanent emotional and/or mental distress and anguish, humiliation, embarrassment, fright, shock, pain, discomfort and/or anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

144. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants, and with the express knowledge, consent, and ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code § 3294(a) and (b).

145. Plaintiff is entitled to a civil penalty up to ten thousand dollars (\$10,000) for each violation of Cal. Labor Code § 1102.5.

146. By the acts and conduct of aforesaid Defendants, and DOES 1 through 100, and each of them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorneys' fees, and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

147. As a result of the unlawful acts of Defendants and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Code of Civil Procedure § 1021.5. Plaintiff's action enforces important rights affecting the public interest by bringing forth this lawsuit to ensure Defendants refrain from unlawfully retaliating against employees for blowing the whistle, thereby conferring a significant benefit on the general public's health and well-being as a result. The necessity and financial burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to reasonable attorneys' fees and costs under Cal. Code of Civil Procedure § 1021.5.

148. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

VII.

SEVENTH CAUSE OF ACTION

Failure to Provide Meal and Rest Periods

[California Labor Code § 226.7, 512 and Wage Order No. 4]

Against All Defendants & DOES 1 Through 100, Only

149. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

150. Plaintiff began working at GDT Framing, Inc. as a Carpenter on February 7, 2023 until he was wrongfully terminated on or about April 21, 2023.

151. Throughout Plaintiff's employment, Defendants failed to provide Plaintiff with all of his timely uninterrupted mandatory meal and rest periods as required by California law.

152. At all times herein relevant, the public policy of the State of California, as codified, expressed and mandated by Industrial Welfare Commission ("IWC") Wage Order No. 4, Section

1 11(A) also declares unless the employee is relieved of all duty during his/her thirty minute meal
2 period, the meal period shall be considered an “on duty” meal period and counted as hours
3 worked, which must be compensated at the employee's regular rate of pay. An “on duty” meal
4 period shall be permitted only when the nature of the work prevents an employee from being
5 relieved of all duty and when by written agreement between the employer and employee an on-
6 the-job paid meal period is agreed to.

7 153. At all times herein relevant, the public policy of the State of California, as codified,
8 expressed and mandated by IWC Wage Order No. 4, Section 12(a) requires that every employer
9 shall authorize and permit all employees to take rest periods, which insofar as practicable shall
10 be in the middle of each work period. The authorized rest period time shall be based on the total
11 hours worked daily at the rate of ten minutes net rest time per four hours or major fraction
12 thereof. Authorized rest period time shall be counted as hours worked for which there shall be no
13 deduction from wages.

14 154. At all times herein relevant, the public policy of the State of California, as codified,
15 expressed and mandated by Labor Code § 226.7(a) declares that no employer shall require any
16 employee to work during any meal or rest period mandated by an applicable order of the IWC.

17 155. Section § 226.7(b), IWC Wage Order No. 4 §§ 11(B), 12(B) declare that if an employer
18 fails to provide an employee a meal period or rest period in accordance with an applicable order
19 of the IWC, the employer shall pay the employee one additional hour of pay at the employee's
20 regular rate of compensation for each work day that the meal or rest period is not provided.

21 156. As such, Plaintiff is entitled to one additional hour of pay at the employee’s regular rate
22 of compensation for each work day that the meal or rest period was not provided.

23 157. As a result of the acts of Defendants and DOES 1 through 100, and each of them,
24 Plaintiff is also entitled to compensation for each meal period where Plaintiff was “on duty.”

25 158. Plaintiff is also entitled to any and all relief as provided for by Cal. Labor Code § 203.

26 159. As a result of the retaliatory acts of Defendants and DOES 1 through 100, and each of
27 them, as alleged herein, Plaintiff is entitled to reasonable attorneys’ fees and costs of said suit as
28 specifically provided in Cal. Code of Civil Procedure § 1021.5. Plaintiff’s action enforces

important rights affecting the public interest by bringing forth this lawsuit to ensure Defendants, as an employer, offers its employees meal and rest periods, thereby conferring a significant benefit on the general public's health and well-being as a result. The necessity and financial burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to reasonable attorneys' fees and costs under Cal. Code of Civil Procedure § 1021.5.

160. The acts of Defendants and DOES 1 through 100, were willful, wanton, malicious, intentional, oppressive and despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

161. Pursuant to Labor Code § 558.1, any employer or other person acting on behalf of an employer, who violates, or causes to be violated, Labor Code § 226.7, may be held liable as the employer for such violation. The term "other person acting on behalf of an employer" is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and in this case, including Defendant Davies.

162. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

VIII.

EIGHTTH CAUSE OF ACTION

For Failure to Furnish Complaint Wage Statements and Maintain Accurate Pay Records

[California Labor Code § 226, 1174 (D), and 1198]

Against All Defendants & DOES 1 Through 100, Only

163. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this Complaint as though duly set forth in full herein.

164. Plaintiff began working at GDT Framing, Inc. as a Carpenter on February 7, 2023 until he was wrongfully terminated on or about April 21, 2023.

1 165. Pursuant to Cal. Labor Code §§ 226 and 1174, employers have a duty to provide their
2 non-exempt employees with accurate itemized statements showing total hours worked, hourly
3 wages, gross wages, total deductions net wages earned and name of the employer. An employer
4 who violates these Code sections is liable to its employees for the greater of actual damages
5 suffered by the employee, or \$50.00 in civil penalties for the initial pay period in which a
6 violation occurred, and \$100.00 per employee for each subsequent pay period, up to a statutory
7 maximum of \$4,000.00.

8 166. Pursuant to Cal. Labor Code § 558.1, any employer or other person acting on behalf of an
9 employer, who violates, or causes to be violated, Labor Code § 226, may be held liable as the
10 employer for such violation. The term ‘other person acting on behalf of an employer’ is limited
11 to a natural person who is an owner, director, officer, or managing agent of the employer, and in
12 this case, including Defendant Davies.

13 167. At all relevant times, Defendants have knowingly and intentionally provided Plaintiff
14 with uniform, incomplete, and inaccurate wage statements, which did not include, amongst other
15 things, penalties for missed meal and rest breaks, and compensation for hours worked through
16 the aforementioned breaks.

17 168. Because Defendants failed to document and deducted time worked from Plaintiff’s wage
18 statements and employment records for meal periods they did not actually receive, Defendants
19 unlawfully deducted wages earned and meal period premiums that should have been paid. Thus,
20 Defendants did not furnish wage statements to Plaintiff containing: the correct amount of gross
21 wages earned in violation of Cal. Labor Code § 226(a)(1), the accurate total hours worked in
22 violation of Cal. Labor Code § 226(a)(2), correct amount of net wages earned in violation of
23 Cal. Labor Code § 226(a)(5), or accurate number of hours worked at each corresponding hourly
24 rate in violation of Cal. Labor Code § 226(a)(9).

25 169. To the extent that Defendants paid any meal break premium and/or rest break premium
26 payments, Defendants failed to identify such payments on Plaintiff’s wage statements and
27 employment records, and Defendants otherwise failed to provide information on the wage
28 statements sufficient to identify how many premium payments were paid during each pay period,

1 the specific dates worked giving rise to the premium payments owed, or to determine whether
2 such premium payments adequately and/or accurately compensated Plaintiff for any and all
3 premiums owed.

4 170. California Labor Code § 1198 provides that the maximum hours of work and the standard
5 conditions of labor shall be those fixed by the Labor Commissioner and as set forth in the
6 applicable IWC Wage Orders. California Labor Code § 1198 further provides that “the
7 employment of any employees for longer hours than those fixed by the order or under conditions
8 of labor prohibited by the order is unlawful.” Pursuant to the applicable IWC Wage Order,
9 employers are required to keep accurate time records showing when the employee begins and
10 ends each work period and meal period. At all relevant times, Defendants failed, on a company-
11 wide basis, to keep records of meal period start and stop times for Plaintiff in violation of Cal.
12 Labor Code § 1198.

13 171. California Labor Code §1174(d) provides that “every person employing labor in this state
14 shall... keep a record showing the names and addresses of all employees employed and the ages
15 of all minors” and “keep, at a central location in the state or at the plants or establishments at
16 which employees are employed, payroll records showing the hours worked daily by and the
17 wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to,
18 employees employed at the respective plants or establishments...” At all relevant times, and in
19 violation of Cal. Labor Code § 1174(d), Defendants willfully failed to maintain accurate payroll
20 records for Plaintiff showing the daily hours he worked and the wages paid thereto as a result of
21 unlawfully classifying Plaintiff as an independent contractor.

22 172. Plaintiff is entitled to recover from Defendants the greater of his actual damages caused
23 by Defendants’ failure to comply with Cal. Labor Code § 226(a), or an aggregate penalty not
24 exceeding four thousand dollars \$4,000 per employee, in addition to attorneys’ fees and costs.

25 173. Pursuant to Labor Code § 558.1, any employer or other person acting on behalf of an
26 employer, who violates, or causes to be violated, Labor Code § 226, may be held liable as the
27 employer for such violation. The term “other person acting on behalf of an employer” is limited
28

1 to a natural person who is an owner, director, officer, or managing agent of the employer, and in
2 this case, including Defendant Davies.

3 174. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

4 **IX.**

5 **NINTH CAUSE OF ACTION**

6 **For Failure To Pay Wages For All Hours Worked**

7 **[California Labor Code § 210]**

8 **Against All Defendants & DOES 1 Through 100, Only**

9 175. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
10 Complaint as though duly set forth in full herein.

11 176. Defendant willfully failed to pay Plaintiff all wages due as set forth above and owe him
12 wages in an amount to be ascertained at trial. Defendants' failure to pay the full amount due to
13 Plaintiff violates the provisions of California Labor Code §§ 200, 201, 206, and 216.

14 177. Defendants violated or caused to be violated this section of the California Labor Code.

15 178. By willfully failing to pay Plaintiff unpaid overtime to which Plaintiff was entitled to, as
16 set forth above, in a timely manner as required by California Labor Code § 201 and § 202,
17 Defendants are liable to Plaintiff for penalties pursuant to California Labor Code § 203, in an
18 amount equal to 30 days of Plaintiff's per diem wage rate in an amount according to proof.

19 179. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

20 180. Pursuant to Labor Code § 558.1, any employer or other person acting on behalf of an
21 employer, who violates, or causes to be violated, Labor Code § 210, may be held liable as the
22 employer for such violation. The term "other person acting on behalf of an employer" is limited
23 to a natural person who is an owner, director, officer, or managing agent of the employer, and in
24 this case, including Defendant Davies.

25 181. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

1 X.

2 **TENTH CAUSE OF ACTION**

3 **For Unfair Business Practices**

4 **[California Business & Professions Code §§ 17200 et seq.]**

5 **Against All Defendants & DOES 1 Through 100, Only**

6 182. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
7 Complaint as though duly set forth in full herein.

8 183. Plaintiff began working at GDT Framing, Inc. as a Carpenter on February 7, 2023 until
9 he was wrongfully terminated on or about April 21, 2023.

10 184. Defendants engaged in unfair, unlawful, fraudulent, deceptive, untrue, and/or misleading
11 business practices through the following, among others:

12 a) Defendants intentionally misclassified Plaintiff as an independent contractor
13 throughout his employment, thereby depriving Plaintiff of overtime compensation, rest
14 periods, and other protections under the California Labor Code.

15 b) Defendants failed to lawfully provide meal and rest periods to Plaintiff, in
16 violation of Cal. Labor Code §§ 226.7, 512 and IWC Wage Order No. 4.

17 c) Defendants failed to lawfully pay Plaintiff his overtime compensation despite
18 Plaintiff routinely working in excess of eight (8) hours per day, in violation of Cal. Labor
19 Code § 510 et seq. and IWC Wage Order No. 4.

20 185. Through the aforementioned acts, Defendant's engaged in unfair, unlawful, fraudulent,
21 deceptive, untrue, and/or misleading business practices in direct violation of Cal. Bus. & Prof.
22 Code § 17200, which prohibits conducting such business.

23 186. Defendant's willful and/or reckless conduct constituted unfair business practices and acts
24 because the harm to the general public outweighed any utility that its conduct may have
25 produced.

26 187. As a direct result of the conduct, act and omissions of Defendant's and DOES 1 through
27 100, and each of them, Plaintiff has been harmed and damaged in an amount to be shown at the
28 time of trial, together with prejudgment interest thereon from the time owed until paid, all within

an amount within the jurisdictional limits of this Court.

188. Plaintiff is also entitled to all penalties provided by Cal. Bus. & Prof. Code § 17206.

189. Additionally, Cal. Bus. & Prof. Code § 17205 declares, unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

190. As a result of the retaliatory acts of Defendants and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Code of Civil Procedure § 1021.5. Plaintiff's action enforces important rights affecting the public interest by bringing forth this lawsuit to ensure Defendants, as an employer, does not engage in unfair business practices, thereby conferring a significant benefit on the general public's health and well-being as a result. The necessity and financial burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to reasonable attorneys' fees and costs under Cal. Code of Civil Procedure § 1021.5.

191. The acts of Defendants and DOES 1 through 100, were willful, wanton, malicious, intentional, oppressive and despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants and DOES 1 through 100, and with the express knowledge, consent, and ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code §§ 3294(a) and (b).

192. Plaintiff is entitled to both declaratory and injunctive relief as a result of Defendants' unlawful conduct.

193. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

1 **XI.**

2 **ELEVENTH CAUSE OF ACTION**

3 **For Wrongful Termination and Retaliation in Violation of Public Policy**

4 **Against All Defendants & DOES 1 Through 100, Only**

5 194. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
6 Complaint as though duly set forth in full herein.

7 195. Plaintiff began working at GDT Framing, Inc. as a Carpenter on February 7, 2023 until
8 he was wrongfully terminated on or about April 21, 2023.

9 196. Plaintiff was retaliated against due to Plaintiff's actual/perceived disability, and/or his
10 aforesaid legally protected activities (complaints/protests against the harassment, discrimination,
11 retaliation, among others) as aforesaid.

12 197. As such, Plaintiff was retaliated against for reasons that violate a public policy(s).

13 198. At all times relevant herein, Plaintiff was employed by Defendants.

14 199. At all times herein mentioned, the public policy of the State of California, as codified,
15 expressed and mandated by Cal. Gov. Code §§ 12920 and 12940 et seq., was to prohibit
16 employers from harassing, discriminating, and retaliating against and/or wrongfully terminating
17 any individual on the grounds of their actual/perceived disability, and association with
18 individuals of a certain protected classes. This public policy of the State of California is designed
19 to protect all employees and to promote the welfare and well-being of the community at large.
20 The policy inures to the benefit of the public and is fundamental and substantial.

21 200. At all times herein mentioned, the public policy of the State of California, as codified,
22 expressed and mandated by Cal. Gov. Code §§ 12940 et seq., was to prohibit employers from
23 failing to engage in the mandatory good-faith interactive process with disabled employees to
24 determine the extent of their disabilities and determine how they could be reasonably
25 accommodated. This public policy of the State of California is designed to protect all employees
26 and to promote the welfare and well-being of the community at large. The policy inures to the
27 benefit of the public and is fundamental and substantial.

201. At all times herein mentioned, the public policy of the State of California, as codified, expressed and mandated by Cal. Gov. Code §§ 12940 et seq., was to prohibit employers from failing to provide reasonable accommodations to disabled employees. This public policy of the State of California is designed to protect all employees and to promote the welfare and well-being of the community at large. The policy inures to the benefit of the public and is fundamental and substantial.

202. Accordingly, the actions of Defendants and DOES 1 through 100, in retaliating against Plaintiff on the grounds alleged and described herein were wrongful and do not promote the welfare and well-being of the community at large.

203. As a direct and legal result of the acts and omissions of Defendants and DOES 1 through 100, and each of them, Plaintiff was rendered sick, sore, lame, disabled and/or disordered, both internally and/or externally, and suffered, among other things, emotional distress, including but not limited to shock, pain, discomfort and/or anxiety.

204. As a further legal result of the acts and omissions of Defendants, and DOES 1 through 100, and each of them, Plaintiff has been forced to incur expenses for medical care, X-rays, and/or laboratory costs during the period of Plaintiff's disability, and is informed and believes, and/or thereon alleges, that Plaintiff will in the future be forced to incur additional expenses of the same nature, all in an amount which is at present unknown. Plaintiff will pray leave of court to show the exact amount of said expenses at the time of trial.

205. Prior to the occurrence of the incidents, Plaintiff was an able-bodied individual, but since said incidents has been unable to engage fully in Plaintiff's occupation, and/or is informed and believes, and thereon alleges, that Plaintiff will be partially and/or fully incapacitated and/or unable to perform Plaintiff's usual work for an indefinite period of time in the future, all to Plaintiff's damages in an amount which is at present unascertained. Plaintiff will pray leave of court to show the total amount of loss of earnings at the time of trial.

206. As a further direct and legal result of the acts of Defendants, and DOES 1 through 100, Plaintiff has been caused, and did suffer, and continues to suffer severe and/or permanent emotional and/or mental distress and anguish, humiliation, embarrassment, fright, shock, pain,

discomfort and/or anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff, who will pray leave of court to assert the same when they are ascertained.

207. The aforementioned acts of Defendants and DOES 1 through 100, and each of them, were willful, wanton, malicious, intentional, oppressive and despicable and were done in willful and conscious disregard of the rights, welfare and safety of Plaintiff, and were done by managerial agents and employees of Defendants, and with the express knowledge, consent, and ratification of managerial agents and employees of Defendants and DOES 1 through 100, thereby justifying the awarding of punitive and exemplary damages in an amount to be determined at the time of trial pursuant to Cal. Civil Code § 3294(a) and (b).

208. By the aforesaid acts and conduct of Defendants and DOES 1 through 100, and each of them, Plaintiff has been directly and legally caused to suffer actual damages pursuant to Cal. Civil Code § 3333 including, but not limited to, loss of earnings and future earning capacity, medical and related expenses for care and procedures both now and in the future, attorneys' fees, and other pecuniary loss not presently ascertained, for which Plaintiff will seek leave of court to amend when ascertained.

209. As a result of the unlawful acts of Defendants and DOES 1 through 100, and each of them, as alleged herein, Plaintiff is entitled to reasonable attorneys' fees and costs of said suit as specifically provided in Cal. Code of Civil Procedure § 1021.5. Plaintiff's action enforces important rights affecting the public interest by bringing forth this lawsuit to ensure Defendants refrain from unlawfully and wrongfully terminating their employees, thereby conferring a significant benefit on the general public's health and well-being as a result. The necessity and financial burden of this private enforcement, as well as the interest of justice, entitles Plaintiff to reasonable attorneys' fees and costs under Cal. Code of Civil Procedure § 1021.5.

210. Plaintiff has been damaged in an amount within the jurisdictional limits of this Court.

1 XII.

2 **TWELFTH CAUSE OF ACTION**

3 **For Civil Penalties Under PAGA**

4 **[California Labor Code §§ 2698, 2699; Private Attorneys General Act (“PAGA”)]**

5 **Against All Defendants & DOES 1 Through 100, Only**

6 211. Plaintiff incorporates herein by reference and re-alleges each and every paragraph in this
7 Complaint as though duly set forth in full herein.

8 212. Plaintiff is an “aggrieved employee” under the Labor Code Private Attorneys General Act
9 (“PAGA”), as Plaintiff is or was employed by Defendants during the applicable statutory period
10 and suffered one or more of the Cal. Labor Code violations set forth herein. Accordingly,
11 Plaintiff seeks to recover, on behalf of Plaintiff and all other aggrieved current and former
12 employees of Defendants, the civil penalties provided by PAGA, plus reasonable attorneys’ fees
13 and costs.

14 213. Plaintiff seeks to recover the PAGA civil penalties through a representative action
15 permitted by PAGA and the California Supreme Court in, among other authorities, Arias v.
16 Superior Court, (2009) 46 Cal.4th 969. According to the same authorities, class certification of
17 the PAGA allegations described herein is not required.

18 214. California Labor Code § 2699(a) and (g), as well as Cal. Labor Code §§ 210, 226.3, 558,
19 1174.5 and 1197.1 authorizes aggrieved employees such as Plaintiff, on behalf of himself and
20 other current and former employees within the statutory period, to bring a civil action to recover
21 civil penalties pursuant to the procedures specified in Cal. Labor Code § 2699.3.

22 215. Plaintiff complied with the procedures for bringing suit specified in Cal. Labor Code
23 § 2699.3. Specifically, on or about November 1, 2023, Plaintiff gave written notice to the
24 California Labor and Workforce Development (“LWDA”) and to Defendants of the specified
25 provisions of the Cal. Labor Code alleged to have been violated and those included below
26 (“PAGA Notice”). Plaintiff is informed and believes that, to date, the LWDA has still not elected
27 to investigate, pursuant to Amaral v. Cintas Corp. No. 2, (2008) 163 Cal.App.4th 1157.

1 216. During the period beginning one (1) year preceding the filing of the Complaint in this
2 Action (the “Civil Penalty Period”), Defendants violated, *inter alia*, Cal. Labor Code §§ 200,
3 201, 203, 204, 226, 226.7, 227.3, 510, 512, 2810.5 and the applicable Wage Order(s), among
4 other things. In connection with the violations of Cal. Labor Code §§ 200, 201, 203, 204, 226,
5 226.7, 227.3, 510, 512, 2810.5, Plaintiff seeks to represent only non-exempt current and former
6 employees of Defendants working in California from one (1) year prior to filing the PAGA
7 Notice with the LWDA through the present. In connection with the violation of Cal. Labor Code
8 §§ 227 et seq., and 2810.5, Plaintiff seeks to represent all current and former employees of
9 Defendants working in California from one (1) year prior to filing the PAGA Notice with the
10 LWDA through the present. Collectively, the employees that Plaintiff plans to represent shall be
11 referred to as “Aggrieved Employees.”

12 217. For at least four (4) years prior to the filing of this action and continuing to the present,
13 Defendants have, at times, failed to pay overtime wages to Plaintiff and Aggrieved Employees,
14 or some of them, in violation of California state wage and hour laws as a result of, without
15 limitation, Plaintiff and Aggrieved Employees working over eight (8) hours per day, forty (40)
16 hours per week, and seven consecutive work days in a work week without being properly
17 compensated for hours worked in excess of (8) hours per day in a work day, forty (40) hours per
18 week in a work week, and/or hours worked on the seventh consecutive work day in a work week
19 by, among other things, failing to, at times, accurately track and/or pay for all hours actually
20 worked at the proper overtime rate of pay to the detriment of Plaintiff and Aggrieved Employees
21 including, without limitation, due to failure to account for skill differential pay.

22 218. For at least four (4) years prior to the filing of this Action and continuing to the present,
23 Defendants have, at times, failed to provide Plaintiff and Aggrieved Employees, or some of
24 them, full, timely thirty (30) minute uninterrupted meal period for days on which they worked
25 more than five (5) hours in a work day and a second thirty (30) minute uninterrupted meal period
26 for days on which they worked in excess of ten (10) hours in a work day, and failing to, at times,
27 provide compensation for such unprovided meal periods as required by California wage and hour
28

laws due to, without limitation, assigning tasks to employees during what should be an uninterrupted meal period.

219. For at least three (3) years prior to the filing of this action and continuing to the present, Defendants have, at times, failed to pay Plaintiff and Aggrieved Employees, or some of them, the full amount of their wages owed to them upon termination and/or resignation as required by Cal. Labor Code §§ 201 and 202, including for, without limitation, Defendants' occasional failing to pay overtime wages and premium wages.

220. For at least one (1) year prior to the filing of this Action and continuing to the present, Defendants have, at times, failed to furnish Plaintiff and Aggrieved Employees, or some of them, with itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages earned; all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate; and other such information as required by Cal. Labor Code § 226(a). As a result thereof, Defendants have occasionally failed to furnish employees with an accurate calculation of gross and gross wages earned, as well as gross and net wages paid.

221. Plaintiff, on Plaintiff's own behalf and on behalf of Aggrieved Employees, pursuant to Cal. Bus. & Prof. Code §§ 17200 through 17208, also seeks (an) injunction(s) prohibiting Defendants from further violating the Cal. Labor Code and requiring the establishment of appropriate and effective means to prevent further violations, as well as all monies owed but withheld and retained by Defendants to which Plaintiff and Aggrieved Employees are entitled, as well as restitution of amounts owed.

222. California Labor Code § 204, requires and required that: "[l]abor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month."

223. California Labor Code § 210(a) states that "[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of

each employee as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 204.11, 205, 205.5, and 1197.5, shall be subject to a penalty as follows: (1) For any initial violation, one hundred dollars (\$100) for each failure to pay each employee; (2) For each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.”

224. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants had and have a consistent policy or practice of failing to pay Plaintiff and during their employment on a timely basis as per Cal. Labor Code § 204.

225. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code § 210, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants’ violations of Cal. Labor Code § 204, in the amount of one hundred dollars (\$100) for each Aggrieved Employee for each initial violation per employee, and two hundred dollars (\$200) for each Aggrieved Employee for each subsequent violation in connection with each payment that was made in violation of Cal. Labor Code § 204.

226. California Labor Code § 226.3 states that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.”

227. California Labor Code § 226.3 further provides that “[t]he civil penalties provided for in this section are in addition to any other penalty provided by law.”

228. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, had and have a policy or practice of failing to comply with Cal. Labor Code § 226(a) by intentionally failing to furnish Plaintiff and Aggrieved Employees with itemized wage statements that accurately reflect gross wages earned; total hours worked; net wages earned; the name and address of each employer with whom they have been placed to work; all applicable hourly rates in effect during the pay period and the corresponding number of

hours worked at each hourly rate; the legal name of the employer and/or the name and address of the legal entity securing the employer's services if the employer is a farm labor contractor and other such information as required by Cal. Labor Code § 226(a).

229. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code § 226.3, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' violation of Cal. Labor Code § 226(a) in the amount of two hundred fifty dollars (\$250) for each Aggrieved Employee per pay period for the initial violation, and one thousand dollars (\$1000) for each Aggrieved Employee per pay period for each subsequent violation.

230. California Labor Code § 558(a) states: "Any employer or other person acting on behalf of an employer who violates, or causes to be violated... any provision regulating hours and days of work in any of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee and for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages; (3) Wages recovered pursuant to this section shall be paid to the affected employee."

231. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, violated, or caused to be violated, the Cal. Labor Code sections described herein, including causing Plaintiff and other Aggrieved Employees not to: be paid overtime wages; receive meal and rest periods or compensation in lieu thereof; be paid timely wages during their employment and after their employment separation; and receive accurate, itemized wage statements.

232. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code § 558, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Cal. Labor Code violations in the

amount fifty dollars (\$50) for each Aggrieved Employee per pay period for the initial violation, and one hundred dollars.

233. California Labor Code § 1174(b) states that every person employing labor in California is required to “[a]llow any member of the commission or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The commission may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.”

234. California Labor Code § 1174(c) has required every person employing labor in California to “[k]eep a record showing the names and addresses of all employees employed and the ages of all minors.”

235. California Labor Code § 1174(d) has required every person employing labor in California to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

236. California Labor Code § 1174.5 states that, “[a]ny person employing labor who willfully fails to maintain the records required by subdivision (c) of [Cal. Labor Code] Section 1174 or accurate and complete records required by subdivision (d) of [Cal. Labor Code] Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of [Cal. Labor Code] Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).”

237. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, have willfully failed to maintain the records required by Cal. Labor Code 1174(c), failed to maintain accurate and complete records required by Cal. Labor

Code 1174(d), and/or failed to allow inspection of records as required by Cal. Labor Code 1174(b).

238. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code § 1174.5, Plaintiff and other Aggrieved Employees are entitled to recover civil penalties for Defendants' herein-described Cal. Labor Code violations in the amount of five hundred dollars (\$500) per violation per Aggrieved Employee.

239. California Labor Code § 2699(f), provides that for all provisions of the Cal. Labor Code "except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows:... (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation."

240. At all relevant times herein, Plaintiff is informed and believes, and based thereon alleges, that Defendants, and each of them, violated the Cal. Labor Code sections described herein, including, without limitation, for the failure to: pay overtime wages; provide meal and rest periods or compensation in lieu thereof; provide accurate, itemized wage statements; pay timely wages during employment and after the cessation of the employment relationship; reimburse Aggrieved Employees for costs incurred in furtherance of their work duties as required under Cal. Labor Code § 2802; provide notice as required under Cal. Labor Code § 2810.5; paying employees all owed paid time off and vacation time owed by separation at the proper rate of pay; placing restraints on competition, whistleblowing and freedom of speech; and entitling Plaintiff and other Aggrieved Employees to civil penalties for each of these Cal. Labor Code violations in the amounts set forth in Cal. Labor Code § 2699(f).

241. As a direct and proximate result of the herein-described Cal. Labor Code violations, and pursuant to Cal. Labor Code section 2699(g), among other authorities, Plaintiff and similarly Aggrieved Employees are entitled to recover civil penalties for Defendants' violations of the herein and therein described Cal. Labor Code violations during the Civil Penalty Period in the amount of one hundred dollars (\$100) for each Aggrieved Employee per pay period for the initial

violation, and two hundred dollars (\$200) for each Aggrieved Employee per pay period for each subsequent violation.

242. Moreover, Plaintiff and Aggrieved Employees are also entitled to an award of reasonable attorneys' fees and costs in connection with their herein-described claims for civil penalties.

WHEREFORE, PLAINTIFF DELFINO OSORIO prays for judgment against the Defendants, and each of them, as follows:

1. For general damages in an amount within the jurisdictional limits of this Court;
2. For special damages in an amount within the jurisdictional limits of this Court;
3. For medical expenses and related items of expense, according to proof;
4. For loss of earnings, according to proof;
5. For consequential and incidental damages according to proof;
6. For prejudgment interest according to proof;
7. For declaratory relief;
8. For injunctive relief;
9. For damages, penalties and reasonable attorneys' fees and costs of suit against Defendants as provided for by California Labor Code §§ 226, 226.7, 432, 512, 558.1, 1174, 1198.5, 1198.5(k), 1198.5(l), and 2699;
10. For damages, penalties and attorneys' fees and costs of suit as provided for by Cal. Gov. Code §§ 12940, 12945, and 12965(b).
11. For punitive and exemplary damages as provided for by Cal. Civil Code § 3294;
12. For damages, penalties and costs of suit as provided for by Cal. Civil Code § 3333;
13. For damages, penalties and reasonable attorneys' fees and costs of suit against Defendants as provided for by Cal. Code of Civil Procedure § 1021.5, according to proof;

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

2
3 Dated: January 29, 2024

AKHAVAN & ASSOCIATES

4
5 By: 

6 BARDIA AARON AKHAVAN, ESQ.
7 NAHAL BARAHMAND, ESQ.
8 Attorney for PLAINTIFF
9 DELFINO OSORIO
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EXHIBIT A

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
Civil Rights Department
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Delfino Osorio

CRD No. 202401-23433830

Complainant,

vs.

GDT Framing, Inc.
1800 Town and Country Drive
Norco, CA 92860

Respondents

1. Respondent GDT Framing, Inc. is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant Delfino Osorio, resides in the City of **Encino**, State of **CA**.

3. Complainant alleges that on or about **April 21, 2023**, respondent took the following adverse actions:

Complainant was harassed because of complainant's disability (physical, intellectual/developmental, mental health/psychiatric).

Complainant was discriminated against because of complainant's disability (physical, intellectual/developmental, mental health/psychiatric) and as a result of the discrimination was terminated, laid off, forced to quit, denied hire or promotion, reprimanded, suspended, demoted, asked impermissible non-job-related questions, denied any employment benefit or privilege, denied work opportunities or assignments, denied or forced to transfer, denied accommodation for a disability, denied pregnancy disability leave (pdl).

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, requested or used a disability-related accommodation, participated as a witness in a discrimination or harassment complaint and as a result was terminated, laid off, forced to quit, denied hire or promotion, reprimanded, suspended,

demoted, asked impermissible non-job-related questions, denied any employment benefit or privilege, denied work opportunities or assignments, denied or forced to transfer, denied accommodation for a disability.

Additional Complaint Details: Mr. Osorio commenced his employment with the Company on or about February 7, 2023 as a Carpenter before he was wrongfully terminated on or about April 21, 2023. Mr. Osorio's employment concluded when he was retaliated against due to his actual/perceived disability(ies) and requests for reasonable accommodations.

On or about March 6, 2023, Mr. Osorio suffered a work injury when he fell off of a platform. Thereafter, Mr. Osorio reported his injury and resulting disability(ies) to his back to Foreman Luis Doe. After visiting the clinic that day, Mr. Osorio received work restrictions of no lifting up more than 15 pounds, no squatting, no kneeling and no climbing. The following day, Mr. Osorio returned back to work and continued working his regular duties.

However, despite Mr. Osorio's ability to work with accommodations, the Company terminated his employment on or about April 21, 2023. Demonstrating the Company's discriminatory animus, during Mr. Osorio's termination, Human Resources told Mr. Osorio that he was "faking his injury" and that he was "no longer able to perform his job."

Instead of engaging in the good-faith interactive process with Mr. Osorio, on or about April 21, 2023, the Company terminated his employment.

1 VERIFICATION

2 I, **Bardia Akhavan**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On January 29, 2024, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Encino, California**
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EXHIBIT B



Civil Rights Department

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
calcivilrights.ca.gov | contact.center@calcivilrights.ca.gov

January 29, 2024

Delfino Osorio

c/o Akhavan & Associates: A Professional Law Corporation 15760 Ventura Boulevard
Suite #950
Encino, CA 91436

RE: Notice of Case Closure and Right to Sue
CRD Matter Number: 202401-23433830
Right to Sue: Osorio / GDT Framing, Inc.

Dear Delfino Osorio:

This letter informs you that the above-referenced complaint filed with the Civil Rights Department (CRD) has been closed effective January 29, 2024 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this CRD Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Civil Rights Department