

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

Attorneys for Plaintiff,
Eleazar Ignacio

Electronically FILED by
Superior Court of California,
County of Los Angeles
10/31/2024 2:24 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By A. Munoz, Deputy Clerk

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

ELEAZAR IGNACIO, an individual,

Plaintiff,

v.

DELITALY, a California Corporation;
RENE HAGEGE, an individual; and DOES
1 THROUGH 20, inclusive,

Defendants.

Case No.: 24STCV28584
Unlimited Jurisdiction

COMPLAINT

- 1. WRONGFUL TERMINATION AND RETALIATION IN VIOLATION OF PUBLIC POLICY;**
- 2. DISCRIMINATION BASED ON PROTECTED STATUS – DISABILITY;**
- 3. FAILURE TO ACCOMMODATE;**
- 4. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS;**
- 5. FAILURE TO TAKE REASONABLE STEPS TO PREVENT DISCRIMINATION AND/OR RETALIATION;**
- 6. FAILURE TO PROVIDE MEAL BREAKS;**
- 7. FAILURE TO PROVIDE REST PERIODS;**
- 8. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226(a)];**
- 9. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS [California Labor Code §226.3];**
- 10. UNTIMELY PAYMENT OF WAGES;**
- 11. UNLAWFUL WITHHOLDING OF WAGES;**
- 12. WAITING TIME PENALTIES;**
- 13. CALIFORNIA PRIVATE ATTORNEY**

**GENERAL ACT [California Labor
Code §2698];
14. NEGLIGENCE;
15. NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS;
16. FAILURE TO PROVIDE
EMPLOYMENT RECORDS; AND
17. UNFAIR BUSINESS PRACTICES.**

DEMAND FOR JURY TRIAL

Plaintiff ELEAZAR IGNACIO (“PLAINTIFF”) hereby files this Complaint against Defendants DELITALY (“DELITALY”), a California Corporation, RENE HAGEGE (“HAGEGE”), an individual, and DOES 1 THROUGH 20, inclusive (Collectively, “DEFENDANTS”). PLAINTIFF is informed and believes, and on the basis of that information and belief, alleges as follows:

PARTIES

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

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

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

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

1 responsible for each and every act and obligation hereinafter set forth.

2 5. PLAINTIFF is informed and believes and thereon alleges that each defendant
3 named in this Complaint now is, and was at all times herein mentioned, the agent, servant,
4 employee, representative, alter ego, members of and/or engaged in a joint venture, partnership and
5 common enterprise of the other defendants herein, and was at all such times acting within the
6 course and scope of said agency and employment and with the consent and permission of each of
7 the other co-defendants, and each of the defendants herein ratified each of the acts of each of the
8 other co-defendants, and each of them.

9 **JURISDICTION AND VENUE**

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

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

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

17 8. Starting around 2019, PLAINTIFF was employed as a kitchen staff by DELITALY.

18 9. DELITALY, dba. Potato Chips Deli, is a sandwich shop having several stores in
19 Los Angeles, California.

20 10. HAGEGE is named as the Chief Executive Officer, Chief Financial Officer and
21 Director of DELITALY.

22 11. Through bi-weekly checks, PLAINTIFF was paid \$17/hour, which was his most
23 recent hourly rate.

24 12. From Thursday to Monday, PLAINTIFF was scheduled to work from 9 a.m. to 4
25 p.m.

26 13. PLAINTIFF typically did not receive meal and rest breaks. When he had a chance
27 to eat, he would have to eat while still working.

28 14. PLANTIFF was not allowed to leave the premises because he was the only

employee working and could not leave the store unattended.

15. Due to the stress and working conditions at work, which was diagnosed by his doctor, PLAINTIFF suffered from facial paralysis.

16. The heat of the press he used at work made his left eye shut and PLAINTIFF could not properly see at work, and nothing was done despite complaining to his supervisor Patricio Doe (“Patricio”).

17. When he called his supervisor Patricio for a sick leave, PLAINTIFF was told “you can leave, but don’t come back.”

18. From that time, Patricio constantly yelled at PLAINTIFF “leave, leave, leave” at work and eventually terminated him on or around December 1, 2023.

19. On February 26, 2024, PLAINTIFF complied with *Labor Code* §2699.3(a) in that PLAINTIFF gave written notice by certified mail to the Labor and Workforce Development Agency (“LWDA”) and DEFENDANTS of the specific provisions of the labor Code alleged to have been violated, including the facts and theories to support the alleged violation. As of the date of filing this complaint, (more than 60 calendar days after PLAINTIFF’s LWDA letters were mailed via certified mail), PLAINTIFF has not received any notification that the LWDA intended to investigate the alleged violations.

20. On February 26, 2024, PLAINTIFF filed a complaint with the Department of Fair Employment and Housing (“DFEH”) and obtained a Right to Sue letter on the same day. PLAINTIFF herein with this Complaint serves DEFENDANTS with the DFEH complaint and Right to Sue notices.

FIRST CAUSE OF ACTION

WRONGFUL TERMINATION

AND RETALIATION IN VIOLATION OF PUBLIC POLICY

(PLAINTIFF against DELITALY and DOE 1 through 10)

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

22. PLAINTIFF was employed by DEFENDANTS.

1 23. PLAINTIFF was wrongfully terminated and retaliated against by DEFENDANTS
2 in violation of public policy and the California Fair Employment and Housing Act (“FEHA”) as a
3 result of having a disability.

4 24. DEFENDANTS took adverse employment actions against PLAINTIFF because
5 PLAINTIFF had sustained injuries while on the job, made complaints about the work-related
6 injuries, and sought an accommodation due to the injuries and disability. *California Government*
7 *Code* §12940 provides that it is against the law to discriminate against an employee due to
8 disability and to retaliate against an employee for requesting an accommodation for disability
9 regardless of whether the request was granted. These policies are also enumerated in *Labor Code*
10 §132(a), FEHA, the California and United States Constitutions, among other laws and regulations.

11 25. DEFENDANTS’ violations of public policy and FEHA described above were
12 substantial motivating reasons for the adverse employment actions taken against PLAINTIFF by
13 DEFENDANTS.

14 26. As a substantial result of DEFENDANTS’ intentional acts in violation of public
15 policy and FEHA, PLAINTIFF was harmed. Specifically, PLAINTIFF lost income, and endured
16 emotional and mental damages, among other related damages. The exact amount of damage to
17 PLAINTIFF shall be proved at trial.

18 27. PLAINTIFF believes that DEFENDANTS’ conducts described above were done
19 with malice, fraud and oppression and with conscious disregard for PLAINTIFF’s rights and with
20 the intent, design and purpose to cause PLAINTIFF harm. As such, PLAINTIFF is also entitled to
21 punitive and exemplary damages.

22 28. In addition, PLAINTIFF is entitled to interest, attorney’s fees and costs, among
23 other damages against DEFENDANTS.

24 ///

25 ///

26 ///

27 ///

28 ///

SECOND CAUSE OF ACTION

DISCRIMINATION IN VIOLATION

OF CALIFORNIA GOVERNMENT CODE §12940, ET SEQ

(PLAINTIFF against DELITALY and DOE 1 through 10)

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

30. PLAINTIFF was an employee of DEFENDANTS.

31. During PLAINTIFF's employment with DEFENDANTS, PLAINTIFF was injured, and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under FEHA. DEFENDANTS herein were aware of PLAINTIFF's injury and disability. However, DEFENDANTS otherwise expected PLAINTIFF to work through the pain without treatment or accommodation.

32. PLAINTIFF's disability was the substantial motivating reason for DEFENDANTS' conduct that caused the wrongful termination against PLAINTIFF.

33. As a substantial result of DEFENDANTS' intentional acts, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

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

35. In addition, PLAINTIFF is entitled to interest, attorney's fees and costs, among other damages against DEFENDANTS.

THIRD CAUSE OF ACTION

FAILURE TO ACCOMMODATE – DISABILITY DISCRIMINATION

IN VIOLATION OF GOVERNMENT CODE §12940(m)

(PLAINTIFF against DELITALY and DOE 1 through 10)

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

1 37. PLAINTIFF was employed as an employee by DEFENDANTS.

2 38. During PLAINTIFF's employment with DEFENDANTS, PLAINTIFF was
3 injured, and PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability
4 under FEHA.

5 39. DEFENDANTS herein were aware of PLAINTIFF's disability that limited
6 PLAINTIFF's work activities.

7 40. PLAINTIFF was able to perform the essential duties of the position or a vacant
8 alternative position to which PLAINTIFF could have been reassigned with reasonable
9 accommodation for PLAINTIFF's disability.

10 41. However, DEFENDANTS failed to provide such reasonable accommodation for
11 PLAINTIFF's disability. DEFENDANTS otherwise expected PLAINTIFF to work through the
12 pain without treatment or accommodation.

13 42. As a substantial result of DEFENDANTS' failure to accommodate, PLAINTIFF
14 was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

15 43. In addition, PLAINTIFF is entitled to interest, attorney's fees and costs, among
16 other damages against DEFENDANTS.

17 **FOURTH CAUSE OF ACTION**

18 **FAILURE TO ENGAGE IN INTERACTIVE PROCESS**

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

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

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

23 45. PLAINTIFF was an employee of DEFENDANTS.

24 46. PLAINTIFF had a disability that was known to DEFENDANTS, and
25 PLAINTIFF's injury rendered PLAINTIFF disabled within the meaning for disability under
26 FEHA.

27 47. PLAINTIFF requested that DEFENDANTS make reasonable accommodation for
28 PLAINTIFF so that PLAINTIFF would be able to perform the essential job requirements.

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

49. However, DEFENDANTS failed to participate in a timely good-faith interactive process with PLAINTIFF to determine whether reasonable accommodation could be made.

50. As a substantial result of DEFENDANTS' failure to engage in the interactive process, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

51. In addition, PLAINTIFF is entitled to interest, attorney's fees and costs, among other damages against DEFENDANTS.

FIFTH CAUSE OF ACTION

FAILURE TO TAKE REASONABLE STEPS

TO PREVENT DISCRIMINATION AND RETALIATION

IN VIOLATION OF GOVERNMENT CODE §12940 (k)

(PLAINTIFF against DELITALY and DOE 1 through 10)

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

53. PLAINTIFF was employed as an employee by DEFENDANTS.

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

55. DEFENDANTS failed to take all reasonable steps to prevent discrimination and retaliation. DEFENDANTS ignored PLAINTIFF's complaints about disability discrimination and retaliation and as a result by not doing anything, had condoned, ratified and participated in the acts causing PLAINTIFF harm.

56. As a substantial result of DEFENDANTS' failure to take reasonable steps to prevent discrimination and retaliation, PLAINTIFF was harmed. The exact amount of damage to PLAINTIFF shall be proved at trial.

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

5 65. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
6 non-exempt position.

7 66. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to meal
8 breaks.

9 67. PLAINTIFF was at times not given meal breaks and at other times meal breaks
10 which were not compliant with labor laws.

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

16 **SEVENTH CAUSE OF ACTION**

17 **FAILURE TO PROVIDE REST PERIODS**

18 **(PLAINTIFF against all DEFENDANTS)**

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

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

24 71. At all times relevant herein, PLAINTIFF was employed by DEFENDANTS in a
25 non-exempt position.

26 72. PLAINTIFF's employment with DEFENDANTS entitled PLAINTIFF to rest
27 breaks. PLAINTIFF's shifts that were over four (4) hours therefore were entitled to a rest period
28

1 of not less than ten (10) minutes prior to exceeding four (4) hours of employment for each four (4)
2 hours of work.

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

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

10 **EIGHTH CAUSE OF ACTION**

11 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

12 **IN VIOLATION OF LABOR CODE § § 226(a)(e)**

13 **(PLAINTIFF against all DEFENDANTS)**

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

16 76. *Labor Code* §226(a) requires employers to provide accurate itemized wage
17 statements for each wage payment. *Labor Code* §226(e) provides for a recovery of the greater of
18 all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
19 one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an
20 aggregate penalty of four thousand dollars (\$4,000) (per employee).

21 77. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage
22 statements, willfully or intentionally. DEFENDANTS also failed to account for accurate
23 withholdings, hours, wage rates, overtime, meal and rest premiums, among other things.

24 78. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
25 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties
26 promulgated under *Labor Code* §§226.

27 79. PLAINTIFF is also entitled to injunctive relief to ensure compliance with the
28 aforementioned *Labor Code* provision.

1 **NINTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

3 **IN VIOLATION OF LABOR CODE § 226.3**

4 **(PLAINTIFF against all DEFENDANTS)**

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

7 81. *Labor Code* §§226 and 226.3 provides for civil penalties against anyone who
8 violates *Labor Code* §226. *Labor Code* §226(a) requires employers to provide accurate itemized
9 wage statements for each wage payment. Specifically, *Labor Code* §226.3 provides a penalty of
10 two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand
11 dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer
12 fails to provide the employee a wage statement in compliance with *Labor Code* §226.

13 82. DEFENDANTS failed to provide PLAINTIFF with complete and accurate wage
14 statements, willfully or intentionally. DEFENDANTS also failed to account for accurate
15 withholdings, hours, wage rates, overtime, meal and rest premiums, among other things.

16 83. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
17 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties
18 promulgated under *Labor Code* §§226 and 226.3.

19 **TENTH CAUSE OF ACTION**

20 **UNTIMELY PAYMENT OF WAGES**

21 **(PLAINTIFF against all DEFENDANTS)**

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

24 85. *Labor Code* §210(a) provides that any employer who fails to timely pay the wages
25 of each employee shall be subject to a penalty in the amount of one hundred dollars (\$100) per
26 employee per violation in an initial citation, and two hundred dollars per employee per employee
27 for each violation in a subsequent citation, or any willful and intentional violation, plus 25 percent
28 of the amount unlawfully withheld.

1 86. DEFENDANTS failed to timely pay PLAINTIFF all meal and rest break premiums
2 that are due and payable for each pay period.

3 87. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
4 damage. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and penalties.

5 **ELEVENTH CAUSE OF ACTION**

6 **UNLAWFUL WITHHOLDING OF WAGES**

7 **(PLAINTIFF against all DEFENDANTS)**

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

10 89. *Labor Code* §216 provides that it is a misdemeanor for an employer to "willfully
11 refuse to pay wages due and payable after demand has been made" or "falsely deny the amount or
12 validity thereof."

13 90. *Labor Code* §225.5 provides a penalty of \$100 for an initial violation and \$200 for
14 any subsequent violation of §216 plus 25% of the withheld amount.

15 91. Upon termination by DEFENDANTS, PLAINTIFF was entitled by law to receive
16 all of PLAINTIFF's wages and paycheck(s) immediately. DEFENDANTS also unlawfully
17 withheld the balance of earned wages, overtime, missed meal and rest break wages. Moreover,
18 these wages were demanded thereafter.

19 92. As a result of DEFENDANTS' aforementioned unlawful acts, PLAINTIFF
20 suffered damage. DEFENDANTS are subject to the penalty under *Labor Code* §225.5. The exact
21 amount of penalties will be proved at trial, and PLAINTIFF is entitled to such penalties plus
22 interest as required by law in addition to restitution of all wages earned but not paid.

23 **TWELFTH CAUSE OF ACTION**

24 **WAITING TIME PENALTIES**

25 **(PLAINTIFF against all DEFENDANTS)**

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

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

6 95. PLAINTIFF’s employment with DEFENDANTS ended.

7 96. DEFENDANTS failed to pay PLAINTIFF all wages when due since PLAINTIFF’s
8 termination until the date of filing this Complaint.

9 97. DEFENDANTS willfully failed to pay PLAINTIFF final wages in full.

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

15 **THIRTEENTH CAUSE OF ACTION**

16 **CALIFORNIA PRIVATE ATTORNEY GENERAL ACT**

17 **LABOR CODE § 2698**

18 **(PLAINTIFF against all DEFENDANTS)**

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

21 100. PLAINTIFF and the other non-exempt employees are “aggrieved employees” as
22 defined by *Labor Code* §2699(c) in that they are all current or former employees of
23 DEFENDANTS, and one or more of the causes of action in this complaint was committed against
24 PLAINTIFF and the aggrieved employees.

25 101. PLAINTIFF is a proper representative to bring a civil action on behalf of
26 PLAINTIFF and other current and former employees of DEFENDANTS pursuant to the
27 procedures specified in *Labor Code* §2699.3.
28

1 102. As such, PLAINTIFF and the aggrieved employees are entitled to civil penalties
2 pursuant to *Labor Code* §558 and §2699(a), (f) and (g), cost, expenses, and attorneys' fees for
3 violation of *Labor Code* Sections listed in this complaint.

4 **FOURTEENTH CAUSE OF ACTION**

5 **NEGLIGENCE**

6 **(PLAINTIFF against all DEFENDANTS)**

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

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

14 105. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

15 106. DEFENDANTS' breach was and is the actual and proximate cause of
16 PLAINTIFF's harm.

17 107. As a substantial result of DEFENDANTS' negligent acts, PLAINTIFF was harmed.
18 The exact amount of damage to PLAINTIFF shall be proved at trial.

19 **FIFTEENTH CAUSE OF ACTION**

20 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

21 **(PLAINTIFF against all DEFENDANTS)**

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

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

1 110. DEFENDANTS breached this duty to PLAINTIFF as highlighted above.

2 111. DEFENDANTS' breach was and is the actual and proximate cause of
3 PLAINTIFF's harm.

4 112. As a result of this negligence, PLAINTIFF suffered and continues to suffer serious
5 emotional distress in the form of suffering, anguish, fright, horror, nervousness, grief, anxiety,
6 worry, shock, humiliation, shame, embarrassment, and depression. This was a foreseeable result
7 of DEFENDANTS' negligence.

8 **SIXTEENTH CAUSE OF ACTION**

9 **FAILURE TO PROVIDE EMPLOYMENT DOCUMENTS**

10 **(PLAINTIFF against all DEFENDANTS)**

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

13 114. *Labor Code* §226(b) states that "(b) An employer that is required by this code or
14 any regulation adopted pursuant to this code to keep the information required by subdivision (a)
15 shall afford current and former employees the right to inspect or receive a copy of records
16 pertaining to their employment, upon reasonable request to the employer. The employer may take
17 reasonable steps to ensure the identity of a current or former employee. If the employer provides
18 copies of the records, the actual cost of reproduction may be charged to the current or former
19 employee."

20 115. *Labor Code* §432 provides that "If an employee or applicant signs any instrument
21 relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon
22 request."

23 116. *Labor Code* §1198.5 provides that "The employer shall make the contents of those
24 personnel records available for inspection to the current or former employee, or his or her
25 representative, at reasonable intervals and at reasonable times, but not later than 30 calendar days
26 from the date the employer receives a written request, unless the current or former employee, or
27 his or her representative, and the employer agree in writing to a date beyond 30 calendar days to
28 inspect the records, and the agreed-upon date does not exceed 35 calendar days from the

1 employer's receipt of the written request. Upon a written request from a current or former
2 employee, or his or her representative, the employer shall also provide a copy of the personnel
3 records, at a charge not to exceed the actual cost of reproduction, not later than 30 calendar days
4 from the date the employer receives the request, unless the current or former employee, or his or
5 her representative, and the employer agree in writing to a date beyond 30 calendar days to produce
6 a copy of the records, as long as the agreed-upon date does not exceed 35 calendar days from the
7 employer's receipt of the written request."

8 117. On February 26, 2024, PLAINTIFF requested DEFENDANTS to produce
9 PLAINTIFF's personnel file, all W2 information, all wage related documents, and all signed
10 documents.

11 118. DEFENDANTS failed to provide PLAINTIFF with complete employment records,
12 among other things.

13 119. As a result of DEFENDANTS' aforementioned unlawful act, PLAINTIFF suffered
14 damage.

15 120. PLAINTIFF is therefore entitled to recover from DEFENDANTS damages and
16 penalties promulgated under *Labor Code*.

17 121. PLAINTIFF is also entitled to injunctive relief to ensure compliance with the
18 aforementioned *Labor Code* provision.

19 **SEVENTEENTH CAUSE OF ACTION**

20 **UNFAIR BUSINESS PRACTICES**

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

22 **(PLAINTIFF against all DEFENDANTS)**

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

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

- 1 a. Wrongfully terminating and retaliating against employees with disability-
2 based reasons;
3 b. Discriminating against employees based on disability;
4 c. Failing to accommodate;
5 d. Failing to provide proper meal breaks and rest periods, or to pay premium
6 wages for missed meal and rest periods to PLAINTIFF; and,
7 e. The foregoing wrongful activities have caused harm, fear, pressure, and
8 humiliation to the employee(s) at DEFENDANTS.

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

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

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

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

22 **STATEMENT OF DAMAGES**

23 At the time of the filing of this Complaint in this action, PLAINTIF alleges that
24 DEFENDANTS, and each of them, caused PLAINTIFF at least the following damages:

25	Emotional distress	\$250,000.00
26	Wage and hour penalties and premiums	\$150,000.00
27	Wrongful termination, discrimination,	\$200,000.00
28	and FEHA violation	

Estimated Attorney Fees and Costs \$450,000.00

through trial

TOTAL \$1,050,000.00 (or as may be proved
at trial)

PRAYER FOR RELIEF

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

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

2. Liquidated damages (if applicable);

3. Special damages;

4. Emotional distress damages;

5. Civil and statutory penalties (including under PAGA where applicable);

6. Restoration of all money PLAINTIFF lost that DEFENDANTS have collected by
the use of the unfair, deceptive, and misleading business practices described as in unfair business
practices cause of action;

7. Injunctive relief prohibiting DEFENDANTS from engaging in the unfair,
deceptive, and misleading business practices described as in unfair business practices cause of
action;

8. Declaration that DEFENDANTS' business practices are unfair within the meaning
described as in unfair business practices cause of action;

9. Punitive and exemplary damages;

10. Pre-judgment interest;

11. Costs of lawsuit herein incurred;

12. Attorneys' fees; and

13. For an award of such other and further equitable and legal relief as this Court may
deem appropriate.

1 Dated: October 31, 2024

BITTON & ASSOCIATES

2
3 

4 _____
5 Ophir J. Bitton, Esq.
6 Attorneys for Plaintiff,
7 Eleazar Ignacio
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **DEMAND FOR JURY TRIAL**

2 PLAINTIFF hereby demands a trial of the claims by jury to the extent authorized by law.

3
4
5
6 Dated: October 31, 2024

BITTON & ASSOCIATES

7 

8
9 _____
10 Ophir J. Bitton, Esq.
11 Attorneys for Plaintiff,
12 Eleazar Ignacio
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28